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Pratyush Tandon
Student, 4th Year Law, BBA,
LLB, United World School of
Law, Karnavati University,
Gujarat, India

Victim rights: Understanding the provisions for victim compensation and support under criminal procedure code, 1973

Pratyush Tandon

Abstract

The Indian Criminal Procedure Code (CrPC) of 1973 contains provisions for victim compensation and assistance to ensure justice and rehabilitation for victims of crime. This article looks at the key provisions relating to victim compensation, including Section 357A, which mandates the establishment of a victim compensation scheme, and Section 357B, which states that compensation awarded under the scheme shall be in addition to any fine imposed on the offender. The article also highlights the role of the District Legal Services Authority and the State Legal Services Authority in deciding the amount of compensation and the importance of immediate medical benefits and interim relief for victims.

Keywords: Indian criminal procedure code (CrPC) 1973, victim compensation, section 357A

Introduction

The victim compensation as it is defined under the Criminal Procedure Code (CrPC), 1973 is an extremely important part of the Criminal Justice System of India that seeks to provide financial compensation and rehabilitation or any dependence that has suffered loss or injury as a result of a criminal offence. The victim compensations under CrPC, 1973, are well provided in Sections 357^[1], 357A^[2], 357B^[3] and 357C^[4] which have been added through various amendments over the time.

Section 357 of this code, empowers the court to order payment of compensation to the victim or his dependents if the offender is convicted. The compensation to be paid by the State shall be determined by the District Legal Services Authority or the State Legal Services Authority on the basis of the nature of the offence, the damage caused and the ability of the convicted person to pay the compensation. The court may order that all or part of the fine collected be used to meet the costs of prosecution properly incurred, to pay compensation to a person for any loss or damage caused by the offence or, where a person is convicted of an offence that caused the death of another person, to pay compensation to those persons entitled to compensation under the Fatal Accidents Act 1855 for the loss or damage caused to them by that death.

The Code of Criminal Procedure Amendment Act of 2008 included Section 357A^[5] of the CrPC, 1973, named "Victim Compensation Scheme". In accordance with this clause, the State and Central governments may work together to develop a plan that would compensate victims or their dependents for losses incurred as a result of criminal activity and provide funding for their rehabilitation. The programme aims to guarantee that victims have prompt assistance and recompense, regardless of the inability to locate or identify the perpetrator or in situations where a trial is not held.

The Indian Penal Code's Section 326A^[6] or 376D^[7] stipulate that in addition to the amount assessed, compensation must be paid under Section 357B of the CrPC, 1973. The offences like

Corresponding Author:
Pratyush Tandon
Student, 4th Year Law, BBA,
LLB, United World School of
Law, Karnavati University,
Gujarat, India

¹ The Code of Criminal Procedure, 1973, § 357 No.2, Acts of Parliament, 1974 (India)

² The Code of Criminal Procedure, 1973, § 357 cl. A No.2, Acts of Parliament, 1974 (India)

³ The Code of Criminal Procedure, 1973, § 357 cl. B No.2, Acts of Parliament, 1974 (India)

⁴ The Code of Criminal Procedure, 1973, § 357 cl C No.2, Acts of Parliament, 1974 (India)

⁵ The Code of Criminal Procedure, 1973, *Supra* note 2.

⁶ Indian Penal Code, 1860, § 326 cl. A No.45, Acts of Parliament, 1860 (India).

⁷ Indian Penal Code, 1860, § 376 cl. D No.45, Acts of Parliament, 1860 (India).

acid attack and rape are covered in these sections in turn. As per Section 357C of the Criminal Code, which talks about the Treatment of Victims, Where the state government is required to make sure that victims get respect and dignity and aren't the target of discrimination or any further abuse. The clause further stresses upon the necessity of giving victims psychological and medical help as well as ensuring their safety throughout the inquiry and trial.

The Victim Compensation Scheme is a major change in the Indian criminal justice system because it firmly acknowledges victims' rights and strives to give them the assistance and financial support that they are entitled to post an offence committed to them. The program's goal is to guarantee that victims get prompt assistance and payment regardless of whether the perpetrator is found guilty or not. The compensation to be paid by the state will be determined by the District Legal Services Authority or the State Legal

Services Authority based on the nature of the crime, the harm caused and the ability of the convicted person to pay the compensation. The scheme is a progressive step to ensure that victims receive the support they need to rebuild their lives and move on after a crime.

