



Price : Rs. 3.00

GOVERNMENT OF INDIA

Chandigarh Administration Gazette

EXTRAORDINARY

Published by Authority

CHANDIGARH, WEDNESDAY, JULY 31, 2019 (SRAVANA 9, 1941 SAKA)

HOME DEPARTMENT

Notification

The 31st July, 2019

No. 4264-HIII(2)-2019/11367.—In exercise of the powers conferred by Section 357A of the Code of Criminal Procedure, 1973 (Act 2 of 1974) and in compliance to the directions given by Hon'ble Supreme Court of India,—*vide* order dated 11th May, 2018 in Writ Petition (C) No. 565/2012 titled as *Nipun Saxena versus Union of India and Ors.*, and in view of key directions/guidelines laid down by Hon'ble Supreme Court of India in Writ Petition (C) No. 754/2016 titled as *Tehseen S. Poonawalla versus Union of India*, the Administrator of the Union Territory of Chandigarh, hereby makes the following scheme for providing funds for the purposes of Assistance to be given to the victim or his/her dependent(s) who have suffered loss or injury or both as a result of the crime and who require rehabilitation :—

1. **Short title and commencement.**—(i) This scheme may be called the Union Territory of Chandigarh Victim Assistance Scheme, 2018.

(ii) This shall come into force on the date of its publication in the Official Gazette of Union Territory of Chandigarh.

2. **Definitions.**—In this scheme, unless the context otherwise requires—

- (a) **'Victim'** means as defined in clause (wa) of Section 2 of the Code of Criminal Procedure, 1973 including the victim(s) of mob violence/lynching, offences committed under POCSO Act and the acid attack victims ;
- (b) **'Act'** means the Code of Criminal Procedure, 1973 (Act 2 of 1974) ;
- (c) **'Competent Authority'** means an authority who has been delegated powers to withdraw compensation amount from Victims Compensation Fund and to release to the Member Secretary, State Legal Services Authority ;
- (d) **'Dependent'** means wife or husband, father, mother, grandparents, unmarried daughter or minor children of the victim as determined by the State Legal Services Authority or District Legal Services Authority on the basis of the report of the Sub-Divisional Magistrate of the concerned area/Station House Officer/Investigating Officer or on the basis of material placed on record by dependent by way of affidavit or on its own enquiry ;

- (e) **'State Legal Services Authority'**, Union Territory of Chandigarh and **'District Legal Services Authority'** Chandigarh means State Legal Services Authority or District Legal Services Authority of U.T. of Chandigarh as defined in the Legal Services Authority Act, 1987 ;
- (f) **'Victim Compensation Fund'** means a fund segregated for disbursement to the victim as defined under this Scheme out of Union Territory of Chandigarh Victim Compensation Fund ;
- (g) **'Injury'** means any bodily injury or psychological injury or loss of earnings including loss of opportunity of employment and education and expenses incurred on account of legal and medical expenses ;
- (h) **'Minor'** means a victim who has not completed the age of 18 years ;
- (i) **'Offence'** means offence committed against the victim punishable under IPC or any other law ;
- (j) **'Penal Code'** means Indian Penal Code, 1860 (45 of 1860) ;
- (k) **'Sexual Assault Victims'** means victim who has suffered mental or physical injury or both as a result of sexual offence including Sections 376(A) to (E), Section 354(A) to (D), Section 509 IPC ;
- (l) **'Victim/Survivor of other crime'** means victim who has suffered physical or mental injury as a result of any offence mentioned in the attached Schedule including Sections 304B, Section 326A, Section 498A IPC (in case of physical injury of the nature specified in the schedule) including the attempts and abetment, any offence committed against the victim under the POCSO Act, any offence pertaining to mob lynching.

3. **Victims Compensation Fund.**—(i) There shall be a Fund, namely, the Victims Compensation Fund (which shall comprise of State Victim Compensation Fund and Central Fund) from which the amount of compensation, as decided by the State Legal Services Authority or District Legal Services Authority, shall be paid to the victim or their dependent(s) who have suffered loss or injury as a result of an offence and who require rehabilitation.

