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Date of Receipt 15.02.2022

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**GOVERNMENT OF SIKKIM
LAW & PARLIAMENTARY AFFAIRS DEPARTMENT.
GANGTOK.**

No. 9 (14) LD/2002/PART-I/34

Dated: 14.02.2022.

To,

The Member Secretary,
Sikkim State Legal Service Authority,
Gangtok.

Subject: Forwarding Letter.

Sir,

I am directed to forward herewith a copy of Notification No. 06/Home/2022, dated: 01/02/2022 received from Home Department, Government of Sikkim, Gangtok for favour of information and necessary action, please.

Yours faithfully,

P. Manu 14/2/22

Research Officer,

Law & Parliamentary Affairs Department.

Encl:- As above.

OS (SJA)/OS (Chkx) / NA / uor



15/2/22
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DY NO. 1559
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GOVERNMENT OF SIKKIM
HOME DEPARTMENT
GANGTOK

No.06/Home/2022

Dated: 01/02/2022

NOTIFICATION

In exercise of the powers conferred by Section 357A of the Code of Criminal Procedure, 1973 (2 of 1974), the Governor of Sikkim is hereby pleased to frame the following scheme for providing funds for the purpose of compensation to the victims or his or her dependents who have suffered loss or injury as a result of the crime and who require rehabilitation, namely:-

1. Short title and commencement.-

(1) This scheme may be called the Sikkim Compensation to victims (or their Dependents) Scheme, 2021.

(2) It shall come into force on the date of its publication in the Official Gazette.

2. Definitions.-

In this scheme, unless the context otherwise requires:-

- (a) "Authority empowered to issue dependency certificate" means the District Collector, the Additional District Collector or the Sub-Divisional Magistrate;
- (b) "beneficiary" means the victim or his or her dependents;
- (c) "Central Fund" means funds received from Central Victim Compensation Fund (CVCF) Scheme, 2015;
- (d) "Code" means the Code of Criminal Procedure, 1973 (2 of 1974);
- (e) "dependent" includes husband, wife, father, mother, grandparents, unmarried daughter and minor children of the victim determined by the State Legal Service Authority on the basis of a report of the Sub-Divisional Magistrate of the concerned area/Station House Officer/ Interrogating Officer or on the basis of material placed on record by the dependents by way of affidavit or on its own enquiry;

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- (f) "District Legal Service Authority or DLSA" means the District Legal Services Authority constituted in terms of Section 9 of the Legal Services Authorities Act, 1987 (39 of 1987) for each District in the State of Sikkim;
- (g) "Form" means the form appended to this scheme;
- (h) "Government" means the State Government of Sikkim;
- (i) "injury" means any harm caused to the body or mind of a female or other victims;
- (j) "Interim relief" means the immediate first-aid facility or medical benefit to be made available free of cost or any other interim relief including interim monetary compensation as deemed appropriate;
- (k) "minor" for the purpose of this scheme shall mean a child who has not completed the age of 18 years;
- (l) "offence" in relation to Chapter-I means an offence committed against any person punishable under Indian Penal Code or any other law and in relation to Chapter-II means an offence committed against any female;
- (m) "Penal code" means the Indian Penal Code, 1860 (45 of 1860);
- (n) "Schedule-I" means the schedule appended to Chapter-I of the scheme;
- (o) "Schedule-II" means the schedule appended to Chapter-II of the scheme;
- (p) "Sexual Assault Victims" means any person who has suffered mental or physical injury or both as a result of sexual offence including offences under sections 376(A) to (E), Section 354 (A) to (D) and Section 509 of IPC;
- (q) "State" means the State of Sikkim;
- (r) "State Legal Services Authority or SLSA" means the State Legal Services Authority or SLSA as defined in Section 6 of the Legal Services Authorities Act, 1987 (39 of 1987);
- (s) "State Victim Compensation Fund" means the fund allocated by the State Government in the manner specified in clause 3 of the scheme;
- (t) "victim" means a person who has suffered loss or injury as a result of crime and require rehabilitation and includes his or her dependent family members;