Nevertheless, there are the challenges which hinder successful compensation scheme for victims; the delays experienced by the victims in receiving this compensation, the low knowledge of the victims regarding their rights and the poor collaboration between the judicial authorities and the support services. Operating these tasks entails giving town lawyers a better training, introducing simpler procedures for the payment of compensation and raising public knowledge of survivors' rights. A comparative study of international best practices in providing support services of victims of crime, and its adaptation to the Indian context can be helpful in improving victim support.

Table 1: Literature Review

No.	Nature	Name of literature	Review	Research gap	Intended Research
1.	Article	Paramvir Singh Parmar & LL B M LL, Victim Compensation; Current Challenges, 9 International Journal of	In this paper, talks about the current challenges to the Victim compensation and also constitutional aspects of the victim compensation	The information was very brief and limited on victim rights	The researcher will try to provide more information on Victim rights and their compensation
2.	Article	Justice PV Reddi, Role of the Victim in the Criminal Justice Process, 18 National Law School of India Review.	In this paper, talks about the role of victim in criminal proceedings; their role in trial and their role with prosecution	The paper was only limited to the criminal proceedings the role of victims in trial.	The researcher will try to provide more information why Victim rights are important
3.	Article	Vibha Mohan, Revisiting Victim Compensation in India	This paper very briefly explains how does victim compensation works in India and covers all the provisions	This paper fails to explain the case laws appropriately	The researcher will try to provide more extensive information on victim compensation with case laws
4.	Article	Bhanu Pratap Singh, Victim Compensation Scheme in India, 2 International Journal of Legal Science and Innovation (2020).	This paper very briefly explains about the victim compensation and also about the historical perspective of Victim Compensation	This paper fails to explain the importance of Victim compensation and why it was need	The researcher will try to explain the importance of Victim compensation and why it was need
5.	Book	Ratanlal & Dhirajlal's The code of criminal procedure, (22 nd ed. 2017).	It majorly covers all the topics of victim compensation very extensively	The language is very complicated and time consuming	The researcher will try to explain all the topics briefly and in a easier language for better understanding

Research Methodology

The paper adopts doctrinal research to analyse various relevant legal documents, articles, judgements, provisions, etc. With the help of this method, in-depth analysis of various legal documents, judgements and provisions can be carried out to interpret the relevancy and admissibility of admissions under the Indian Evidence Act. The method of doctrinal analysis is best suited because the legal framework regarding relevancy and admissibility of admissions can be best examined by this method^[8].

Why Victim Rights Are Important

As far as the rights of the Victim are concerned, the Indian Constitution guarantees not only their rights but also, they are protected by the Indian Evidence Act and the Code of Criminal Procedure, 1973. The Indian Constitution acts as a mediator for the two fundamental rights that are life and liberty which upholds the right to live with freedom and liberty. Indian legislation on evidence confirms that the victim can state their case before the court where the accused is brought to justice and their case can be considered. The Code

of Criminal Procedure empowers the victim to receive information about the trial process, being able to attend the trial and listening to the Judge while the punishment is pronounced.

Besides this, various committees and commissions have made recommendations of which the implementation will get the victims in better situation in India the idea proposed by the Malimath Committee which is included among its recommendations include a Special Victims Compensation fund, a Victim Support Service, and a provision for legal aid to the victims. The Law Commission of India also has also recommended that a separate department be created for the victims' rights within the Ministry of Home Affairs, formulation of the national compensation scheme equally for all victims and provision of legal aid to such victims^[9].

There are still several obstacles in the way of advocating for the victim rights, even with these enormous efforts. Victims' access to the criminal justice system, whether in big instances or not, is hampered by a number of factors such as, lack of

⁹ PARAMVIR SINGH PARMAR & LL B M LL, *Victim Compensation ; Current Challenges*, 9 INTERNATIONAL JOURNAL OF CREATIVE RESEARCH THOUGHTS (2021), www.ijcrt.org

⁸ The Code of Criminal Procedure, 1973, *Supra* note 3.

information, fear of reprisal, and a scarcity of resources. It should also be noted that the individuals in law enforcement, prosecution, and the court will be required to participate in training and education programmes on victim's rights so as to provide justice to victims in accessing their rights^[10].

Victims' rights aim to provide fair and respectful treatment throughout the criminal justice process. They recognise the critical role that the victims play in the judicial system and the importance of protecting them and their rights and interests. It may contribute to a more equitable and a better criminal justice system by ensuring that victims are educated, engaged in and are protected

Historical development of victim compensation

Victim compensation has developed to reflect changes in the law throughout time. This evolution can be traced back to antiquity, when restitution was utilised as a punishment for crimes and wrongdoings. During that time, the offender was forced to reimburse the victim and/or his or her family members in order to make apologies for the pain or loss inflicted by the wrong. However, the primary goal was to protect the offender from any form of mistreatment or cruelty, rather than to rehabilitate the victim.