[Within the State Victim Compensation Fund, a separate Bank Account shall be maintained as a portion of that larger fund which shall contain the funds contributed under CVCF Scheme by MHA, GOI contributed from Nirbhaya Fund apart from funds received from the State Victim Compensation Fund which shall be utilised only for victims covered under this Chapter]

(ii) The Victim Compensation Fund shall comprise of the following :—

- (a) Grant received from the Government of India shall be transferred to the competent authority (as shall be authorised by the U.T., Chandigarh for this purpose) which shall release the amount to the Member Secretary, State Legal Services Authority on his/her demand after passing the award.
- (b) Amounts of fine imposed under Section 357 Cr.P.C. and ordered to be deposited by the Courts in the Victim Compensation/Assistance fund will be deposited into the Consolidated Fund of India.
- (c) The cost of the Assistance shall be recovered from the wrongdoer/accused and shall be treated as Public Demand to be recovered in accordance with the relevant provisions of law.

- (d) Any amount of cost ordered by Civil Criminal Tribunal to be deposited in this fund.
- (e) Donations/Contributions received from international/national/philanthropist/charitable institutions/organisations and individuals permitted by State or Central Government.
- (f) Contributions from companies under CSR (Corporate Social Responsibility).

4. **Eligibility for assistance/Compensation.**—The victim or his/her dependent(s) as the case may be, shall be eligible for grant of compensation after following the criteria for the grant of assistance as prescribed under this scheme. However, compensation received by the victim in any other scheme with regard to Section 357 B Cr.P.C. shall be taken into account while deciding the quantum of compensation.

5. **Procedure for Grant of Assistance.**—Mandatory reporting of FIRs.—SHO/SP/DGP shall mandatorily share soft/hard copy of FIR immediately after its registration with SLSA/DLSA *qua* commission of offence covered in this scheme which includes Sections 326A, 354A to 354D, 376A to 376E, 304B, 498 A IPC, offence pertaining to mob violence/lynching, acid attacks, offence committed under POCSO Act (in case of physical injury committed under this schedule) so that the State Legal Services Authority/District Legal Services Authority can, in deserving cases may *suo moto* initiate preliminary verification of the facts for the purpose of grant of interim compensation.

The application for the award of interim/final compensation can be made by the victim and/or his/her dependents before concerned State Legal Services Authority or District Legal Services Authority. The said application shall be filled in the prescribed proforma and supported by an affidavit, as appended with the present Scheme alongwith the copy of First Information Report or criminal complaint of which cognizance is taken by the Court and if available medical report, death certificate wherever applicable, copy of judgment/recommendations of the court, if the trial is over.

6. **Place of filing of application.**—The application/recommendation for compensation can be moved either before the State Legal Services Authority or the concerned District Legal Services Authority or it can be filed online on the portal which shall be created by State Legal Services Authority. The Secretary of State Legal Services Authority or District Legal Services Authority shall decide the application/recommendations moved before him/her as per the scheme.

Explanation.—In case of acid attack victim, the deciding authority shall be Criminal Injury Compensation Board as directed by Hon'ble Supreme Court of India in **Laxmi versus Union of India W.P. CRML 129/2006** order dated 10th April, 2015 which includes Ld. District and Sessions Judge, DM, SP, Civil Surgeon/SMO of the Union Territory of Chandigarh.

7. **Relief that may be granted/awarded by the State or District Legal Services Authority.**—The SLSA or DLSA may award compensation to the victim or their dependent(s) to the extent as specified in the schedule attached hereto.

8. **Factors to be considered while awarding compensation.**—While deciding the matter, the State Legal Services Authority/District Legal Services Authority may take into consideration the following facts relating to loss/injury suffered by the victim :—

- (i) Gravity of the offence and severity of mental or physical harm or injury suffered by the victim ;
- (ii) Expenditure incurred or likely to be incurred on the medical treatment for physical and/or mental health including counselling of the victim, funeral, travelling during investigation/inquiry/trial (other than diet money) ;

- (iii) Loss of educational opportunity as a consequence of the offence, including absence from school/college due to mental trauma, bodily injury, medical treatment, investigation and trial of the offence, or any other reason ;
- (iv) Loss of employment as a result of the offence, including absence from place of employment due to mental trauma, bodily injury, medical treatment, investigation and trial of the offence, or any other reason ;
- (v) The relationship of the victim to the offender, if any ;
- (vi) Whether the abuse was a single isolated incidence or whether the abuse took place over a period of time ;
- (vii) Whether victim became pregnant as a result of the offence, whether she had to undergo Medical Termination of Pregnancy (MTP)/give birth to a child, including rehabilitation needs of such child ;
- (viii) Whether the victim contracted a sexually transmitted disease (STD) as a result of the offence ;
- (ix) Whether the victim contracted human immunodeficiency virus (HIV) as a result of the offence ;
- (x) Any disability suffered by the victim as a result of the offence ;
- (xi) Financial condition of the victim against whom the offence has been committed so as to determine her need for rehabilitation and re-integration needs of the victim ;
- (xii) In case of death, the age of deceased, her monthly income, number of dependents, life expectancy, future promotional/growth prospects etc.
- (xiii) Or any other factor which the SLSA/DLSA may consider just and sufficient.