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(u) "Women Victim Compensation Fund "means a fund segregated for disbursement for women victim out of State Victim Compensation Fund and Central Fund as specified in clause 14 of Chapter II;

(v) "Women Victim/Survivor of other Crime" means a woman who has suffered physical or mental injury as a result of any offence mentioned in the attached Schedule-II including Section 304 B, section 326A, Section 498A of IPC (in case of physical injury of the nature specified in Schedule-II) including attempts and abetment;

(2) Words and expressions used in this scheme and not defined here, shall have the same meaning as assigned to them in the Code of Criminal Procedure, 1973 or/and the Indian Penal Code, 1860.

CHAPTER-I

3. Applicability of this Chapter.-

This chapter shall be applicable to those cases of loss or injury which are not covered by chapter II of this scheme.

4 State Victim Compensation Fund-

A victim compensation fund shall be provided by the State Government to the State Legal Services Authority. A provision for the same shall be made every year in the State Budget. This fund shall also be utilized for payment of compensation to victims under POCSO Act, 2012.

5. Eligibility for compensation.-

The victim or his/her dependent on satisfying the following criteria shall be eligible for the grant of compensation, namely:-

- (i) He/she should not have been compensated for the loss or injury under any other scheme of the Central or State Government.
- (ii) If the victim or his dependant has received any compensation from any other scheme as specified in sub-clause (i), the amount of compensation so received shall be deducted from the total compensation awardable to him under this scheme.
- (iii) loss or injury sustained by the victim or his/her dependent should have caused loss of income of the family making it difficult to meet their both ends without the financial aid or has to spend beyond his means on medical treatment of mental and physical injury.



- (iv) Where the perpetrator of the crime is not traceable or goes unpunished after trial, but the victim is identifiable and the victim has to incur expenses on physical and mental rehabilitation, such victim may also apply to the SLSA or the concerned DLSA in the prescribed form.

6. Procedure for grant of compensation -

- (1) (a) Whenever, a recommendation is made by the Court for compensation under sub-sections (2) and /or (3) of Section 357A of the Code, or an application is made by any victim or his /her dependent(s) under sub-section (4) of Section 357 A of the Code to the State Legal Services Authority (SLSA) or the District Legal Services Authority (DLSA) for interim compensation, it shall prima facie satisfy itself regarding compensation needs and identity of the victim. For disbursement of final compensation, the SLSA or the DLSA as the case may be shall examine the case and verify the contents of the claim with respect to the loss or 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 exceptional cases of utmost hardship and gravity and in all acid attack cases, at any time after commission of the offence, Member Secretary, SLSA or Secretary, DLSA may suo motu or after preliminary verification of the facts, proceed to grant interim relief as may be required in the circumstances of each case.

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

- (2) The State Legal Service Authority shall decide the quantum of compensation to be awarded to the victim or his dependents on the basis of loss or injury caused to the victim, medical expenses to be incurred on treatment, minimum sustenance amount required for rehabilitation including such incidental charges, as funeral expenses etc. The compensation may vary from case to case depending on the facts of each case.
- (3) The quantum of compensation to be awarded to the victim or his/her dependents shall not exceed the maximum limit as prescribed in Schedule -I.
- (4) The amount of compensation as decided by the State Legal Services Authority shall be disbursed to the victim or his/her dependents, as the case may be, from the State Victim Compensation Fund.