The concept of compensation has evolved throughout time, becoming a civil entitlement for victims and a criminal remedy. The duty of compensating the victim was initially placed on the accused, although there were some limitations, such as the accused being obligated to repay the victim only if he or she was convicted by the court. There was no provision for compensation if the accused was acquitted or in other instances. Furthermore, there was no provision for the intensity or gravity of the loss, or the severity of the victim's injuries.

In modern times, the law relating to the compensation for the victims in India has developed after the 154th the Law Commission report in 1996^[11]. The report devoted an entire chapter on "victimology," the study of the victims of crime and the psychological effect of their experience. It also emphasized the rights of the victim and the need to empower courts to order compensation to victims.

The Code of Criminal Procedure, was amended in 2008 and inserted the jurisprudence that supports victims by empowering the courts to order compensation to the victims. Section 357A was added to the CrPC, 1973, titled "Victim Compensation Scheme." This section mandates the preparation of a scheme by the state government, in coordination with the Central Government, to provide funds for compensation to the victim or his or her dependents who have suffered loss or injury due to a crime and require rehabilitation^[12].

The clause also allows trial courts to make compensation recommendations in circumstances where the compensation awarded under clause 357 is insufficient or the victim requires rehabilitation. In circumstances when the culprit is not discovered or recognised, and no trial is held, the clause indicates a shift towards a state-funded victim compensation plan, which is a very progressive and appreciating step. The Legal Services Authority is better qualified to calculate a victim's loss and make more appropriate decisions than the

courts themselves. The clause also states that the State or the Strict Legal Services Authority, as the case may be, may order that emergency first aid facilities or medical benefits be made available free of charge on the doctor's certificate, or any other interim relief that the applicable authority thinks suitable.

Victim compensation under criminal procedure code, 1973^[13]

Criminal justice system in India has long been criticized for focusing on the rights of accused and often neglecting the needs and rights of victims. However, recent amendments to the Criminal Code aim to redress this imbalance by introducing provisions for Victim compensation.

Section 357^[14]

This section empowers the court to award compensation to the victim, taking into account the nature of the injury, the manner in which it was inflicted, the defendant's ability to pay and other relevant factors. The court may order compensation regardless of whether the offense is punishable by a fine and regardless of whether a fine is actually imposed.

The objective of section 357 is that the court has the power to award compensation to the victim, taking into account the nature of the injury, the manner in which it was inflicted, the defendant's ability to pay and other relevant factors. The section aims to provide relief to the appropriate sections of the community, especially in cases where the accused is unable to pay compensation.

The court may order compensation under section 357 in two circumstances. First, if the offence is punishable by a fine, the court may order the defendant to pay compensation to the victim as part of the sentence. Secondly, if the offence is not punishable by a fine, the court may still order the defendant to pay compensation to the victim.

Section 357A^[15]

This section was included in the CrPC on the recommendation of the 154th Report of the Law Commission on Protection of Victims. This section empowers the court to direct the state to pay compensation to the victim if Section 357 is not sufficient for rehabilitation or if the case ends in acquittal or discharge.

The section states that where the offence has caused harm to the victim, the court may order the state to pay compensation to the victim or the victim's dependents, taking into account the financial capacity of the state, the extent of the harm, and other relevant factors. It also provides that the compensation payable under section 357A is in addition to any compensation payable under any other law for the time being in force.

Section 357B^[16]: Section 357B, inserted by the 2008 amendment, deals with the state's responsibility to compensate victims of crime. The State Government in collaboration with the Central Government has to frame a scheme known as "victim Compensation Scheme" to compensate the victim or his dependents who have suffered loss or injury due to an offence.

¹⁰ *Id.*

¹¹ JUSTICE PV REDDI, *Role of the Victim in the Criminal Justice Process*, 18 NATIONAL LAW SCHOOL OF INDIA REVIEW.

¹² VIBHA MOHAN, REVISITING VICTIM COMPENSATION IN INDIA.

¹³ Ratanlal & Dhirajlal's *The code of criminal procedure*, (22nd ed. 2017).

¹⁴ *The Code of Criminal Procedure, 1973, Supra* note 1.

¹⁵ *The Code of Criminal Procedure, 1973, Supra* note 2.