9. **Procedure for grant of compensation.**—(i) Wherever, a recommendation is made by the Court for compensation under sub-sections (2) and/or (3) of Section 357 A of the Code, or an application is made by any victim of his/her dependent(s), under sub-section (4) of Section 357 A of the Code, to the State Legal Services Authority or District Legal Services Authority, for interim compensation it shall *prima facie* satisfy itself *qua* compensation needs and identity of the victim. As regards the final compensation, it shall examine the case and verify the contents of the claim with respect to the loss/injury and rehabilitation needs as a result of the crime and may also call for any other relevant information necessary for deciding the claim :

Provided that in deserving cases and in all acid attack cases, at any time after commission of the offence, Secretary, SLSA or Secretary, DLSA may *suo moto* or after preliminary verification of the facts proceed to grant interim relief as may be required in the circumstances of each case.

(ii) The inquiry as contemplated under sub-section (5) of Section 357 A of the Code, shall be completed expeditiously and the period in no case shall exceed beyond sixty days from the receipt of the claim/petition or recommendation :

Provided that in cases of acid attack an amount of ₹ One lakh shall be paid to the victim within 15 days of the occurrence of such incident or the matter being brought to the notice of the SLSA/DLSA. The order granting interim compensation shall be passed by SLSA/DLSA within 7 days of the matter being brought to its notice and the SLSA shall pay the compensation within 8 days of passing of the order. Thereafter, an amount of ₹ 2 lakhs shall be paid to the victim as expeditiously as possible and positively within two months of the first payment*.

Provided further that the victim may also be paid such further amount as is admissible under this Scheme.

* Victims of the Acid Attack are also entitled to additional compensation of ₹ one lakh under Prime Minister's National Relief Fund,—vide memo No. 24013/94/Misc./2014-CSR-III/Gol/MHA, dated 9th November, 2016.

Victims of Acid Attack are also entitled to additional special financial Assistance up to ₹ 5 Lakhs who need treatment expenses over and above the compensation paid by the U.T. of Chandigarh in terms of Central Victim Compensation Fund Guidelines-2016, No. 24013/94/Misc./2014-CSR-III/Gol/MHA.

(iii) After consideration of the matter, the SLSA or DLSA, as the case may be, upon its satisfaction, shall decide the quantum of compensation to be awarded to the victim or his/her dependent(s) taking into account the factors enumerated in Clause 8 of the Scheme, as per schedule appended to this chapter. However, in deserving cases, for reasons to be recorded, the upper limit may be exceeded.

Moreover, in case the victim is minor, the limit of compensation shall be deemed to be 50% higher than the amount mentioned in the Schedule appended to this chapter.

(iv) The SLSA/DLSA may call for any record or take assistance from any Authority/ Establishment/Individual/Police/Court concerned or expert for smooth implementation of the Scheme.

(v) In case trial/appellate court gives findings that the criminal complaint and the allegation were false, then Legal Services Authority may initiate proceedings for recovery of compensation, if any, granted in part or full under this Scheme, before the Trial Court for its recovery as if it were a fine.

10. **The order to be placed on record.**—Copy of the order of the interim or final compensation passed under this scheme shall be placed on the record of trial court so as to enable the trial court to pass an appropriate order of compensation under Section 357 of the Code. A true copy of the order shall be provided to the IO in case the matter is pending investigation and also to the victim/dependent as the case may be.

11. **Method of Disbursement of Compensation.**—(i) The amount of compensation so awarded shall be disbursed by the SLSA by depositing the same in a Bank in the joint or single name of the victim/ dependent (s). In case the victim does not have any bank account, the DLSA would facilitate opening of a bank account in the name of the victim and in case the victim is a minor alongwith a guardian or in case, minor is in a child care institution, the bank account shall be opened with the Superintendent of the Institution as Guardian. However, in case the victim is a foreign national or a refugee, the compensation can be disbursed by way of cash cards.

