

Paper Presentation on
“VICTIMOLOGY & COMPENSATION”

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INTRODUCTION:

Crime affects a large number of victims who suffer physical, social, financial emotional injury or harm which needs to be promptly redressed by providing them easy access to justice. Though, the victims of crime have generally found support and assistance from their family, tribe or community, they have, by and large, remained "forgotten person" in the criminal justice administration system. It is only in recent decades that the impact of the victimization on crime affected persons drew attention of criminal law jurisdictions around the world and they were convinced that the victims needed to be treated with compassion and their dignity and fundamental rights must be protected and preserved.

Victimology- Definition & Meaning:-

Broadly speaking victimology may be defined as the scientific study of victimisation, including the relationships between victims and offenders, the interactions between victims and the criminal justice system; that is, the police and courts, and correctional officials. It also includes connections between victims and other social groups and institutions, such as the media, businesses and social movements. However, the term victimology is not restricted to the study of crime-victims alone but it may extend to other forms of human rights violations that are not necessarily crimes.

The term 'victim' in general parlance refers to all those who experience injury, loss or hardship due to any cause and one of such causes may be

crime. Therefore, victimology may be defined as a study of people who experience injury or hardship due to any cause. Such injury or harm may be physical, psychological, emotional or financial. It therefore, follows that 'victim of crime' is the person who has suffered at the hands of perpetrator of crime.

Victimology has now emerged as a branch of criminology dealing exclusively with the victims of crime who need to be treated with compassion and rendered compensation and assistance under the criminal justice system. While criminology is concerned mainly with the causation of crime, victimology is primarily concerned with the study as to why people fall a victim to crime and how they can be helped and assisted against abuse of power or criminal acts of offenders through access criminal justice system. The study also outlines the steps to be taken to prevent victimisation against crimes and provide legal remedies to the victims of crime.

Historical Perspective:

The origin of victimology as a part of criminology may be traced back to 1940's when founders of this branch of knowledge, notably, Mendelsohn, Von Hentig and Wolfgang initially tended to use the term to mean "hapless dupes who instigated their own victimization" which they termed as 'victim precipitation'

However, the notion of "victim precipitation" invoked criticism by feminists by 1980's and the term 'victim' was interpreted in a more wider sense to include "anyone caught up in an asymmetric relationship or situation." The word 'asymmetry connotes anything imbalanced, exploitative, parasitical, oppressive, disturbing, alienating or having inherent suffering. Thus, in the modern sense, the concept of victimology includes any person who experiences injury, loss or hardship due to any cause. The term may be used in many forms such as accident victims, flood victims, famine victims, tsunami victims, blast victims, cancer victims and so on. The common element

in all of them is some kind of suffering, injury or harm caused by forces beyond victim's control.

Theories of Victimology:

With the advance of victimological studies, the theory of 'victim precipitation' came to be perceived as a negative approach to victim because it only focused on how victim's own contribution led to his victimization. Therefore, most of the criminologists refuse to accept this theory, it being destructive in nature.

Marvin Wolfgang, who opposed the theory of 'victim precipitation', believed in the phenomenon, of 'victim facilitation' rather than 'victim blaming'. He did not blame the victim but asserted that the interactions of the victim make him/her vulnerable to a crime. Thus, the idea behind victim facilitation is to study the elements that make victim more accessible or vulnerable to a crime attack.

Benjamin Meldelsohn propounded a three model theory of victimology and observed that the conditions that precipitate crime can be classified into three general categories as follows:-

- (1) In terms of time and space, the victim being in the wrong place at a wrong time.
- (2) Attracting factors and life-style also create a fertile ground for incidence of crime.
- (3) There are certain pre-disposing factors such as being too young, being too poor, being in minority, being unemployed etc. which may lead to the victimization of a person to crime.

Later, Cohen and Felson (1979) came out with their 'Routine Activities Theory', which pre-supposes that a crime occurs when three conditions come together, namely (i) suitable target (ii) motivated offender (s) and (iii) absence of security or parental care or guardianship.

Earlier, when criminology was in its emerging stage, victimology simply meant study of crime from the perspective of the victim. Mendelsohn and Von Hentig were the first to explore the possibility of developing victimology as an independent branch of criminology and therefore, they are considered as the father of victimology.'

To begin with, Von Hentig concentrated on the study of behaviours and lities of victims of crime, such as resistance study of behavin victims vulnerabilities of murder. He concluded that crime victims were mostly depictive type the fell an easy target to crime due to their own carelessness.

Schater (1968) concluded that there were victims who substantially contributed to their victimization knowingly or unknowingly, due to lack of care and vigil. Many victims face unsympathetic treatment by the police: prosecutors and court officials, which further aggravates their woes. Even if the offender is apprehended and brought to trial, the victims of their crime remain marginalized and do not have opportunity to ventilate that views and concerns during the criminal justice process. Most of the courts do not allow the victim to present his/her civil claim along with the criminal trial. Even if the offender is convicted and punished, his punishment provides no relief to the victim except mental satisfaction.

It has been often said that criminals and victims often have some sociodemographic characteristics such as being nearly of the same group, both living in physical proximity' etc.

It has now been universally accepted that victim of crime is an identifiable person who has been harmed individually and directly by the perpetrator of crime. However, there are certain crimes, such as white-collar crimes, wherein victims are not clearly identifiable or not directly linked to the crime but these crimes do affect the society as a whole. Thus, in such cases, society in general, becomes a victim to the unlawful activities of white-collar

criminals. Other crimes in which society itself is the victim are homicides, felonies, national frauds, etc.

