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03 JUN 2025

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, 3rd Floor, Rouse Avenue District Court Complex,
Pt. Deen Dayal Upadhyaya Marg, New Delhi-110002
Email :litigationwing-dslsa@delhi.gov.in website : www.dslsa.org.

Ref.: 165/DSLSA/LitigationWing/2025 | 6499 Dated: 02nd June, 2025

To

The Ld. Principal District & Sessions Judge
North West District,
Rohini Courts, New Delhi.

Sub.: Discussion of relevant issues pertaining to Victim Compensation.

Respected Sir,

Please find attached herewith a letter dated 02nd June, 2025 regarding the subject captioned above for your goodself's kind perusal with request to circulate the same amongst all the Ld. Judicial Officers holding criminal jurisdiction in your District.

With Regards,

Yours sincerely,

(Rajeev Bansal)
Member Secretary, DSLSA

Encl.: As above.

OFFICE OF THE PRINCIPAL DISTRICT & SESSIONS JUDGE: ROHINI COURTS, DELHI

No. 21010-21090 .....Genl.I/N-W&N/RC/2025 Dated 30/6/2025

Copy forwarded, alongwith its enclosures **(through electronic mode)** for information & necessary action/compliance, to :-

1. All Ld. Judicial Officers posted at **N/W & North (Criminal Side)**, Rohini Courts, Delhi.
2. The Dealing Official, Computer Branch, Rohini Courts for uploading the same on WEBSITE.
3. The Dealing Official, R & I Branch, Rohini Courts, Delhi for uploading the same on LAYERS.

(VINOD YADAV)
Officer In-Charge, General Branch
North-West & North District
Rohini Court Complex, Delhi

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Ref.: 165/DSLSA/LitigationWing/2025 Dated: 02nd June, 2025

To,

Ld. Additional Sessions Judges,
Chief Judicial Magistrates,
Additional Chief Judicial Magistrates and
Judicial Magistrates.

Through: Ld. Principal District & Sessions Judges.

SUBJECT: DISCUSSION OF RELEVANT ISSUES PERTAINING TO VICTIM COMPENSATION.

Dear Sir/Madam,

Many congratulations on your new judicial assignment. The Hon'ble High Court of Delhi has entrusted you with the important function of adjudication of criminal cases, which requires balancing of the rights of the accused persons and the victims. As you must be aware, the Delhi State Legal Services Authority (DSLSA) and its subsidiary District Legal Services Authorities (DLSAs) are committed towards protecting the legal rights of the accused persons as well as the victims. While legal services to the accused persons are being provided in the form of free and competent legal aid through legal aid defense counsel system or through various district level panels of advocates, legal services to victims are being provided through the Delhi Victims Compensation Scheme, 2018, aiming at their rehabilitation through financial support.

The Delhi Victims Compensation Scheme, 2018, consists of two parts alongwith a **Schedule** appended to each Part, which is to be considered in light of relevant judicial pronouncements. Towards effective implementation of the provisions of the Delhi Victims

i) Ld. Secretary DLSA
ii) OIC Legal Aid Bs. I

Pr. DJSJ (N-W)
02/06/25

Compensation Scheme, 2018, I deem it fit to bring some relevant issues into your kind consideration:

1. RECOMMENDATION:

It is clear as per the provisions of Section 357A of Cr.P.C. (Section 396 of BNSS) that there can only be a **'recommendation'** from the Ld. Trial Court to the District Legal Services Authority to pay compensation to the victim/victims/dependents under the Delhi Victims Compensation Scheme, 2018. The Delhi State Legal Services Authority (DSLSA) being the agency entrusted with the enforcement and implementation of the Scheme, has power to decide the entitlement as well as quantum of compensation to be paid, as per the provisions of the Scheme.

Such recommendation can be made by the trial court as per Section 357A (3) of Cr.P.C. (Section 396(3) of BNSS), firstly, in case of **conviction**, where the compensation awarded under Section 357 of Cr.P.C. (Section 395 of BNSS) is not adequate for such rehabilitation, and secondly, where the cases end in **acquittal** or **discharge**, and the victim has to be rehabilitated.