Interim amount shall be disbursed in full. However, as far the final compensation amount is concerned, 75% (Seventy Five Per cent) of the same shall be put in a fixed deposit for a minimum period of three years and the remaining 25% (Twenty Five Per cent) shall be available for utilization and initial expenses by the victim/dependent(s), as the case may be.

(ii) In the case of a minor, 80% of the amount of compensation so awarded, shall be deposited in the fixed deposit account and shall be drawn only, on attainment of the age of majority, but not before three years of the deposit :

Provided that in exceptional cases, amounts may be withdrawn for educational or medical or other pressing and urgent needs of the beneficiary at the discretion of the SLSA/DLSA.

(iii) The interest on the sum, if lying the FDR form, shall be credited directly by the bank in the savings account of the victim/dependent(s), on monthly basis which can be withdrawn by the beneficiary.

12. Medical Aid and Interim Relief to the Victim.—The SLSA or DLSA of the Union Territory of Chandigarh, to alleviate the suffering of the victim, may on the certificate of a Police Officer not below the rank of the Officer Incharge of the Police Station OR a Magistrate of the area concerned or on the application of the victim/dependents or *suo moto*, order for immediate first-aid facility or medical benefits or any other interim relief (including interim monetary compensation) as deemed fit, to be made available free of cost to the victim, which shall not be adjustable against the amount of Assistance :

Provided that as soon as application for compensation is received by the SLSA/DLSA, a sum of ₹ 5000 or as the case warrants upto ₹ 10,000 shall be immediately disbursed to the victim through preloaded cash card from a Nationalised Bank by the Secretary, DLSA, or Member Secretary, SLSA :

Provided that the, interim relief so granted shall not be less than 25 per cent of the maximum compensation awardable as per schedule applicable to this Chapter, which shall be paid to the victim in totality :

Provided further that in cases of acid attack a sum of ₹ One Lakh shall be paid to the victim within 15 days of the matter being brought to the notice of SLSA/DLSA. The order granting interim compensation shall be passed by the SLSA/DLSA within 07 days of the matter being brought to its notice and the SLSA shall pay the compensation within 08 days of passing of order. Thereafter, an additional sum of ₹ 2 lakhs shall be awarded and paid to the victim as expeditiously as possible and positively within two months.

13. Recovery of compensation awarded to the Victim or his/her dependent(s).—Subject to the provisions of sub-section 3 of Section 357 A of the Code the SLSA, in proper cases, may institute proceedings before the competent court for recovery of compensation granted to victim or his/her dependent(s) from person(s) responsible for cause of loss/ injury as a result of crime committed by him/her.

The amount, so recovered shall be deposited in Victim Compensation Fund.

14. Dependency certificate.—The authority empowered to issue the dependency certificate shall issue the same within a period of 15 days and in no case the period shall be extended :

Provided that the State Legal Services Authority or the District Legal Services Authority, as the case may be, in case of non-issuance of dependency certificate, after expiry of 15 days may proceed on the basis of affidavit to be obtained from the claimant.

15. Minor Victims.—That in case the victim is an orphaned minor without any parent or legal guardian the immediate relief or the interim compensation shall be disbursed to the Bank Account of the child, opened under the guardianship of the Superintendent, Child Care Institutions where the child is lodged or in absence thereof, DDO/SDM, as the case may be.

16. Limitation.—Under the scheme, no claim of assistance made by the victim or his/her dependent(s) under sub section (4) of Section 357-A of the Code, shall be entertained after a period of 3 years from the date of occurrence of offence or conclusion of the trial :

Provided that the SLSA or DLSA as the case may be, is satisfied for the reasons to be recorded in writing may entertain claim after a period of 3 years.

17. **Appeal.**—In case any victim or his/her dependent(s) feels aggrieved by the denial of assistance or is not satisfied with the quantum of compensation awarded by the Secretary, DLSA, then they may file an appeal before the Chairman DLSA within a period of 30 days from the date of receipt of order :

Provided that delay in filling appeal may be condoned by the appellate Authority for reasons to be recorded in deserving cases on an application made in this regard.

18. **Quantum of Assistance/Compensation.**—The assistance/ compensation shall be granted as per the schedule annexed to the scheme.

19. **Repeal and Savings.**—(i) The Union Territory of Chandigarh Victim Assistance Scheme, 2012 as amended from time to time or any other scheme regarding grant of compensation to the victims, as applicable in U.T., Chandigarh stands repealed.