7. Factors to be considered for awarding compensation.-

The following factors shall be considered for awarding of compensation, namely:-

- (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 counseling 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 or any other institution of learning, 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 single isolated incidence or whether the abuse took place over a period of time;
- (vii) whether the victim became pregnant as a result of the offence;
- (viii) whether the victim contracted a Sexually Transmitted Disease (STD) or Human Immunodeficiency Virus (HIV) as a result of the offence;
- (ix) any disability suffered by the victim against whom the offence has been committed so as to determine rehabilitation and reintegration needs of the victim;
- (x) financial condition of the victim against whom the offence has been committed so as to determine rehabilitation and reintegration needs of the Victim;
- (xi) in case of death, the age of deceased, his /her monthly income, number of dependents, life expectancy, future promotional/growth aspects etc; or
- (xii) any other factor which the SLSA or the DLSA may consider just and sufficient.



8. Compensation to acid attack victims -

- (1) In case of an acid attack victim, the deciding authority for compensation shall be "the Criminal Injuries Compensation Board" as directed by the Supreme Court of India in Writ Petition (C) No. 129 of 2006 dated 10.04.2015 titled Laxmi versus-Union of India and others which includes Ld. District and Sessions Judge, District Collector, Superintendent of Police and Civil Surgeon/ Chief Medical Officer of the District:

Provided that in case of acid attack an amount of Rs.1, 00,000/- (Rupees One Lakh only) shall be paid to the victim within 15 days of the matter being brought to the notice of the DLSA.

- (2) The order granting interim compensation for such victims shall be passed by DLSA within 7 days of the matter being brought to its notice and the SLSA/DLSA as the case may be, shall pay the compensation within 8 days of passing of the order. Thereafter, the balance compensation amount shall be paid to the victim as expeditiously as possible as and not later than two months after the first payment.

9. Methods of disbursement of compensation -

- (1) The amount of compensation so awarded shall be disbursed by the SLSA by depositing the same in a Bank Account opened in the joint or single name of the victim/dependents in case the victim does not have any Bank Account of his own.
- (a) In case the victim is a minor with a guardian or is a minor residing in a Child Care Institution, a Joint Bank Account shall be opened with the guardian or with the Superintendent of the Institution as his or her guardian as the case may be. However, in case the victim is a foreign national or a refugee, the compensation can be disbursed by way of cash cards.
- (b) In case the victim is an orphaned minor without any parents or legal guardian or is a missing child, the immediate relief or the interim compensation shall be disbursed to the Bank Account of the child, opened under the guardianship of the Superintendent of the concerned Child Care Institution or in absence thereof under the guardianship of the concerned Sub-Divisional Magistrate, as the case may be.



(2) Interim amount shall be disbursed in full. However, as far as the final compensation amount is concerned, 75% (Seventy five percent) of the same shall be placed in a Fixed Deposit for a minimum period of three years and the remaining 25% (Twenty five percent) shall be available for utilization as initial expenses by the victim/dependents as the case may be.

(3) In the case of a minor, 80% (Eighty percent) 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 such deposits may be withdrawn for educational or medical or other pressing and urgent needs of the beneficiary at the discretion of the SLSA / DLSA.

(4) The interest accrued on the sum, if lying in Fixed Deposit Receipt (FDR) form, shall be credited directly by the Bank in the saving account of the victim/dependents on monthly basis which can be withdrawn by the beneficiary.

10. Interim relief to the victim.-

The State Legal Services Authority or District Legal Services Authority, as the case may be, may order for immediate first-aid facility or medical benefits to be made available free of cost or any other interim relief, including interim monetary compensation, as deemed appropriate, to alleviate the suffering of the victim based on the certificate of a police officer, not below the rank of the Officer-in-Charge of the police station, Magistrate or Block Development Officer (BDO) of the area concerned or on the application of the victim /dependents or suo motu.

Provided that as soon as application for compensation is received by the SLSA /DLSA, a sum of Rs. 5000/- (Rupees Five Thousand only) or as the case warrants up to Rs. 10,000/- (Rupees Ten Thousand only) shall be immediately disbursed to the victim through pre-loaded cash card from a Nationalized Bank by the Secretary, DLSA or Member Secretary, SLSA, which shall be adjusted from the interim compensation;

Provided further that the interim relief so granted shall not be less than 25% of the maximum compensation awardable as per schedule-I appended to this chapter.



