

## From Trauma to Recovery: A Study of Healthcare Access Through Victim Compensation in India

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### Abstract

"From Trauma to Recovery: A Study of Healthcare Access Through Victim Compensation in India" explores the vital, yet often overlooked, intersection of victim compensation and healthcare access in India. While compensation schemes offer financial assistance, they often fail to address the full spectrum of needs for crime victims. This paper examines how current programs can be strengthened to encompass both physical and mental healthcare.

This paper highlights the importance of addressing the physical injuries victims sustain alongside the often-debilitating psychological trauma they experience. It acknowledges the limitations of existing compensation structures and emphasizes the need for improved access to quality medical care, mental health services, and support groups.

By analysing successful practices from other countries, the paper proposes a framework for integrating physical and mental healthcare into victim compensation schemes in India. It explores potential challenges, such as resource allocation and bureaucratic hurdles, and suggests solutions for overcoming them. Ultimately, this paper advocates for a comprehensive approach to victim compensation that promotes the healing of both the body and the mind, thereby enabling victims regain their lives.

**Keywords:** *Victims, Victim compensation, mental health, justice, physical injury*

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## INTRODUCTION

*“For too long, the law has centered its entire attention more on the rights of the criminal rather than on the victims of the crime. It is the high time we reversed this conventional trend and put the highest priority on the victim’s reforms and the potential victims.”*

..... G. R. Ford Jr.<sup>1</sup>

Many people mistakenly believe that the process of justice ends with the signing of a judgement. However, the ultimate goal is to bring justice to the victim. While the courts have the responsibility of maintaining the integrity of justice, it is the obligation of the State to offer aid and backing to the fundamental principles of justice. The field of victimology in jurisprudence has engaged in extensive debate regarding the allocation of responsibility<sup>2</sup>. More specifically, there is a dispute over whether the State's obligations to the victim cease when a case is registered, an investigation is carried out, prosecution is initiated, and the accused is sentenced, or if the State has further obligations beyond these steps. In a similar vein, it is unclear if the court is required by law to award compensation regardless of a conviction.

However, it is clear that individuals who have been the victims of a crime, as well as their close relatives, have a legitimate expectation that the state will apprehend and penalise the perpetrator, in addition to offering compensation to those who have been harmed. The obligation to provide restitution persists, regardless of whether the court system is unable to identify the accused or accumulate sufficient evidence to administer appropriate punishment to the culpable.

The court system in India has largely disregarded the factors that would genuinely provide the victim with vindication. The scope of justice has been restricted to the conviction of the accused. This has enabled systemic errors to remain undetected, such as scattered investigations, limited prosecution efforts, and questionable integrity among those involved in the process. Additionally, the infrastructure is insufficient to support or facilitate the process's progression. As a result, this affects the essence of justice that is rendered to the victim.

Justice must endeavour to be both rehabilitative for the survivor and reformatory for the perpetrator. Consequently, it is permissible to presume that the victim is entitled to receive rehabilitative assistance, which may encompass monetary compensation. In accordance with Article 21, the payment of such compensation has been mandated as a remedy in public law<sup>3</sup>. The Supreme Court has issued verdicts in numerous cases, ordering the payment of financial restitution and rehabilitation agreements to secure justice for victims in situations when the State or other authorities have neglected their duty to safeguard their lives, dignity, and liberty<sup>4</sup>.

The interpretation and application of Article 21 have become more significant since the beginning of the 21st century, and now encompass the process of restoring the victim or their family. Initially, the victim's ability to receive compensation was restricted by public law through the application of writ jurisdiction. Consequently, it was imperative to establish a unique provision to guarantee that the victim receives compensation, irrespective of the outcome of the criminal prosecution. Subsequently, the Code of Criminal Procedure, 1973 was amended to include Section 357-A.

