



DELHI STATE LEGAL SERVICES AUTHORITY

(Constituted Under the 'Legal Services Authorities Act, 1987', an Act of Parliament)

Under the Administrative Control of High Court of Delhi

Central Office, Patiala House Courts Complex, New Delhi - 110001

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Ref.No. DSLSA/LAW/Fin.Help to Victim of crime/2017/ 516770 03.05.2017

5203

To

The Ld. District & Sessions Judges
All District Courts,
Delhi/ New Delhi.

The Ld. Principal Judges,
All Family Court,
Delhi /New Delhi.

**SUB. PROVISION FOR FINANCIAL HELP AND REIMBURSEMENT OF TRAVEL AND
OTHER EXPENSES TO THE VICTIM OF CRIME.**

Respected Sir/Madam,

May I apprise your goodself that in pursuance to our moto 'ACCESS TO JUSTICE FOR ALL' as well as to ensure free, fair and just treatment to the Complainant/victim of a crime who has to appear before the Court for deposition of testimony after travelling from his/her home to the Court premises, this Authority took an initiative and placed the matter vide noting dated 03.02.2017 before Hon'ble the Executive Chairperson, DSLSA for kind consideration with the facts and submissions as discussed hereinafter.

I may inform your goodself that this initiative has been taken up this Authority subsequent to a recent incident of committing rape on a women hailing from USA, took place in Delhi last year, whereupon an FIR No. 290/2016 u/s 376 IPC was registered in Police Station Connaught Place. The said victim has written a letter to this Authority for reimbursement of her travelling and other expenses on the ground that she is not financially strong enough to bear the travelling, lodging and other ancillary expenses for visiting India. In order to ensure fair and just trial during judicial proceeding ample opportunity should be made available to the witness or victim of a crime for appearing before the Court.

I wish to bring to kind consideration the Gazette Notification of GNCT of Delhi (Department of Law, Justice & Legislative Affairs) Delhi Secretariat, New Delhi, bearing No. F.6/17/09-Judl./Supdt.law/1176-1178 dated 04.11.2015 pertaining to the payment of expenses to the Complainants and Witnesses. This notification has made it clear that it is applicable for the purpose of inquiry, trial or other proceedings before a Criminal Court in the metropolitan area of Delhi.

The payment may be made to the Complainant and Witness under **Rule 5 (Chapter 3 – Rate of Payment of Expenses)** of the Notification, which is reproduced as follows:

5. Category of Witnesses: The following category of witnesses is:

Category of Witnesses: -	
(A)	Public witness of any class
(B)	Government servants
(C)	Expert witnesses such as forensics Experts, Doctors, Engineers, Architects, Lawyers etc., who are not in services of Government.

Furthermore, as per rule 7 (A) (iii) for Category 'A' i.e. Public witness of any class, no Air fare is payable. However, **Rule 14** of the Notification provides for **liberal exercise of discretion** by the Presiding Officer, which is reproduced as follows:

14. Liberal exercise of discretion: *In doubtful cases or in case where it is not clear as to how much distance, the witness has travelled, the Presiding Officer may use his or her experience or knowledge for making assessment that how much expenses are to be paid to the witness and exercise such discretion liberally.*

Kind attention is also invited that in Rule 14 the expression "Doubtful cases" may be interpreted liberally to give harmonious construction of Rules, in accordance with aim and objective of the said rules provided in the Notification. Aim and Objective of the said rules appears to establish reasonable mechanism to avoid any hardship to the Complainant/Witnesses in securing access to the justice. As per dictionaries the term "Doubtful" means – Dubious, Uncertain, Unsure, Unconfirmed, Unknown, Unsettled, Undecided, etc. The intention of the framers of the Rules could not be to create a situation where Complainant/witness may not be able to appear before the Courts during Inquiry, Trial or other proceedings due to financial constraints or payment of expenses of transport, lodging, boarding etc., and resulting to re-victimisation. For the Witnesses falling under **Category 'A' of the**

Rule 5 of the Notification i.e. '*Public witness of any class*', Air-fare is not permissible. The Rules appears to be doubtful, uncertain and unable to resolve a situation – where a Public Witness under Category 'A' of the Rule 5 of the Notification may not have any other mode of transport except by Airways or may not be able to reach before the Court in the given time by any other mode except by Airways. Therefore, under Rule 14 of the Notification the term 'Doubtful cases' may be liberally interpreted by the Courts by providing Air travel expenses and other reasonable expenses to be incurred for joining such proceedings, in order to ensure the appearance of witness in Court on date and time fixed by the Court.