Moreover, as per the provisions of Section 357A (4) of Cr.P.C. (Section 396(4) of BNSS), in cases where trial does not take place as the offender **could not be traced/identified**, but the victim is identified, then instead of making a recommendation, the trial court may inform the victims/dependents that they may make an application to the concerned DLSA for award of compensation. Any such recommendation, as mentioned above should not be a recommendation for a particular amount, but only a recommendation to award **'suitable compensation under the scheme, if so entitled'.**

2. QUANTIFICATION:

It needs to be noted that **in cases except Acid Attacks and POCSO matters**, once such recommendation has been made, the quantification process is carried out by the **District Victims Compensation Committee** constituted in each District comprising of a judicial officer of the rank of Additional Sessions Judge as the Chairperson. The Secretary of the DLSA concerned is the convener of the said Committee and the Chief Public Prosecutor is also a member of the Committee.

In Acid Attack Cases, as per the directions of Hon'ble Supreme Court in **Writ Petition (Criminal) No. 129/2006 titled *"Laxmi vs. Union of India & Ors."***, such quantification process is carried out by the **Criminal Injuries Compensation Board (CICB)** of each District comprising of Principal District & Sessions Judge as Chairperson, Secretary, DLSA concerned

being the convener of the meeting of the Committee, and the District Magistrate, Deputy Commissioner of Police and Chief Medical Officer of the concerned district as members.

The Committee/Board, as the case may be, quantifies both **interim** and **final** compensation, on the basis of which, an award is prepared by the District Legal Services Authority (DLSA) and sent for scrutiny to the Litigation Wing at DSLSA.

Thus, any recommendation from trial court only means that the case shall be considered, in due course by the District Victims Compensation Committee (DVCC), with discretion to award or not to award compensation under the Scheme, and to prescribe the amount thereof as well. In no circumstances, such 'recommendation' should be considered a 'direction' by the Ld. Trial Courts.

3. TYPES OF INJURIES AND BENEFICIARIES COVERED UNDER THE SCHEME:

It has come to the notice of this Authority that in some districts, trial courts having criminal jurisdiction, after assessing the Victim Impact Report and finding that the accused is incapable to pay compensation to the victim, instead of recommending the matter to DLSA concerned for compensation, sometimes quantify the amount of compensation under Section 357A Cr.P.C./ 396 of BNSS, with directions to DLSA concerned to award and disburse the amount to the victim(s).

As already discussed in the preceding paragraph, except for Ld. POCSO Courts deriving powers of quantification under the provisions of POCSO Act and Rules framed thereunder, the other trial Courts, while convicting the accused, can only **'recommend'** suitable compensation and not **'quantify'** as per the provisions of Section 357A of Cr.P.C. or 396 of BNSS.

Moreover, it needs to be noted that DSLSA cannot provide compensation to victims in case of offences which are **not covered** under the Delhi Victims Compensation Scheme, 2018, e.g. **offences against property** and **offences involving simple injury**. DSLSA is further not in a situation to award any **amount** of compensation over and above what is prescribed in the **Schedule** appended for the Scheme, except in specific kinds of offences and that too, in exceptional circumstances.

In such a situation, DSLSA/DLSA(s) finds itself in a legal and practical difficulty regarding compliance of such orders passed by the Ld. Criminal Courts.

Accordingly, it is requested that the convicting Courts may only 'recommend' compensation, and that too for the injuries/ losses provided in the Schedules appended to both Part-I and Part-II of the Scheme.

4. POCSO CASES:

POCSO cases, however, are not covered strictly by the provisions of Section 357A of Cr.P.C. (Section 396 of BNSS), as far as victim compensation is concerned. **Section 33(8) of POCSO Act, 2012 r/w Rule 9 of POCSO Rules, 2020** invest power, not only of recommendation, but also quantification in the Ld. POCSO Courts, and accordingly, POCSO Courts can **'direct'** compensation of the amount so adjudged by them at the interim or final stage, and the DSLSA/DLSAs shall make the disbursement accordingly. However, it is impressed upon the Presiding Officers of such courts to prescribe **suitable compensation**, which means that though in appropriate cases, the upper limit provided in the Schedule to the Scheme may also be exceeded on the basis of quantifiable data, but otherwise, compensation amount must be just and reasonable as per the loss or damages and consequent rehabilitative needs, and **must not be excessive.** Recently, in the matter of **Criminal Appeal No. 183/2025 titled** ***"Ashok Kumar vs. State Through SHO PS Mukherjee Nagar"*** connected with **Criminal Appeal No. 186/2025 titled** ***"Mahipal vs. State NCT of Delhi"***, the Hon'ble High Court of Delhi had asked this Authority to convey to the Ld. Trial Courts to duly consider the impact of crime on the victim, before granting compensation. This matter arose out of an FIR under the provisions of Sections354D/34 of IPC (Section 78 and Section 3(5) of BNS) and Section 12 of POCSO Act, wherein a final compensation of ₹7.5 Lakhs to each victim was observed by the Hon'ble High Court to be shockingly excessive.