## LEGISLATIVE APPROACH TOWARDS VICTIM COMPENSATION

Society is the dwelling place of humanity, law serves as its system of regulation, and justice is its ongoing quest. As justice requires the compensation and support of crime victims, a welfare State is obligated to provide remedial measures, such as financial compensation and rehabilitative services, to help them recover from the harm or injury

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<sup>1</sup> Kaur Arti, M. (2024). Revisiting victim compensation in India. *International Journal of Science and Research (IJSR)*, 13(1), 409–412. <https://doi.org/10.21275/SR231218163613>

<sup>2</sup> Davis, R. C., Lurigio, A. J., & Herman, S. (Eds.). (2012). *Victims of crime*. Sage Publications.

<sup>3</sup> The Constitution of India, 1950

<sup>4</sup> Kewal Pati v State of U.P (1995) 3 SCC 600; Supreme Court Legal Aid Committee v State of Bihar (1991) 3 SCC 482; Railway Board v Chandrima Das (2000) 2 SCC 465; Nilabati Behera v State of Orissa (1993) 2 SCC 746; Khatri (1) v State of Bihar (1981) 1 SCC 623

they have suffered. It is clear that 'Compensation' refers to the act of providing reparation, restoration, restitution, rehabilitation, and damages to a victim in order to indemnify them for whatever loss or injury they have suffered. The Constitution of India, contains many provisions to protect the rights and interests of all people, including victims of crime and individuals who have been accused of crimes, in line with the principle of equal treatment under the law. The constitutional purpose of enacting Section 357, 357A, 357B, 357C of the Cr.P.C. 1973 is to safeguard and ensure the well-being of crime victims by providing them with further support and protection, thereby preventing any form of exploitation and countering criminal acts of violence against them.

In India, the Criminal Justice System (CJS) typically does not prioritise a victim-centered approach, but instead focuses more on implementing reforms for the accused. This is due to India's extensive historical record of practicing caste-based discrimination against individuals who have been victimised by crime. According to our procedural criminal law, convicts are entitled to several privileges that include being granted all reformatory remedies. It is important to mention that accused have access to various Constitutional mandates, such as Articles 14, 20, 21, and 22 of the Constitution of India, which protect their rights and interests.<sup>5</sup> However, our criminal legislation only includes a limited number of provisions that aim to provide social security, social integrity, legal assistance, and victim compensation to victims of crime. These laws are designed to help victims reintegrate into society and rehabilitate.

In contrast, the Criminal Justice Administration of developed countries such as the USSR, the UK, the USA, France, Germany, Ireland, and Denmark have a range of diverse, efficient, and dynamic laws and regulations focused on victim rehabilitation and compensation. These measures aim to alleviate the suffering of individuals affected by crime. The importance of implementing effective measures that allow offenders to compensate their victims by providing a reasonable amount of reparation that covers financial, emotional, psychological, and bodily damages caused or inflicted. Within the framework of the criminal justice system in India, there are limited programmes or schemes that provide compensation to crime victims who suffer harm to their body, mind, property, or reputation. However, these programmes do not require the court to compensate the victims, nor do they establish a legal right to monetary assistance for crime victims. With few exceptions, the authority of a criminal court to issue an order granting standard compensation is restricted. In India, criminal courts have seldom exercised their inherent powers to provide interim compensation to crime victims for their rehabilitation and to ensure full access to justice. This issue must be promptly resolved in order to restore the victim's trust and confidence in the criminal justice system.<sup>6</sup>

Victim compensation is a contemporary idea developed by the collaborative efforts of the Indian judiciary and legislation to guarantee equitable access to justice for victims of criminal acts. The modern idea of equitable treatment is a significant concern, as it provides individuals with means to rectify situations and regain stability. The limited number of statutory legislations pertaining to the safeguarding and welfare of victims of crime in our criminal justice system can be analysed in details below:<sup>7</sup>

- Compensation Under the Criminal Procedure Code, 1973 (Act No. 02 of 1974).
- Compensation Under the Probation of Offenders Act, 1958 (Act No. 20 of 1958).
- Compensation Under the Police Act, 1861 (Act No. 5 of 1861)
- Compensation Under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (Act No. 33 of 1989).
- Compensation Under the Wrongful Prosecution (Miscarriage of Justice) Legal Remedies along with Report No. 277, LCI, 2018
- Compensation Under the Prevention of Children from Sexual Offences Act, 2012, (POCSO ACT).
- Compensation Under the Protection of Women from Domestic Violence Act, 2005 (Act No. 43 of 2005).