11. Dependency Certificate.-

The authority empowered to issue a Dependency Certificate shall issue the same within a period of seven (07) days from the date of application before the concerned Authority and in no case this period shall be extended:

Provided that the SLSA/DLSA in case of non-issuance of Dependency Certificate after expiry of above period may proceed on the basis of an affidavit to be obtained from the claimant.

12. Recovery of compensation awarded to the victim or his/her dependents.-

(1) 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 of Law for recovery of the compensation granted to the victim or his/her dependents or from person(s) responsible for causing loss or injury as a result of the crime committed by him or her.

(2) The amount recovered shall be deposited in the State Victim Compensation Fund.

13. Limitation.-

Under this Scheme, no claim made by a victim or his dependent(s) under sub-section (4) of Section 357-A of the Code shall be entertained after a period of three years from the date of occurrence of the offences. However, in deserving cases, on an application made in this regard, for the reason to be recorded, the delay beyond three years can be condoned by the SLSA/DLSA, if sufficient cause is shown.

14. Appeal.-

In case the victim or his dependents are not satisfied with the quantum of compensation awarded by the Secretary, DLSA or the Member Secretary, SLSA, they can file an appeal within 30 days from the date of receipt of order before the Chairperson, DLSA or the Chairperson, SLSA as the case may be:

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

15. Repeal and Savings.-

- (1) The Sikkim Compensation to Victims or his Dependents Scheme, 2011 notified vide Notification No. 50/Home/2011 dated 24.06.2011 is hereby repealed.
- (2) Notwithstanding such repeal, anything done or any action taken under the said scheme shall be deemed to have been done or taken under this scheme.



- (3) Nothing in this scheme shall prevent victims or their dependents from institution of any civil suit or claim against the perpetrator of offence or any other person indirectly responsible for the same.

CHAPTER- II

16. Women Victims Compensation Fund -

- (1) There shall be a fund, namely, the Women Victims Compensation Fund which the amount of compensation, as decided by the State Legal Services Authority or District Legal Services Authority, shall be paid to the women victim or her dependent(s) who have suffered loss or injury as a result of an offence and who require rehabilitation.
- (2) The 'Women Victims Compensation Fund' shall comprise of the following:-
- (a) Contribution received from Central Victim Compensation Fund (CVCF) Scheme, 2015.
 - (b) Budgetary allocation in the shape of grants-in-aid to SLSA for which necessary provision shall be made in the Annual Budget by the Government.
 - (c) Any cost amount ordered by the Civil or Criminal Tribunal to be deposited in this fund.
 - (d) Amount of Compensation recovered from the wrongdoer or accused under clause 14 of the Scheme.
 - (e) Donation/ Contribution received from International/ National/ Philanthropist/ Charitable/ Institutions/ Organizations and individuals permitted by State or Central Government.
- (3) The said fund shall be operated by the State Legal Services Authority (SLSA).

17. Eligibility for Compensation:

A women vicfim or her dependent(s) as the case may be, shall be eligible for grant of compensation from multiple schemes applicable to her. However, the compensation received by her in the other schemes with regard to Section 357-B Cr. P.C. shall be taken into account while deciding the quantum in such subsequent application.



18. Procedure for making application before the SLSA or DLSA:-

- (1) Mandatory Reporting of FIRs:- SHO/SP/DCP shall mandatorily share soft/hard copy of FIR immediately after its registration with State Legal Services Authority/ District Legal Services Authority qua commission of offences covered in this Scheme which include Sections 326A, 354A to 354D, 376A to 376E, 304B, 498A (In case of physical injury covered in this Schedule), so that the SLSA/DLSA may, in deserving cases, suo-motu initiate preliminary verification of facts for the purpose of grant of interim compensation.
- (2) An Application for the award of interim/ final compensation can be filed by the Victim and/or her Dependents or the SHO of the area before concerned SLSA or DLSA. It shall be submitted in Form 'I' along with a copy of the First Information Report (FIR) or criminal complaint of which cognizance is taken by the Court and if available Medical Report, Death Certificate, wherever applicable, copy of judgment/ recommendation of court if the trial is over.