¹⁶ *The Code of Criminal Procedure, 1973, Supra* note 3.

The compensation awarded by the State Government under Section 357A shall be in addition to the payment of fine by the victim under Section 357.

The victim compensation scheme provides as follows: ^[17]

- The amount of compensation that needs be paid to the victim or to his/her dependents.
- The manner in which the compensation is to be paid.
- The authority responsible for paying the compensation.
- The procedure for determining the amount of compensation.

Section 357C ^[18]

States that all hospitals, whether under the central government, state governments, local governments or any other person, must provide free first aid or medical treatment to victims of crimes covered under certain sections of the Indian Penal without delay. The purpose of this provision is to ensure that victims receive immediate medical assistance regardless of their financial status or ability to pay for treatment.

The sections of the Indian Penal Code that fall under Section 357C include those relating to grievous bodily harm, culpable homicide and murder.

The importance of compensating victims ^[19]

Victim compensation plays a very important role in the criminal justice system. It gives victims the financial resources that they need to restore their lives after an offence committed to them. Compensation might be used to cover medical bills, other losses like wages costs due the offence etc. Compensation also serves to recognise and validate the victim. It respects the victim's suffering and the impact the crime has had on their lives.

The addition of victim compensation provisions to the Criminal Code is a significant step towards ensuring that victims do not go without support and help. These regulations give victims the chance to seek compensation and rehabilitation regardless of the outcome of the criminal proceedings.

Judicial Pronouncements

Suresh and others v. State of Haryana ^[20] is a landmark judgment in case of setting precedence. The Supreme Court took a view and decided the favour of a crime victim that they deserved an interim compensation, which for all future cases became an important precedent.

The legal action was an application made by the father of the victim claiming fair compensation in view of the harm and loss the daughter underwent as a consequence of the lawless act. The offender had inflicted the serious harm on the victim that included burns and other maims during the course of the offense. The petitioner pointed out that the victim was eligible for compensation after the enactment of the Section 357A of CrPC; the Code of Criminal Procedure (CrPC) which was prepared by the State Government in collaboration with the Central Government for the preparation of victim compensation.

The Supreme Court stated in its decision that the goal of

Section 357A is to provide monies for the purpose of compensating victims or their dependents who have incurred loss or harm as a result of a crime and require rehabilitation. The Court also noted that the provision is consistent with providing the victim with rehabilitative rights under international human rights standards.

The Court also stated that the trial court may suggest compensation in two cases. First, if it is determined that the compensation awarded under Section 357 is insufficient to cover rehabilitation costs. Second, if the perpetrator is acquitted or discharged, the victim must be rehabilitated.

In the present case, the Court observed that the victim had suffered severe injuries and had undergone multiple surgeries. The Court noted that the victim was entitled to compensation under Section 357A of the CrPC. The Court, therefore, awarded an interim compensation of ₹5 lakhs to the victim, to be paid by the State Government.

The case of Dwarka Nath v. Beni Madhab ^[21] is also another significant case in the history of Indian law, in particular victim compensation. The dispute centred on a piece of land, the one party accused the other of reprehensibly taking it and tilling on it. The court was the full bench of the Calcutta High Court, which finally held that the person that was occupying of the property should pay compensation to the original property owner for the wrongful occupation of the property.

This case becomes important in context of the compensations to victims because it establishes the principle that if any individual has suffered a loss or injury as result of the wrongful act or failure to act on the part of another person, that individual may be entitled to the compensation for such loss or injury. Here the occupier has engaged in an illegal enterprise by cropping the land and the owner was compensated as this was an act of unlawfulness.

The principle which emerged from this case evolved in a series of subsequent decisions especially in the area of criminal law and the compensation of victims of crime. For another example, the Code of Criminal Procedure (1973) has a provision in Section 357 A for the State Government to prepare a scheme for victim. This is in collaboration with the Central Government. This scheme is intended to be a source of finance aimed at rewarding the person that was injured in a crime or the dependents that suffered injury and needed rehabilitation.

The principle established in the Dwarka Nath has also been applied in a number of other cases involving the payment of compensation to victims of crime. For example, in the case of Deepak Rai v. State of Bihar ^[22] where Supreme Court held that the State Government shall be liable to pay compensation to the victim of a custodial death, even in the absence of any specific provision in the law providing for such compensation. Similarly, in the case of Ramakant Rai v. Madan Rai ^[23], the Supreme Court held that the State Government was liable to pay compensation to the victim of a sexual assault, even in the absence of any specific provision in the law providing for such compensation.