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<sup>5</sup> M. P. Jain, Indian Constitutional Law 1475 (Lexis Nexis Publication, Gurgaon, 8th Edition, 2018)

<sup>6</sup> William F. McDonald (ed.), Criminal Justice and The Victim (Sage Publication Beverly Hills, London, Sept 1975)

<sup>7</sup> Akram Khan, Victim compensation in India (2021) at p161

- Victim's Compensation Under the Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act, 2013 (Act No. 14 of 2013).
- Victim's Compensation & Rehabilitation Under Other Statutes

## **STATUTORY PROVISIONS-**

### **COURTS ORDER TO PAY COMPENSATION (Section 357)<sup>8</sup>**

Compensation orders issued or granted by the High Court, Appellate Court, trial court, or Court of Session in the course of exercising their revisional or appellate jurisdiction are governed by and subject to the provisions of Section 357. Additionally, this provision confers upon the Supreme Court the power to award compensation. Strictly restricting the applicability of Section 357 to one of the following four scenarios is possible.

- The complainant may file a demand for the compensations in order to satisfy the court's obligations and cover the prosecution's expenses.
- An individual who has suffered harm or injury as a result of the offence has the right to pursue legal action in these appropriate courts to obtain compensation for their damages.
- When a person is convicted of causing death or abatement, these courts have the power to grant compensation to the victim of the crime, who can demand damages under the Fatal Accident Act.
- Section 357 also applies in circumstances where there has been damage to property. Compensation may be awarded to the legitimate purchaser of an asset or property that has been subjected to crimes such as counterfeiting, fraud, theft, or the acquisition, retention, or disposal of stolen property. This applies to cases where the possession of such property has been legally ordered to be returned to the rightful owner.

The Court has the authority to order the payment of compensation or monetary aid to the victim, even if the penalty specified in Section 357 does not include a fine.

### **Procedures to follow in case the compensation granted under section 357 is inadequate**

If the trial court finds that the reparation or compensation awarded to the victim under section 357 is not enough for their rehabilitation or if the case ends in an acquittal or release and the victim requires rehabilitation, the court may order additional compensation for the victim's losses or injuries. Both the state and the criminal have the responsibility to provide reimbursement and compensation for the victim's damages. Upon the conclusion of the trial, the victim of the crime may be eligible to obtain compensation. This adheres to the judge's orders. If the trial court fails to adequately compensate the victim of a crime, the Appellate Court has the authority to increase the amount of compensation based on the unique details and circumstances of the case. When the accused cannot be discovered or traced, the state is obligated to provide reparation to the victim of the offence.

### **REHABILITATION AND MEDICAL TREATMENT FOR CRIME-ASSAULT VICTIMS (Section 357C Crpc)<sup>9</sup>**

According to Section 357-C of the Indian Penal Code, it is obligatory for all hospitals and healthcare providers, regardless of their ownership or affiliation with the government, to immediately provide free medical assistance and first-aid to victims or injured individuals involved in crimes specified in Sections 326A, 376, 376A, 376AB, 376B, 376C, 376D, and 376 of the Indian Penal Code, 1860. It is necessary to provide these facilities as a requirement. To alleviate the suffering of the victim, the SLSA and DLSA have the authority to order immediate

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<sup>8</sup> The Code of Criminal Procedure, 1973(Act 20 of 1974), s. 357.

<sup>9</sup> The Code of Criminal Procedure, 1973(Act 20 of 1974), s. 357C.

medical benefits or first-aid to be provided free of charge. They may also grant any other temporary relief deemed appropriate by the relevant authority, based on the certification of a police officer of at least the rank of OIPS or a Magistrate for the specific location. The certification must be presented by a police officer who holds a rank equivalent to or higher than the OIPS.