19. 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 a portal which shall be created by all State Legal Services Authorities. The Secretary of the respective DLSA shall decide the application/recommendation moved before him/her as per the Scheme.

Explanation:- In case of acid attack victim the deciding authority shall be the Criminal Injury Compensation Board as directed by Hon'ble Supreme Court in Laxmi vs Union of India W.P.CRML 129/2006 order dated 10.04.2015 which includes Ld. District & Sessions Judge, DM, SP, Civil Surgeon/ CMO of the district.

20. Reliefs that may be awarded by the State or the District Legal Services Authority:-

The SLSA or DLSA may award compensation to the victim or her dependents to the extent as specified in the Scheduled attached hereto.

21. Factors to be considered while awarding compensation. -

While deciding a matter, the State Legal Services Authority/District Legal Services Authority may take into consideration the following factors relating to the loss or injury suffered by the victim, namely:-

- (1) Gravity of the offence and severity of mental or physical harm or injury suffered by the victim;



- (2) Expenditure incurred or likely to be incurred on the medical treatment for physical and/or mental health including counseling of the victim, funeral, travelling during investigation/ inquiry/ trial (other than diet money);
- (3) 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;
- (4) 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;
- (5) The relationship of the victim to the offender, if any;
- (6) Whether the abuse was a single isolated incidence or whether the abuse took place over a period of time;
- (7) 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;
- (8) Whether the victim contracted a Sexually Transmitted Disease (STD) as a result of the offence;
- (9) Whether the victim contracted Human Immunodeficiency Virus (HIV) as a result of the offence;
- (10) Any disability suffered by the victim as a result of the offence;
- (11) Financial condition of the victim against whom the offence has been committed so as to determine her rehabilitation and re-integration needs;
- (12) In case of death, the age of deceased, her monthly income, number of dependents, life expectancy, future promotional /growth prospects etc; or
- (13) Any other factor which the SLSA or the DLSA may consider just and sufficient.

22. Procedure for grant of compensation -

(1) Wherever, a recommendation is made by the court for compensation under sub-sections (2) and/or (3) of Section 357 of the Code, or an application is made by any victim or her dependent(s), under sub-section (4) of Section 357A 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 to 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 motu or after preliminary verification of the facts proceed to grant interim relief as may be required in the circumstances of each case.

(2) The inquiry as contemplated under sub-section (5) of Section 357A 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 Rupees one lakh shall be paid to the victim within 15 days of the matter being brought to the notice of DLSA. The order granting interim compensation shall be passed by 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 Rs. 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.

(3) 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 her dependent(s) taking into account the factors enumerated in clause 18 of the Scheme, as per schedule-II appended to this scheme. 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.

**Victims of Acid attack are also entitled to additional compensation of Rs. 1 lakh under Prime Minister's National Relief Fund vide memorandum no. 24013/94/Misc/2014-CSR-III/Gol/MHA dated 19.11.2016(copy attached)*

Victims of Acid attack are also entitled to additional special financial assistance up to Rs. 5 Lakhs who need treatment expenses over and above the compensation paid by the respective State/UTs in terms of Central Victim Compensation Fund Guideline-2016, no. 24013/94/Misc/2014-CSR,III,MHA/Gol.

(4) 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.



- (5) In case trial /appellate court gives findings that the criminal complaint and the allegation were false, the 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.

23. The order to be placed on record.-

Copy of the order of interim or final 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 Section 357 of the Code. A 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.

24. Method of Disbursement of Compensation.-

- (1) (a) 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 concern would facilitate opening of bank account in the name of the victim and in case the victim is a minor along with 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.

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

- (2) 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.