5. ROLE UNDER SECTION 357 OF CR.P.C. (SECTION 395 OF BNSS):

In the matter of **Bail Application No. 1959/2021 titled** ***"Saif Ali @ Sohan vs. The State GNCT of Delhi"*** connected with **Writ Petition (Criminal) No. 1054/2021 titled** ***"Rajinder Singh vs. State"***, the Hon'ble High Court of Delhi has directed that the directions issued by the full Bench in **Criminal Appeal No. 352/2003 titled** ***"Karan vs. State of NCT of Delhi"*** for associating the DSLSA for determining the quantum of compensation, if any, to be awarded under Section 357 of Cr.P.C. (Section 395 of BNSS) are unsustainable and are required to be set aside. Accordingly, the guidelines issued by the full Bench in paragraph nos. 169 to 187 of ***Karan (supra)***, enumerating therein the detailed procedure of filing of Victim Impact Reports (VIRs) by the DLSA before the learned Trial Court concerned, after conviction and before sentencing, are **no longer operative** and, therefore, are not required to be followed any further

by the Trial Courts in any pending trials. This would, however, not have any impact on cases where the trial already stands concluded with the sentence being awarded after following the procedure laid down under these guidelines.

Besides, the Hon'ble Court has also directed that learned Trial Courts would, while passing orders of compensation, if any, to the victims under Section 357 of Cr.P.C. (Section 395 of BNSS) adopt a victim centric approach. In determining the compensation, if any, payable, under Section 357of Cr.P.C. (Section 395 of BNSS), the Trial Court may take into account the income and assets of the accused and any other factors as may be deemed appropriate, for which purpose information may be elicited not only from the I.O./prosecuting agency but also from the accused, who will, however, not be asked to make any statement on oath or by way of an affidavit.

Therefore, the net effect of the judgment in ***Saif Ali @ Sohan v/s The State GNCT of Delhi,*** **(Supra)** is that the summary enquiry as mandated to be conducted under section 357 of Cr.P.C. by the Hon'ble Supreme Court in ***Ankush Shivaji Gaikwad V. State of Maharashtra*** **(Criminal Appeal No. 689 of 2013), [2013] 8 S.C.R. 863,** is now to be conducted by the Ld. **convicting Courts themselves, and has not to be delegated to DSLSA/ DLSAs in the form of VIRs,** except in case of specific assistance on specific issues which DSLSA may provide.

The District Legal Services Authorities have received some orders from Ld. Trial Courts even after the judgment in ***Saif Ali @ Sohan v/s The State GNCT of Delhi,*** (Supra) for preparation of VIRs. It may kindly be noted that the observation of the Hon'ble High Court to the effect that "this order will not preclude the Trial Courts from seeking assistance of DSLSA, as and when deemed necessary" cannot be stretched to seek any documents/ data or get conducted any such verification process conducted through the DLSAs concerned, which can be conducted by the Ld. Trial Courts themselves as the Courts even have coercive powers in case of non-compliance, which the Legal Services Authorities do not possess. It is clear from the judgment in ***Saif Ali @ Sohan v/s The State GNCT of Delhi,*** **(Supra)** that entrusting the said functions to DSLSA/ DLSAs shall obviate the distinction drawn by the legislature between Section 357 and Section 357A of Cr.P.C., as the latter envisages the role of Legal Services Authorities but the former does not. Therefore, your goodself is requested to require the services of DSLSA/ DLSAs very sparingly and in rare cases only, as far as the inquiry under section 357 of Cr.P.C. (395 of BNSS) is concerned.

6. MEDICAL TREATMENT:

It is further brought to your kind attention that compensation amount under the Scheme is for rehabilitation of victims of offences, and in case of sexual offences and Acid Attacks, it may not be desirable that entire or a substantial amount of compensation granted to the victims is spent in getting medical treatment.