**Victim Impact Statement (Provision under the Section 357D)**

A victim provides a victim impact assessment (VIA) or victim impact statement (VIS) in the presence of an authorised police officer or court. During this process, the victim testifies in writing about the physical and emotional harm, pain, psychological anguish, economic deprivation, mental trauma, and emotional torment he endured as a direct result of the crime. The purpose of this is to enable the court to apply its judicial reasoning when determining appropriate compensation. VIS encourages the CJS to provide a victim who has suffered an offence with an opportunity to participate in the various criminal proceedings.

**Victim Impact Assessment Report<sup>10</sup>**

The following components are required to be included in the Victim Impact Assessment Report:

- The system for paying torture victims and their families, if such a system is established.
- Whether the State is legally accountable for the action of the criminal and, as a result, compelled to compensate the victim.
- The preceding decisions of the relevant authorities directing compensation, together with an explanation of whether or not such rulings were really carried out.
- The identity of the victim, their status as a victim, the amount of compensation or other redresses, and any other relevant information should be provided.
- The process of the victim's recovery from their ordeal.

**Loopholes/Flaws<sup>11</sup>**

- **No Conviction, No Conviction**

In the past, the Criminal justice system allowed victims of a crime to seek compensation under Section 357, Cr.P.C,1973 only if the accused was convicted. This means that the punishment or sentence of the accused was necessary before the victim could receive reparation and compensation. Most state prosecution agencies adhere to this norm. This is the initial flaw in the system. What this implies is that the accused must have been found guilty. Undoubtedly, if a person has died or the victim is suffering, but the accused is not convicted or cannot be located, then the victims are left without any legal recourse for the denial of justice. They are left to rely on their own resources.

- **No interim compensation or other forms of relief provided until the case has been finally decided.**

The second issue is that interim compensation cannot be provided in certain situations until the matter before the criminal court has been conclusively resolved. Whether or not it is granted depends on the court's discretionary power.

In situations where there is a specific legal provision for awarding compensation, it can only be requested once the issue has been resolved based on its merits. Due to the non-obligatory nature of compensation, the criminal courts evade it. However, following the enactment of the Criminal Law (Amendment) Act, 2018, there have been significant changes in the legal landscape<sup>12</sup>. As a result, both the court and legal service authorities have issued orders mandating the provision of interim monetary compensation at the initial stage of criminal proceedings.

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<sup>10</sup> Akram khan, Victim compensation in India (2021) at p180

<sup>11</sup> Akram Khan, Victim Compensation in India at p190

<sup>12</sup> The Criminal Law (Amendment) Act, 2018 (Act 22 of 2018)

- **Imposition of Inherent limitations**

Section 357(1)(b) imposes restrictions on the amount of compensation that can be awarded, which are determined by specific predetermined limits. The Indian Penal Code imposes restrictions on the extent to which a court can determine the culpability of an individual. The courts are unable to exceed the specified fine sum.

- **Inherent restrictions on Court's Jurisdiction**

Additional constraints are placed on the jurisdiction of the court. According to Section 29(3) of the Criminal Procedure Code (Cr.P.C.), a Judicial Magistrate 2nd Class has the authority to issue an order for a fine of up to Rs. 1000. Furthermore, it is worth noting that no court has enforced the highest possible penalty as allowed under the underlying legislation. When determining the amount of a penalty to impose, the court must consider various factors, such as the type and seriousness of the offence, the condition of the victim immediately following the crime, any harm or damage suffered by the victim, the current financial situation of the victim, the ability of the accused to provide compensation, and any other pertinent factors.

### **VICTIM COMPENSATION SCHEME (SECTION 357 A CRPC)<sup>13</sup>**

The addition of Section 357-A to the Criminal Procedure Code, 1973 by the Criminal Laws (Amendment) Act of 2008 has mandated that all state governments in India establish a Scheme or Act to provide compensation for victims. This achievement was facilitated through the addition of Section 357-A to the 1973 code. An alteration was implemented to Section 357A (1) of the Code of Criminal Procedure. This provision requires all state governments, in conjunction with the Union Government, to formulate and implement a framework or scheme for the distribution of funds intended to provide compensation to victims or their dependents who have suffered severe losses, injuries, or bereavement due to criminal activities and require rehabilitation and supportive assistance. The funds are intended to provide compensation to victims or their dependents who have suffered physical harm, property damage, or other harm directly attributable to criminal activity and are in need of rehabilitation services.

