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Gazette

Extraordinary

Published by Authority

MAGHA 281

FRIDAY, FEBRUARY 17, 2017

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PART I-Orders and Notifications by the Governor of West Bengal, the High Court, Government Treasury, etc.

# GOVERNMENT OF WEST BENGAL

Judicial Department Writers' Buildings, Kolkata

## NOTIFICATION

No. 62-JL, dated Kolkata the 15th day of February, 2017. — In exercise of the powers conferred by section 357A of the Code of Criminal Procedure 1973 (2 of 1974), the Governor in co-ordination with the Central Government, is pleased hereby to frame the following Scheme for providing funds for the purpose of compensation to the victim or his dependents who have suffered loss or injury as a result of the crime and who require rehabilitation, namely:—

#### Scheme

- Short title and commencement.—(1) This Scheme may be called the West Bengal Victim Compensation Scheme,
   2017.
  - (2) It shall come into force at once.
- 2. Definitions.— (1) In this Scheme, unless the context otherwise required,—
  - (a) "Act" means the Code of Criminal Procedure, 1973 (2 of 1974);
  - (b) "District Legal Services Authority" means the Legal Services Authority constituted under section 9 of the Legal Services Authorities Act, 1987 (39 of 1987) for a district of the State of West Bengal;
  - (c) "dependent" mean a person who fully depends on the earnings of the victim;
  - (d) "Fund" means the Victim Compensation Fund constituted under clause 3 of this Scheme;
  - (e) "Offence" means any of the offences mentioned in the Indian Penal Code (45 of 1860) or in any other law for the time being in force;
  - (f) "Schedule" means the Schedule appended to this Scheme;
  - (g) "State" means the State of West Bengal:
  - (h) "State Legal Services Authority" means the State Legal Services Authority constituted under section 6 of the Legal Services Authorities Act, 1987 (39 of 1987) for the State of West Bengal;
  - (i) "Victim" means a person who has suffered loss or injury as a result of crime and require rehabilitation

- (2) Words and expressions used in this Scheme and not defined, shall have the same meanings as assigned to the same in the act.
- 3. Victim Compensation Fund.— (1) The State Government shall constitute a fund namely Victim Compensation Fund from which amount of compensation under this Scheme shall be paid to the victim or his/her dependents.
  - (2) The State Government shall allot a separate budget for the purpose of the Scheme every year.
  - (3) The Fund shall be operated by the Member Secretary, State Legal Services Authority for the State of West Bengal.
- 4. Eligibility for Compensation.— Where the offender is not traced or identified, but the victim is identified, and where no trial takes place, the victim or his/her dependents may make an application to the State or the District Legal Services Authority for award of compensation if.—
  - (a) he/she has not been compensated for the loss or injury under any other Scheme of the Central or State Government, insurance company or any other institution,
  - (b) the loss or injury sustained by the victim has caused substantial loss of income to his/her family making it difficult to meet their both ends without any compensation.
- 5. Reliefs that may be awarded by the State or District Legal Services Authority.— The State or District Legal Services Authority may award compensation to the victim or his/her dependents to the extent as specified in the Schedule.
- Procedure for grant of Compensation.—(1) Whenever a recommendation is made by the Court for compensation under sub-section (2) of section 357A of the Act or an application is made by any victim or his/her dependent under sub-section (4) of section 357A of the Act to the State Legal Services Authority or the District Legal Services Authority, the State Legal Services Authority or the District Legal Services Authority shall examine the case and shall verify the contents of the claim with regard to the loss or injury caused to the claimant and also may call for any other relevant information necessary for consideration of the claim from the concerned victim or his/her dependent. After verifying the claim and after due enquiry the State or District Legal Services Authority shall award compensation under sub-section (5) of section 357A of the Act.
  - (2) The award of compensation under this Scheme shall be subject to the condition that, if the trial court at the conclusion of the trial while passing the Judgment orders the accused person to pay any amount by way of compensation under sub-section (3) of Section 357 of the Act, the victim shall refund the amount of compensation awarded under this Scheme, or the amount of compensation received in pursuance of the order passed under sub-section (3) of Section 357 of the Act, whichever is less. An Undertaking in this respect shall be obtained from the victim or his/her dependents before the disbursal of the compensation amount under this Scheme.
  - (3) The State or the District Legal Services Authority, shall decide the quantum of compensation to be awarded to the victim or his/her dependents on the basis of loss or injury caused to the victim as a result of the crime and his/her/their requirements of rehabilitation.
  - (4) The compensation awarded under this Scheme shall be disbursed to the victim or his/her dependents, as the case may be, from the Fund, by remitting the same into the bank account declared by the victim/dependents.
  - (5) In case where the victim or dependent is a minor, the amount of compensation shall be released to the guardian or whoever has filed the application on behalf of such minor after the State or District Legal Services Authority is satisfied about the proper utilization of funds in the best interest of and for the welfare of such minor upon an undertaking by the guardian of the minor that such compensation amount shall be deposited in the nationalized Bank and shall be expended only for the benefit of minor.
- (6) The compensation already received by the victim or his/her dependents from the Insurance Company or from the Government in relation to the crime in question, including ex-gratia and/or other payment received under any law or under Central or State run Scheme, shall be treated as the compensation awarded under this Scheme, and if the amount of compensation to be received under this Scheme exceeds the payment already received by the victim from the sources mentioned above, the balance amount shall be paid out of fund to the victim.