Kindly refer to the provisions of Section 357C of Cr.P.C. (Section 397 of BNSS) which provide for **free medical treatment in all hospitals, government or private**, to the victims of offences covered under Sections326A, 376, 376A, 376AB, 376B, 376C, 376D, 376DA, 376DB or section 376E of the Indian Penal Code/ Sections 64, Section 65, Section 66, Section 67, Section 68, Section 70, Section 71 or sub-section (1) of Section 124 of the Bharatiya Nyaya Sanhita, 2023 and under sections 4, 6, 8 or section 10 of the Protection of Children from Sexual Offences Act, 2012.Refusal/Failure to provide such medical treatment is punishable under the provisions of law i.e under Section 166B of IPC (Section 200 of BNS).

Recently, in the matter of **Criminal Appeal No. 728/2024 titled** *"S.V. vs State"* pronounced on 10.12.2024, the Hon'ble High Court of Delhi has clarified that the provisions of Sections 357C of Cr.P.C. (Section 397 of BNSS) comprise entire medical treatment, including but not limited to surgeries, IPD/OPD, admission, tests/investigations, consultations and medicines. Moreover, the Hon'ble High Court of Delhi has laid down strict procedural guidelines for all the hospitals to follow, so that the victims of such offences do not face any difficulty or harassment in getting medical treatment.

Kindly go through the aforesaid provisions and judgments, which had already been circulated to all criminal courts by the Hon'ble High Court of Delhi, so that you may pass necessary orders for assistance of such victims.

Moreover, the Ld. POCSO Courts may also take into consideration the availability of free medical treatment to the victims, while quantifying the compensation at interim or final stage.

7. CHALLENGES:

Ld. POCSO Courts may kindly note that before disbursing compensation as per directions of the court, several steps have to be initiated including verification of identity of the victims, verification of banking details, opening of bank account or exceeding of credit limits wherever required, and accordingly the entire process sometimes gets delayed.

Moreover, after completion of all formalities including biometrics and undertaking, the award is prepared by DLSA concerned and sent to the Litigation Wing at Central Office, DSLSA for scrutiny. It may be noted that around 400 cases amounting to compensatory amount of more

than ₹15 Crores are received every month at Central Office, DSLSA and have to pass through a **three-level scrutiny**, as the same involves huge financial implications. Further, the Authority administers the Scheme as per the installments of **Grants-in-Aid** received from the Government of NCT of Delhi, which is sometimes delayed. In these circumstances, it is a humble request not to repeatedly issue orders for disbursal or to summon District Authority officials to the Court, unless the delay is substantial.

8. COUNSELING:

Delhi State Legal Services Authority has engaged 8 Counselors for the purpose of Counseling of POCSO victims who are rendering their services in all the DLSAs. These Counselors were having Masters in psychology/M.Phil in Clinical Psychology/Masters in Social Work with 2 years' experience, and have been working under the District Legal Services Authorities since 05.02.2024. The services of counselors are primarily utilized for **POCSO** and **Rape Cases** but may also be availed for counseling in other cases such as for **drug addicts, victims of acid attack, matrimonial/family disputes.**

Counseling not only helps the victims in their rehabilitation and restoration of mental health, but also provides them with courage and clear perspective, leading to their better participation in the trial before the courts.

Accordingly, your goodself is requested to refer more and more victims for counseling sessions, to the Counselors posted at the District Legal Services Authorities concerned.

9. VOCATIONAL PROGRAMS:

DSLSA, for the benefit of victims of crimes, frequently coordinates with other agencies and institutions for the purpose of **rehabilitation** of victims. Currently, under the Project **"Veerangna"**, DSLSA has taken significant strides in empowering female victims of offences by way of vocational training and employment. DSLSA keeps a **database** of such female victims of offences, so as to provide them the support of vocational training and employment, once coordination with relevant agencies is established. Accordingly, if in opinion of your goodself, any female victim/female dependent attending trial in your court is in need of such rehabilitative support, you may kindly communicate the same to the concerned DLSA, for onward transmission to the Central Office, DSLSA.

I, sincerely, request your goodself to discharge your judicial responsibilities, keeping these considerations in mind, so that the Legal Services Authorities and the Ld. Courts work in tandem towards the benefits of the victims.

In case of any doubt/clarification, you may kindly contact the Ld. Secretary of the concerned district and if required, **Sh. Abhinav Pandey, DJS (Senior Division)/Secretary (Litigation), DSLSA.**

With Regards,

Yours sincerely,

02/06/2025

(Rajeev Bansal)

Member Secretary, DSLSA