### **ROLE OF GOVERNMENT IN VICTIM REHABILITATION**

The State is held responsible for any crime according to the principle of state responsibility because it failed to adequately safeguard its citizens. Thus, it contends, compensation is an inevitable result of state's failure.<sup>14</sup> Although modern jurisprudence recognises that individual misbehaviour is not the responsibility of the State.<sup>15</sup> It supports the principle that the government should provide assistance to those who are vulnerable as a matter of public policy.<sup>16</sup>

The central government has implemented procedures to ensure that victims have easy access to compensation. The Criminal Law (Amendment) Act, 2013 was implemented on 2nd April, 2013 in order to bring about the insufficiency in legislation pertaining to sexual offences against women and children. It resulted in the creation of a specialised fund called the Nirbhaya Fund. The Ministry of Women and Child Development, as stated in the guidelines issued on March 25, 2015, is responsible of assessing and recommending the proposed schemes under the Nirbhaya Fund. It also supervises and monitors the accomplishment of approved schemes in collaboration with the relevant Ministries/Departments.

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<sup>13</sup> Sindhu, Sanjay, "Compensatory Jurisprudence under Criminal Laws," II Criminal Law Journal (2007)

<sup>14</sup> A. Goldberg, Equality and Government Action, 39 N.Y.U. L. Rev. 205 (1964)

<sup>15</sup> J. Culhane, California Enacts Legislation to Aid Victims of Criminal Violence, (1965), 18 STAN L REV, p.266-272

<sup>16</sup> B. Jacob, Reparation or Restitution by the Criminal Offender to his Victim: Applicability of an Ancient Concept in the Modern Correctional Process, (1970) , 61 The Journal of Criminal Law, Criminology, and Police Science p.152-167.

The Ministry of Home Affairs established the Central Victim Compensation Fund Scheme (CVCF) on October 14, 2015<sup>17</sup>. The CVCF's objective is to provide assistance and enhance the current victim compensation programmes established by states and union territories, with the purpose of eliminating the discrepancy in the amount of compensation provided. It establishes the parameters for the distribution of funds and includes provisions for accounting and auditing. Additionally, it facilitates public involvement by soliciting financial contributions.

The Ministry of Women & Child Development has initiated the 'One Stop Centres' Scheme, which will be implemented with one Centre in each state as a pilot project. The primary objective of the OSCs is to offer a comprehensive array of services, including medical, legal, and psychological assistance, all in one location, to women and girls who experience abuse. The Scheme also includes provisions for a lawyer and a police facilitation officer who are affiliated with the OSC to assist the woman during the process of recording her statement under Section 164 (5A) of the CrPC.

Victim compensation programmes have been notified by all states and union territories. Nevertheless, the operations of the programmes vary in each state. The Mizoram (Victim of Crime Compensation) Scheme, 2011<sup>18</sup> stipulates that compensation will be awarded to the victim and their dependents if they suffer a loss of property valued at more than ₹1,00,000/-, and if the victim, who was the sole provider for their family, dies or becomes permanently incapacitated as a result of a crime. On the other hand, the Himachal Pradesh (Victim of Crime) Compensation Scheme, 2012<sup>19</sup> specifies certain circumstances in which no compensation will be granted. The process of distributing compensation proposed in each state system varies significantly. The Karnataka Victim Compensation Scheme<sup>20</sup> stipulates that the compensation money must be disbursed via cheque, but the Himachal Pradesh Scheme specifies that the approved compensation shall be transferred to the applicant's bank account. In addition, there is a lack of uniformity in the classification of offences for which compensation is granted. Given the significant difference, it is crucial to emphasise the Supreme Court's acknowledgment of the need for uniformity in how compensation is granted under the Victim Compensation Scheme.<sup>21</sup>

## DIFFICULTY IN IMPLEMENTATION

There are multiple issues that hinder the application of the law as intended under Section 357A. This is mainly due to the division of responsibilities between the state government, which is responsible for making laws, and the DLSA and other organisations, which are responsible for carrying out those laws. Many states prefer not to implement a specific Victim Compensation Scheme under Section 357A because they rely on other programmes that provide compensation to victims.