- (3) The interest on the sum, if lying in 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.



25. Interim relief to the victim.-

The State Legal Services Authority or the District Legal Services Authority, as the case may be, may order for immediate first-aid facility or medical benefits to be made available free of cost or any other interim relief (including interim monetary compensation) as deemed appropriate, to alleviate the suffering of the victim on the certificate of a police officer, not below the rank of the officer-in-charge of the police station, or a Magistrate of the area concerned or on the application of the victim /dependents or suo motu:

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

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

Provided also that in cases of acid attack a sum of Rupees 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 7 days of the matter being brought to its notice and the SLSA shall pay the compensation within 8 days of passing of order. Thereafter, an additional sum of Rs. 2 lakhs shall be awarded and paid to the victim as expeditiously as possible and positively within two months.

26. Recovery of compensation awarded to the victim or her dependent(s).-

Subject to the provisions of sub-section (3) of Section 357 A of the Code, the State Legal Services Authority, in proper cases, may institute proceedings before the competent court of law for recovery of the compensation granted to the victim or her dependents(s) from person(s) responsible for causing loss or injury as a result of the crime committed by him/her.

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



27. Dependency Certificate.-

The authority empowered to issue the dependency certificate shall issue the same within a period of fifteen days and in no case this period shall be extended:

Provided that the SLSA/DLSA in case of non-issuance of Dependency Certificate, after expiry of 15 days, may proceed on the basis of an affidavit to be obtained from the claimant.

28. 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, BDO/SDM, as the case may be.

29. Limitation:-

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

However, in deserving cases, on an application made in this regard, for reasons to be recorded, the delay beyond three years can be condoned by the SLSAs/DLSAs.

30. Appeal:

In case the victim or her dependents are not satisfied with the quantum of compensation awarded by the Secretary, DLSA, they can file appeal within 30 days from the date of receipt of order before the Chairperson, DLSA:

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

31. Repeal and savings:

(1). In case this Chapter is silent on any issue pertaining to Victim compensation to Women the provisions of Chapter -I shall apply.

(2). Nothing in this Scheme shall prevent victims or their dependents from institution of any civil suit or claim against the perpetrator of offence or any other indirectly responsible for the same.

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32. Applicability:

It is clarified that this scheme does not apply to minor victims under POCSO 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 POCSO Act, 2012 and Rules (7) of the POCSO Rules, 2012.

Provided that notwithstanding the above, the Special Courts may take reference of this scheme in determining the quantum of compensation.

By order and in the name of Governor.

-Sd-


(R. Telang, IAS)

Principal Secretary to the Government of Sikkim,

File No. Home/Confid/111/2018/57/PART

Copy for information to:-

1. Secretary to the Hon'ble Governor of Sikkim, Raj Bhawan;
2. Secretary to the Hon'ble Chief Minister of Sikkim, Chief Ministers' Office, Gangtok;
3. Chief Secretary to the Govt. of Sikkim;
4. Director General of Police, PHQ;
5. Registrar General, High Court of Sikkim;
6. Member Secretary, Sikkim State Legal Services Authority, Gangtok;
7. Adal. Chief Secretary, Finance Department;
8. Principal Secretary, Home Department;
9. Secretary, Law Department;
10. Secretary, Women & Child Development Department;
11. All District Collectors;
12. All District Superintendent of Police;
13. Research Officer, Chief Ministers' Office;
14. Gazette section for publication in the official gazette;
15. File and Guard File.