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- (7) The cases covered under Motor Vehicles Act, 1988 (59 of 1988) wherein compensation is to be awarded by the Motor Accident Claims Tribunal, shall not be covered under this Scheme.
- (8) The State or the District Legal Services Authority, to alleviate the suffering of the victim, may order for immediate below the rank of the officer-in-charge of the police station or a Magistrate of the area concerned, or any other interim relief as it may deem fit.
- (9) In case where the victim is a minor, the compensation will be released to the guardian or whosoever filed the application on behalf of the minor. In such case, opinion of Child Welfare Committee shall be sought for recommending cases of such victims to State or the District Legal Services Authority.
- 7. Rejection of the application.— The State or District Legal Services Authority may, subject to the provisions of sub-sections (2) and (3) of section 357A of the Act, reject an application where it is of the considered opinion that,—
  - (a) the applicant has failed to take all reasonable steps to inform the police or other body or person considered by the State or District Legal Services Authority to be appropriate for the purpose about the circumstances giving rise to the loss or injury; or
  - (b) the applicant failed to co-operate with the police or the Court to bring the accused to justice; or
  - (c) the applicant has failed to give all reasonable assistance to the State or District Legal Services Authority for deciding the application; or
  - (d) the applicant has previously filed an application in respect of the loss or injury suffered as a result of the same crime under this Scheme, for compensation and such application is already granted or rejected or pending adjudication; or
  - (e) the applicant, after having filed the complaint, wilfully turned hostile in the trial and has not supported the case of the prosecution; or
  - (f) the alleged crime prima-facie is collusive in nature and not based upon verifiable facts; or
  - (g) any other reason deemed fit by State or District Legal services Authority.
- 8. The order to be placed on record.—Copy of the order of compensation passed under this Scheme shall be placed on record of the trial Court so as to enable the trial Court to pass an appropriate order of compensation under sub-section (3) of Section 357 of the Act.
- 9. Limitation.— An application for compensation under sub-section (4) of Section 357A of the Act shall be made within one hundred and eighty days from the date of commission of the Crime:

Provided that the State or District Legal Services Authority may entertain the application received after the expiry of said period of one hundred and eighty days if it is satisfied that the applicant was prevented by sufficient cause from filing the application in time.

10. Appeal.— (1)Any victim or his/her dependent if aggrieved by the Order of the District Legal Services Authority may file an appeal before the State Legal Services Authority within a period of ninety days from the date of such Order:

Provided that the State Legal Services Authority may admit the appeal after the expiry of the period of ninety days if it is satisfied that the victim or his/her dependent was prevented by sufficient cause from filing the appeal in time.

(2) The decision or order of the State Legal Services Authority on all matters shall be final.

# THE KOLKATA GAZETTE, EXTRAORDINARY, FEBRUARY 17, 2017

## Schedule

Sl. No.	Description of Injuries/Loss	Minimum Amount of Compensation
1.	Acid Attack	Rs. 3 lakhs
2.	Rape	Rs. 3 laklis
3.	Physical abuse of minor	Rs. 2 lakhs
4.	Rehabilitation of victim of Human Trafficking or other offences like witch hunting etc.	Rs. 1 lakh
5.	Sexual assault (Excluding rape)	Rs. 50,000/-
6.	Death	Rs. 2 faklis
7.	Permanent Disability (80% or more)	Rs. 2 taklis
8.	Partial Disability (40% to 80%)	Rs. I lakh
9.	Burns affecting greater than 25% of the body (excluding Acid Attack cases)	Rs. 2 lakhs
10.	Loss of foctus	Rs. 50,000/-
11.	Loss of fertility	Rs. 1.5 lakhs

Note: If the victim is less than 14 years of age, the compensation shall be increased by 50% over the amount specified above.

2. This Notification is issued in cancellation of the Victim Compensation Scheme, 2012 issued vide Notification No. 5299-PL dated 1 November 2012 by the Government of West Bengal in the Home Department and notified on 8 November 2012 in the Kolkata Gazette.

By order of the Governor,

BIBEK CHAUDHURI
Secretary,

Judicial Department Government of West Bengal.