The main obstacle to achieving victim compensation accessible across the country is states' failure to notify a workable and efficient Victim Compensation Scheme under Section 357A. Moreover, there exists a discrepancy in the amount of compensation granted by various states for distinct offences. There is a gap in the specificity of the grounds for compensation, leaving it open to interpretational flexibility. Regarding the distribution process, it is unclear at what point compensation can be granted, including interim compensation and the victim's need to pay ongoing costs.

In states where Victim Compensation programmes have been established, there is either a lack of knowledge on the existence of these programmes or a failure of the state's government to provide compensation due to inadequate

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<sup>17</sup> Central Victim Compensation Fund Scheme, VIKASPEDIA, [https://vikaspedia.in/social-welfare/social-security/central-victim-compensation-fund-scheme\(cvcf\)](https://vikaspedia.in/social-welfare/social-security/central-victim-compensation-fund-scheme(cvcf)), last visited Feb.12,2024.

<sup>18</sup> Gazette of Mizoram (Dec. 5, 2011)

<sup>19</sup> Gazette of Himachal Pradesh (Sept. 6, 2012).

<sup>20</sup> Gazette of Karnataka (Feb. 22, 2012).

<sup>21</sup> Laxmi v. Union of India, 2014 SCC Online 4 SCC 427 (India)

budget planning. This lack of understanding also leads to a failure to meet the deadline for submitting an application due to the limitation period. In addition, courts also disregard their duty to ensure that compensation is not only facilitated but also delivered to the victim by failing to follow up on the compensation claim.<sup>22</sup>

### JUDICIAL APPROACH ON VICTIM COMPENSATION IN INDIA

In India, the administration of the criminal justice system is primarily based on the state's authority to prosecute and convict criminal offenders in accordance with the principles of natural justice, good conscience, and the rule of law. This is done through established judicial processes that ensure the protection of the rights and well-being of crime victims, as well as provide them with adequate compensation and rehabilitation. When the judiciary takes on the duty of ensuring and protecting people's rights to life, property, and dignity by using its lawful authority, it becomes necessary for a welfare state to not only punish the criminal offender(s) but also allocate its resources to uphold the principles of the constitution.

The Indian Constitution, as the paramount legislation of the country, does not explicitly have provisions for victims. Nevertheless, according to Article 41 of Part IV, Directive Principle of State Policy, and Article 51A of Part V, Fundamental Duties, the state is obligated to safeguard the right to public assistance for those with disabilities and those facing unjust need. Additionally, the state is required to provide care for all living beings and promote humanism. Various approaches have been employed in these articles to offer assistance to victims of crime. Furthermore, it has been asserted that the entitlement to receive compensation is a crucial component of the fundamental rights to life and liberty as enshrined in Article 21 of the Constitution.<sup>23</sup>

The victim plays a crucial role in the criminal legal system, although the state apparatus fails to provide proper consideration to their well-being. Therefore, the role of our nation's High Courts or Supreme Court is to verify and establish their rights. Justice V.K. Krishna Iyer, a former judge of the Supreme Court of India, expressed deep concern and unease on the difficult and unchanging circumstances faced by a crime victim. He remarked that *"the criminal law in India is not victim-oriented and the suffering of the victim, often immeasurable are entirely overlooked in misplaced sympathy for the criminal. Though our modern criminal law is designed to punish as well as reform the criminals, it overlooks the by-product of crime i.e., the victim."*<sup>24</sup>