Joint Director, Confid
Home Department



SCHEDULE-I
(See clause 6(3))

Sl.No	Particulars of loss of Injury	Maximum Limit of Compensation
1.	Victims of acid attack: (a) In case of disfigurement of face (b) In case of injury more than 50 % (c) In case of injury less than 50% (d) In case of injury less than 20%	Rs. 8 lakhs Rs. 8 lakhs Rs. 5 lakhs Rs. 4 lakhs
2.	Physical Abuse of minor	Rs.2.00 lakhs
3.	Rehabilitation of victim of human Trafficking	Rs.5.00Lakhs
4.	Sexual Assault[Excluding rape]	Rs. 1 lakh
5.	Loss of life	Rs.10 lakhs
6.	Permanent Disability (80% or more)	Rs.5 lakhs
7.	Partial Disability (40% to 80%)	Rs. 4 lakhs
8.	Partial disability (20% to 40%)	Rs. 3 lakhs
9.	Partial disability (below 20%)	Rs. 2 lakhs
10.	Burn victims: (a) In case of disfigurement (b) In case of injury more than 50% (c) In case of injury less than 50% (d) In case of injury less than 20%	Rs. 8 lakhs Rs. 8 lakhs Rs. 7 lakhs Rs. 3lakhs



SCHEDULE-II
(See clause 22 (3))

Sl. No	Particulars of loss or injury	Minimum limit of Compensation	Upper limit of compensation
1.	Loss of Life	Rs. 5 lakhs	Rs. 10 lakhs
2.	Gang rape	Rs. 5 lakhs	Rs. 10 lakhs
3.	Rape	Rs. 4 lakhs	Rs. 7 lakhs
4.	Unnatural sexual assault	Rs. 4 lakhs	Rs. 7 lakhs
5.	Loss of any limb or part of body resulting in 80% permanent disability or above	Rs. 2 lakhs	Rs. 5 lakhs
6.	Loss of any limb or part of body resulting in 40% and below 80% permanent disability	Rs. 2 lakhs	Rs. 4 lakhs
7.	Loss of any limb or part of body resulting in above 20% and below 40% permanent disability	Rs. 1 lakh	Rs. 3 lakhs
8.	Loss of any limb or part of body resulting in below 20% permanent disability	Rs. 1 lakh	Rs. 2 lakhs
9.	Grievous physical injury or any mental injury requiring rehabilitation	Rs. 1 lakh	Rs. 2 lakhs
10	Loss of foetus i.e. miscarriage as a result of assault or loss of fertility	Rs. 2 lakhs	Rs. 3 lakhs
11	In case of pregnancy on account of rape	Rs. 3 lakhs	Rs. 4 lakhs
12	Victims of burning : (e) In case of disfigurement (f) In case of injury more than 50% (g) In case of injury less than 50% (h) In case of injury less than 20%	Rs. 7 lakhs Rs. 5 lakhs Rs. 3 lakhs Rs. 2 lakhs	Rs. 8 lakhs Rs. 8 lakhs Rs. 7 lakhs Rs. 3 lakhs
13	Victims of acid attack: (e) In case of disfigurement of face (f) In case of injury more than 50 % (g) In case of injury less than 50% (h) In case of injury less than 20%	Rs. 7 lakhs Rs. 5 lakhs Rs. 3 lakhs Rs. 3 lakhs	Rs. 8 lakhs Rs. 8 lakhs Rs. 5 lakhs Rs. 4 lakhs

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.

Yes

FORM

APPLICATION FOR AWARD OF COMPENSATION

1.	Name of the applicant victim(s) or her dependent(s)	
2.	Age of the victim(s) or her dependent(s)	
3.	(a) Father's Name (b) Mother's Name (c) Spouse's Name	
4.	Address of the victim(s) or her/their dependent(s)	
5.	Date and time of the incident	
6.	Whether FIR has been lodged	
7.	Whether medical examination has been done? if yes, enclose Medical Report/Death Certificate/P.M. Report	
8.	Status of trial, if pending. If over, enclose copy of judgment and order on sentence.	
9.	Has the applicant been awarded any compensation by the trial court or any other Govt. agency. If yes, give details	
10.	Give details of financial expenditure/loss incurred	
11.	Have you instituted any civil suit/ claim against the perpetrator of offence. If yes, give details.	
	Signature of the victim/dependent.	

Yar