(ii) In case this Chapter is silent on any issue pertaining to compensation to the victim as defined under this scheme including acid attack victims, victims under POCSO Act and victims of mob violence/lynching, the provisions of Victim Assistance Scheme, 2018 would be applicable.

Nothing in this scheme shall prevent victims or their dependents from instituting any Civil Suit or claim against the perpetrator of offence or any other person indirectly responsible for the same.

Explanation.—It is clarified that this Chapter does not apply to minor victims under POSCO Act, 2012 in so far as their compensation issues are to be dealt with only by the Ld. Special Courts under Section 33 (8) of POSCO Act, 2012 and Rules (7) of the POSCO Rules, 2012.

ARUN KUMAR GUPTA, I.A.S.,
Principal Secretary Home,
Chandigarh Administration.

SCHEDULE

SCHEDULE FOR PAYMENT OF COMPENSATION UNDER THE UNION TERRITORY OF
CHANDIGARH VICTIM COMPENSATION SCHEME-2018

S.No.	Particulars of loss or injury	Minimum Limit of Compensation	Upper Limit of Compensation
1	Loss of Life	₹ 5 Lakh	₹ 10 Lakh
2	Gang Rape	₹ 5 Lakh	₹ 10 Lakh
3	Rape	₹ 5 Lakh	₹ 10 Lakh
4	Unnatural Sexual Assault	₹ 5 Lakh	₹ 10 Lakh
5	Loss of any Limb or part of body resulting in 80% permanent disability or above	₹ 2 Lakh	₹ 5 Lakh
6	Loss of any Limb or part of body resulting in 40% and below 80% permanent disability	₹ 2 Lakh	₹ 4 Lakh
7	Loss of any Limb or part of body resulting in above 20% and below 40% permanent disability	₹ 1 Lakh	₹ 3 Lakh
8	Loss of any Limb or part of body resulting in below 20% permanent disability or above	₹ 1 Lakh	₹ 2 Lakh
9	Grievous physical injury or any mental injury requiring rehabilitation	₹ 1 Lakh	₹ 2 Lakh
10	Loss of Foetus i.e. Miscarriage as a result of Assault or loss of fertility	₹ 2 Lakh	₹ 3 Lakh
11	(a) In case of pregnancy on account of rape	₹ 3 Lakh	₹ 4 Lakh
	(b) In case of pregnancy on account of rape of minor	₹ 5 Lakh	₹ 10 Lakh
12	Victims of burning :		
	(a) In case of disfigurement of case	₹ 7 Lakh	₹ 8 Lakh
	(b) In case of more than 50%	₹ 5 Lakh	₹ 8 Lakh
	(c) In case of injury less than 50%	₹ 3 Lakh	₹ 7 Lakh
	(d) In case of less than 20%	₹ 2 Lakh	₹ 3 Lakh

S.No.	Particulars of loss or injury	Minimum Limit of Compensation	Upper Limit of Compensation
13	Victims of Acid Attack :		
	(a) In case of disfigurement of face.	₹ 7 Lakh	₹ 10 Lakh
	(b) In case of injury more than 50%	₹ 5 Lakh	₹ 8 Lakh
	(c) In case of injury less than 50%	₹ 3 Lakh	₹ 5 Lakh
	(d) In case of injury less than 20%	₹ 3 Lakh	₹ 4 Lakh
14	Rehabilitation of victim of Human Trafficking	₹ 10 Lakh	₹ 10 Lakh
15	Victims of mob violence/lynching :		
	(a) Death	₹ 2 Lakh	₹ 2 Lakh
	(b) Permanent Disability (50% or more)	₹ 1.5 Lakh	₹ 3 Lakh
	(c) Partial Disability (25% to 50%)	₹ 1 Lakh	₹ 2 Lakh
	(d) Loss of Immovable Property	₹ __ (*)	₹ 1 Lakh
	(e) Loss of Moveable Property	₹ __ (*)	₹ 50,000
16	Women victims of cross-border firing :		
	(a) Death or Permanent Disability (80% or more)	₹ 2 Lakh	₹ 2 Lakh
	(b) Partial Disability (40% to 80%)	₹ 1 Lakh	₹ 1 Lakh

(*) Amount to be decided by the DLSA/SLSA or Trial Court.

Note.—If a woman victim of sexual assault/acid attack is covered under one or more category of the schedule, she shall be entitled to be considered for combined value of the compensation.