In a landmark case, *Rattiram and Ors. Vs. The State of Madhya Pradesh*,<sup>25</sup> the Indian judicial system has appropriately brought attention to one of the fundamental components of a victim justice-oriented system: the preservation of the rights and interests of victims of crimes. Victimology has become increasingly prominent in criminal law, as it is a perspective on a trial that considers both the offender and the victim. Both are assessed within the context of society. The victim's perspective is treated with the respect and esteem it is due in certain countries. The court is accountable for guaranteeing that the human rights of the victim are consistently upheld. Justice Krishna Iyer stated in *Maru Ram & Ors. Vs. UOI & Ors*<sup>26</sup> that the duration of the imprisonment sentence does not serve as reparation for the individual who has been rendered crippled or who has lost a loved one; rather, it is cruel futility. This is accurate despite the fact that the perpetrator is obligated by society to begin compensating for the loss or mending the wound, which is a component of the punishment theory. The court asserts that the victimology movement must achieve its fulfilment through the mandatory reimbursement of the damage inflicted by the offender, rather than through barbarism. Nevertheless, this should not be accomplished by inflicting additional suffering upon the offender; rather, it should be accomplished by healing the suffering.

In the case of *Hari Singh v. Sukhbir Singh and Ors*<sup>27</sup>, The Apex Court of India expressed its disappointment that the lower courts had not been able to meet the requirements of clause (1) of Section 357, Cr.P.C. and had not awarded a substantial amount of monetary compensation to crime victimised individuals as a consequence of the offences. In order to fulfil the objectives of the criminal victim justice-oriented system, the Court has issued a recommendation to the subordinate courts. This recommendation strongly encourages the courts to utilise the authority granted to them by Section 357 to the fullest extent possible. Section 357, clause (1), allows the court to

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<sup>22</sup> Sindhu, Sanjay, "Compensatory Jurisprudence under Criminal Laws," II Criminal Law Journal (2007)

<sup>23</sup> Mahendran Pal Singh, V. N. Shukla's Constitution of India (Eastern Book Company, 34, Lucknow, 13th edition, 2019).

<sup>24</sup> V. R. Krishna Iyer: Access to Justice- A case of Basic change (1991) p.14

<sup>25</sup> AIR 2012 SC 148

<sup>26</sup> AIR 1981, 1 SCC 107

<sup>27</sup> AIR 1988 SCC 551, R.C.R.(Criminal) 394



use the fine imposed on the guilty to provide compensation to the victims of the crime.

In conclusion, the judiciary is actively engaged in the provision of rehabilitative remedies and compensation to enhance the situation of victims within the criminal legal system. It is undeniable that victims of grievous criminal offences are still considered an underserved and overlooked segment of our legal system. The judiciary has been involved in the enforcement and implementation of laws that are designed to alleviate the pain and suffering that victims experience as a consequence of crimes and to reform them. In response to the increasing prevalence of sexual offences, including rape, gangrape, sexual harassment, sexual assault, and acid attacks, the Supreme Court and other superior tribunals are implementing proactive measures. They are accomplishing this by issuing effective guidelines and rendering groundbreaking judgements. The objective of these measures is to guarantee the rehabilitation of victims of severe offences, irrespective of their gender, age, or other characteristics. Furthermore, the courts are dedicated to ensuring that victims receive swift and equitable justice, which includes the provision of sufficient compensation, without being subjected to any form of harassment or torment.

### **SUGGESTIONS AND CONCLUSIONS**

It is necessary to establish a balance between rehabilitating and restoring a crime victim, and reforming an accused person within the criminal justice system in order to sustain the relationship between the victim and the accused. Providing medical treatment or first aid to a victim of crime is considered a component of **restorative justice** within the framework of the criminal judicial system.

Criminals are equipped with cutting-edge technology in the contemporary era, which enables them to perpetrate organised crimes such as cybercrimes, porn crimes, cyberfrauds, surveillance, voyeurism, sexual harassment, and cyberbullying. The adduction and collection of various cognisable and reliable evidence by **forensic criminology and victimology** are highly beneficial in examining the nature and gravity of such crimes. This information assists the judge in reaching appropriate conclusions for the sentencing of the accused, as well as in the rehabilitation and restoration of the victim's circumstances. With the assistance of efficient police apparatus and investigating officers, forensic laboratories that are well-established and equipped with modern technology, as well as victim welfare and protection centres, are playing a critical role in ensuring the delivery of free, fair, and quick justice to victims of crimes.