Delhi Domestic Working Women's Forum v. Union of India ^[24] was a public interest litigation in front of the Supreme Court in the year 1995. The case was built on the testimony of

¹⁷ REDDI, *supra* note 2.

¹⁸ The Code of Criminal Procedure, 1973, *Supra* note 4.

¹⁹ BHANU PRATAP SINGH, *Victim Compensation Scheme in India*, 2

INTERNATIONAL JOURNAL OF LEGAL SCIENCE AND INNOVATION (2020).

²⁰ Suresh and others v. State of Haryana, AIR, 2014, SC

²¹ Dwarka Nath v. Beni Madhab, (1901) 28 Cal 652

²² Deepak Rai v. State of Bihar, (2013) 10 SCC 421.

²³ Ramakant Rai v. Madan Rai, (2003) 12 SCC 395.

²⁴ Delhi Domestic Working Women's Forum v. Union of India, 1995 SCC (1)

six women, who had been assaulted and raped by a stranger on a commuter train. The petitioner, Delhi Domestic Working Women's Forum wanted to show the necessity of improving actions to protect and support women who are survivors of sexual violence.

The court imposed new standards on police officers dealing with rape victims, including providing victims with legal representation, advising the victim of all her rights before questioning her, and maintaining her anonymity during the trial. The court also ruled that while determining compensation to be granted, the criminal compensation board evaluate all of the circumstances, from the emotional suffering of the act itself to medical costs and emotional agony linked with any kid who may be the victim of the rape. The significance of the case is that it points out the loopholes in the programmes that are meant to protect and rehabilitate people who got sexually assaulted and it shows the crucial role played by the judiciary so that the victims are given a chance to present their plights. The Supreme Court is of the view that henceforth, payment of compensation to the victims of the crime will likely accelerate their recovery and rehabilitation, while the denial, of such, is most likely to have the opposite effect. Here, the court is going to be the one to reveal that indeed the rate at which trauma and emotional suffering is experienced by individuals who are victims of sexual offences is very high and thus indicated that confidentiality and human dignity are very important elements that should be made to be part of the judiciary processes.

This situation is even more relevant for the Court, which pointed out among other things that, in most cases, victims of sexual violence struggle with access to justice system especially if they belong to socially vulnerable groups. Victims of these human right violations are most of the times from the poor members of the community who lack the financial capability to institute civil court cases. The court turn out to be right and advocated for the involvement of the National Commission for Women in the sorting out of the schemes and means of redressal of the aforementioned violence victims.

Conclusion

Hence the aim of the CrPc is guaranteeing the rights of the victims of crime, has introduced provisions for compensation and assistance. "The key measures include Section 357, which authorizes the court to order the offender to pay a victim or his dependents if he is found guilty and granted for Section 357A, which requires a victim compensation scheme establishment". As part of the program, the defaulters may also be sanctioned with a fine along with the compensation. The DLSA and SLSA are the entities which tend the process of deciding on the amount of compensation. The urgency of giving up short-term remedies and proper necessities to sufferers is emphasized. Notwithstanding the challenges consisting several hidden pitfalls such as delays in receiving compensation, low knowledge of victims' rights and poor joint action by Judicial organs and support services, Victims Compensation scheme is a progressive innovation in the direction of insuring that the victims get required support to recover from the pain of crime. Indian Constitution together with the Indian Evidence Act and the Code of Criminal Procedure is the legal guarantee of the victims' rights. while many commissions and committees have provided various recommendations in order to improve the situation of victims

in India, the path from recompense that is given in restitution in ancient times to remedy that is used in modern criminal cases is characterized by the modification of the concept of compensation and its role in recovery of victims.

References

1. Indian victim compensation law.
<http://docs.manupatra.in/newline/articles/Upload/5C770380-C132-4069-A666-41373B4935FB.pdf> (last visited Apr 15, 2024).
2. Ratanlal & Dhirajlal's the code of criminal procedure, (22nd ed. 2017).
3. Revisiting victim compensation in India.
http://docs.manupatra.in/newline/articles/Upload/6F5E12E5-2A56-49A9-BF1B-CBE1DF4F8726.2-F__criminal.pdf (last visited Apr 15, 2024).
4. Bhanu Pratap Singh, Victim Compensation Scheme in India, 2 International Journal of Legal Science and Innovation; c2020.
5. Vibha Mohan, Revisiting Victim Compensation in India
6. <https://www.jstor.org/>
7. <https://www.manupatrafast.com>
8. <https://www.scconline.com/>