

# LAW REFORMS IN INDIA TOWARDS VICTIM JUSTICE AND VICTIM COMPENSATION

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# Compensation-What it is?



- Means amend for the loss sustained. It tries to counterbalance the sufferings of the victim, the loss suffered as a result of victimization.
- It carries with an idea of making whole or giving an equivalent or substantive material payment to one party and has no relation to any advantage to the other party.

# Why Compensation?



- 1. As an additional Social Insurance
- 2. As a welfare measure by the State
- 3. A way of meeting or overlooked governmental obligation to all citizens.

# International Instruments on Compensation to Victims



- U N Declaration of 1985:
- Access to justice
- Fair treatment
- Restitution
- Compensation
- Assistance

# Indian Law prior to 1985



- Cr.P.C. 1898- S.357(1&3)
- Compensation by Court:
  1. where the accused is punished with sentence of fine or where fine is formed a part of sentence.
  3. where a person is entitled to recover damages from the convict though fine is not part of the sentence.

# Compensation for groundless arrest



- Under s. 358 Cr.P.C. whenever any person causes any other person to be groundlessly arrested, Magistrate may award compensation to the extend of Rs.1000/=only.

# Compensation by the Appellate Court



- Under S.359 Cr.P.C.- Appellate Court, High Court or the Court of session can order penalty in cases of non-cognizable offence & cost incurred due to prosecution.

# Compensation for filling of case lacks Reasonable Ground



- S.237(3) Cr.P.C
- If any case Court of sessions takes cognizance of an offence U/S 199(2) and found that there lacks reasonable ground , Court may order to pay compensation not exceeding Rs.1000/=only.



# POST 1985 LAW REFORMS IN INDIA- AMENDMENTS OF Cr.P.C. IN 2008



- S.2(wa) 'victim' defined- a person who suffers loss or injury which is caused to him by any act or omission for which the person who is accused has been charged.

S.24(8)- Right conferred on the victim for engaging an Advocate of his/her choice to assist the prosecution

# Right to Appeal for Compensation



- Under section 372 of Cr.P.C. victim has a right for engaging an advocate of his/her choice against an order of the lesser or inadequate compensation.

# Victim Compensation Scheme



- S. 357A of Cr.P.C.
- State Government in coodination with the Central Government is obliged to prepare Victim Compensation Schemes.
- District and State Legal Services Authority shall decide the amount of compensation as per the recommendation of the court.
- First Aid Medical facilities and benefits also to be provided to the victims of crime.

# Compensation in addition to Fine



- Under section 357B of the Cr.P.C. compensation be paid under section 357A is to be paid in addition to the fine to be paid to the victim under section 326A or under section 376D of the Indian Penal Code.

# Recognition of International Standard



- S.357C of Cr.P.C. provides for an obligation on all State or Private Hospitals to compulsorily provide immediate free medical aid to the victims of offences under sections 326A and 376 to 376A,B,C,D, &E of IPC and then inform the police

# Victim Compensation in other Legislations



- Section 5 of Probation of Offenders Act, 1958
- Motor Vehicles Act, 1989
- Protection of Women from Domestic Violence Act, 2005

# Compensation Schemes under Administrative orders



- (1). Security Related Expenditure-Victims at the hands of Naxalites-  
covered 76 districts of 7 states.
- (ii). National Foundation for Communal Harmony- Corpus fund by Govt. of India for victims of communal riots, violence on caste or ethnic issues.
- (iii) Scheme for relief and rehabilitation of rape victims- now merged with Central Victim Compensation Schemes.

# Different States Different Schemes



- More than 20 states in India notified their Victim Compensation Schemes under S. 357A of Cr.P.C.
- Different states recognised different offences to be eligible for compensation and different amounts also have been fixed for same offences.
- Supreme Court in *Laxmi v. Union of India* (2006 WP cri.129) pointed out the compensations as inadequate and not uniform.



## Intervention by the Central Govt.



- The Govt. of india , Ministry of Home affairs issued a circular to each state government the Central Victim Compensation Scheme (CVCF) and introduced it w.e.f. 14th Oct.2015 and again towards more uniformity the revised CVCF had been introduced w.e.f. 6th July 2016.

# A Comparative analysis



- 1. Compensation by States as well as the Offender- India,U.S.A.U.K.
- 2. Compensation by states only- Australia, Canada, Denmark,France, Sweden,United Arab Emirates.
- 3. Compensation by accused- Austria and Belgium
- 4. Not specific who is to pay compensation- Columbia,Germany, Spain, Czech Republic, Portugal, Switzerland.

# Concluding remark



- The trends of recognition of the need to pay compensation to victims of crime becoming more and more rights based rather than a grace by the Court.

THANK YOU