**Victim Information and Notification Everyday (VINE)** is a modern technology used internationally and in most states of the USA to collect information and data through automated phone notifications. This system is focused on the welfare, reformation, and rehabilitation of victims. It is necessary to implement something similar in our country, India.

In addition to providing victims of crimes with numerous rights to ensure their access to justice, it is important to note that specific national programs should be established to promote the welfare and support of these victims. For instance, it is imperative to **establish Victims Assistance Units** in every police station and medical centre to offer fundamental assistance to individuals who have been victimised by criminal acts. There is a pressing need to establish **Advocate Based Assistance Centres/Legal Advice Cells** in police stations and victim rehabilitation centres. These centres would provide essential legal advice and guidance to victims of various crimes, particularly victims of grave sex-related crimes such as rape, gangrape, sexual harassment, sexual assaults, unnatural offences, stalking, sex-pornography, voyeurism, and others.

The criminal justice system has long neglected and abandoned the victims of crime. The system's "Secondary Victimization" may lead to the victim losing interest and refusing to cooperate in the future if the victims perceive their treatment as unjust or lacking consideration for their rights, emotions, and interests, or if they deem the decisions made as unsatisfactory. The system will inevitably collapse if the victim chooses to suppress their cooperation. Therefore, it is essential to prioritise the reemphasis and increased awareness of the victim's rights. The author recommends that the laws be amended to incorporate the rights and interests of the victim in a legitimate manner.

### **Conclusion**

In India, it is undeniable that the current laws and schemes aimed at supporting victims and providing compensation and rehabilitation are small in scale, lacking consolidation, and divided. This leads to numerous obstacles and impediments in ensuring that victims of crimes have access to fair and prompt justice. There is a requirement to merge and streamline the legislations focused on justice for victims, either by incorporating a new, distinct chapter on Victimology and Victim Compensation into the existing criminal laws, or by creating a completely separate legislation specifically for victims' compensation and rehabilitation through the legislature.

There are few present legislations/schemes which cover the issues pertaining to victim compensation, rehabilitation and others under the administration of the Indian CJS which can be illustrated as like the Criminal Procedure Code, 1973 (Act No. 02 of 1974), Ss 357, 357A, 357B, 357C, 250, 358; the Probation of Offenders Act, 1958; the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (Act No. 33 of 1989); the Wrongful Prosecution (Miscarriage of Justice) Legal Remedies along with Report No. 277, LCI, 2018; the Prevention of Children from Sexual Offences Act, 2012, (POCSO ACT, 2012), the POCSO (Amendment) Act, 2019 and POCSO Rules, 2020; the Protection of Women from Domestic Violence Act, 2005 (Act No. 43 of 2005); the Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act, 2013 (Act No. 14 of 2013); 'Compensation Scheme for Women Victims/Survivors of Sexual Assault or Other Crime, 2018; the Legal Service Authority Act, 1987; The Maintenance and Welfare of Parents and Senior Citizens Act, 2007; the Motor Vehicle Act, 1988; The Compensation to Victims of Hit and Run Motor Accidents Scheme, 2022; The Criminal Procedure Code (Amendment) Act, 2008; The Criminal Law (Amendment) Act, 2013 (Anti-Rape Law); The Criminal Law (Amendment) Act, 2018, New Criminal Laws, 2023. These legislation mostly focus on the accused, but they also include a few provisions to improve and safeguard the rights of crime victims.

There is an urgent need for our legislature to create laws and programmes that are effective, comprehensive, and consolidated, with a focus on providing justice to victims. This is necessary to address the imbalance in the availability of rights between accused individuals and victims. It is necessary to achieve a balance between protecting and enforcing the rights of both the accused and the victim as guaranteed by the administration of the Criminal Justice System (CJS).

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