The combined reading of different provisions of the said notification makes it clear that though Public Witness is not entitled Air fare, but under Rule 14 – in doubtful cases, the Presiding Officer may use discretion liberally.

Similarly, there may arise situation where victim of crime or survivor is an Indian National belonging to a far flung State such as hailing from the North East of India, West Bengal or even Southern States of India and so on. In such cases also there may arise a situation where the victim or the survivor would be required to join inquiry, investigation, Judicial proceedings or trial in Delhi at a short notice. In such cases as well, it would be just and fair to allow the witness / victim or survivor to travel to Delhi by Air. Further, the witness/victim or the survivor might also require to spend some amount of money on travelling and/or short stay or accommodation at Delhi, and in such cases the Courts may exercise the discretion to pass direction to the Resident Commissioner of the State concerned to facilitate boarding and lodging of the witness/ victim or survivor at the State House/ Bhavan at the applicable rates with further direction to the Government or the DSLSA to pay or reimburse the amount spent on accommodation for a reasonable time.

I may, therefore, submit that the Courts may reimburse the expenses incurred for travelling through all possible modes of transport including Air fare and other expenses viz. Taxi, bus, metro fare, boarding and lodging charges etc. under the existing rules itself.

In case the Court concerned is not inclined under the rules to make payment of such expenses then the Delhi State Legal Services Authority may make provision for all modes of travelling fare and other reasonable expenses incurred by the applicant during trial or judicial proceedings, so that fair and just treatment may be ensured to the Complainant/victim.

May I further inform your goodself that after going through the above submissions Hon'ble the Executive Chairperson, DSLSA has been pleased to grant

financial and administrative approval for grant of travelling expenses by all modes and other reasonable expenses incurred by the victim of a crime for deposition of his/her testimony in judicial proceeding and henceforth, DLSAs/DSLAs may bear the such expenses if not paid by the Court concerned under the rules on recommendation of Court concerned or otherwise.

It is requested that this information may kindly be circulated among all the Courts under your kind control.

With regards,

Yours sincerely,

31/5/2017
(Sanjeev Jain)
Member Secretary

Copy Forwarded to:-

1. P. A. to Ld. Special Secretary (Admn.), DSLA.
2. P.A. to Ld. Additional Secretary, DSLA.
3. The Secretary, Central District Legal Services Authority, Tis Hazari Courts, Delhi.
4. The Secretary, South West District Legal Services Authority, Saket Courts, Delhi.
5. The Secretary, North District Legal Services Authority, Rohini Courts, Delhi.
6. The Secretary, South District Legal Services Authority Saket Courts, New Delhi.
7. The Secretary, West District Legal Services Authority, Tis Hazari Courts, Delhi.
8. The Secretary, North East District Legal Services Authority, Karkardooma Courts, Delhi.
9. The Secretary, New Delhi District Legal Services Authority, Patiala House Courts, New Delhi.
10. The Secretary, East District Legal Services Authority, Karkardooma Courts, Delhi.
11. The Secretary, Shahdara District Legal Services Authority, Karkardooma Courts, Delhi.
12. The Secretary, South East District Legal Services Authority Saket Courts, New Delhi.

13. The Secretary, North West District Legal Services Authority, Rohini Courts, Delhi.

14. Office Order File.

15. Official web-site of this Authority.

Note: The Ld. District & Sessions Judges and Ld. Principal Judges, Family Courts of all Districts are requested to circulate the same amongst all the Courts of all jurisdictions, in their respective districts.

Sanjeev Jain
(Sanjeev Jain)
Member Secretary