The modern trend is to study victimology as a multi-disciplinary subject. It is not only focused on victims of crime but also encompasses within it, the study of victims of traffic hazards, natural disasters, war crimes, abuse of power, corruption etc. The professionals involved in victimological studies may, makers, law teachers etc. therefore, be legal practitioners, judges, policy makers, law teachers etc.,.

'Penal Couple' concept:-

Some victimologists have projected a view that when a crime takes place, it has two partners, one, the offender and second, the victim, who provides an opportunity to the criminal to commit the crime. The victim is thus a participant in the penal couple and therefore, he should bear some responsibility for crime. But this view has also not been accepted by most victimologists because it is more or less similar to theory of 'victims precipitation' which stands completely discarded in the modern victimological studies.

Victims of Crime:-

The expression 'victims of crime' refers to any person, group or entity who has suffered injury, harm or loss due to illegal activity of someone. The harm or injury, as said earlier, may be physical, psychological or financial. Such a person may be called a 'primary victim' of crime. Besides, there may also be 'secondary victim's who suffer injury or harm as a result of injury or harm to the primary victim. For instance, the children of a raped woman or a battered woman suffering from lack of paternity and called 'bastards.

There may also be tertiary victims who experience harm or injury due to the criminal act of the offender. The term 'tertiary victim' means another

person besides the immediate victim, who is victimized as a result of the first person's action. For instance, in case of a communal riot the Muslims who are killed, injured or whose property is ransacked are the primary victims of the crime whereas the dependents and relatives of the deceased or injured persons are the secondary victims of that crime. Besides these victims, the hatred culminated for Muslim community by perpetrators of communal tension and riot generates hate phobia and fear of violence among the Muslim members of the society. Thus, they are the tertiary victims of the communal riots. Let it be illustrated by yet another example. In case of rape, the woman raped is the primary victim while her husband, children or illegitimate child, if born out of such rape, are secondary victims. But the general share and disgrace, which the entire family of the raped victim has to suffer makes the members of the family 'tertiary victims' Particularly, the people would shun and avoid contacts with the family of the victimized woman and would refrain from entering into any kind of matrimonial relationship with such a family. The media, through newspaper reporting, television, radio etc. are to some extent responsible for tertiary victimization in such offences.

The expression 'primary', secondary and 'tertiary' victimization suggests that there is some sort of hierarchy in the level of suffering experienced as a result of a crime. But it cannot be assumed that secondary and tertiary victims necessarily suffer less trauma than the primary victims. They may also face the physical, psychological and emotional pain similar to that of the primary victim.

Therefore, it would not be correct to define primary, secondary and tertiary victims in terms of more suffering, less suffering or least suffering. For example, where a person meets with an auto-accident when a truck negligently being driven by the driver hits an autorickshaw and the person (occupant) was instantly killed, the deceased is the prime victim who has died. His wife is the secondary victim, because now she is left with entire

responsibility of supporting her children and family and if she is not a working woman or sufficiently educated woman, her suffering would aggravate much more. The three kids of the deceased person would be tertiary victims in this case because they suffered the impact of the untimely loss of their father's support and now are burdened with the responsibility of helping their mother financially or otherwise. Though they are the tertiary victims, suffering is perhaps far more than their mother who is secondary victim of crime and the primary victim i.e. the deceased, having died there is hardly any question of his suffering in strict sense of the term though it was unfortunate and fatal to his family.

The study of victims of crime and specially the reasons why some people are more vulnerable to victimization than others, constitutes the core subject of study for victimologists around the world. The entire philosophy behind victimology therefore, centres round the 'victim' who is the lynch-pin' of victimological studies.

The legal definition of the term 'victim' typically includes:- "A person who suffered directly or threatened physical, emotional or pecuniary harm as a result of commission of a crime, or in the case of a victim being an institutional entity, any of the similar harm by an individual or authorized representative of another entity or group who are essentially covered under civil or constitutional law and deserves assistance by the criminal justice system"

The UN General Assembly Declaration of Basic Principles of Justice for Victims and Abuse of Power', which was adopted in November, 1985 contains an exhaustive definition of the term 'victim of crime' in Articles 1 and 2 which reads as follows:

"Article 1.-'Victims' means those who individually or collectively, have suffered harm including physical or mental injury, emotional suffering, economic loss or substantial impairment of their fundamental rights, through acts or omissions

that are in violation of criminal laws operative within member states including those prescribing criminal abuse of power.

Article 2. A person may be considered a victim under this Declaration, regardless of whether the perpetrator is identified apprehended, prosecuted or convicted and regardless of the familial relationship between the perpetrator and the victim. The term 'victim' also includes, where appropriate, the immediate family or the dependents of the victim and persons who have suffered harm in intervening to assist victims in distress or to prevent victimization."

Providing Redress to Victims: -

Providing redress and resolving the problems of crime victims, being the main concern of victimology, it seeks to remove the social confusion by probing into the various areas relating to victims of crime which have hitherto remained more or less neglected. It is necessary to focus on societal reaction to law-breaking. However, victimological studies have to be associated with criminological approaches to crime and criminals because the former is essentially a specialized branch of the latter. The other three sub-fields of criminology being (1) Sociology of law and penology; (2) delinquency; (3) comparative and historical criminology. The broad contents of victimology as a branch of criminology, may be stated as follows

1. Victimization;
2. Victim offender relationship;
3. Victim-criminal justice perspective;
4. Victim and media;
5. Victims vis-a-vis societal relations;
6. Victims and costs of crime;
7. Compensatory redress for victims.

Hans Von Hentig (1948) carried out the work of Mendelsohn (1937) further and placed victims in five main categories as follows:-

1. The innocent who fell a victim to crime being in the wrong place at the wrong time.
2. The depressive type who are easy target, being careless and unsuspecting. They mostly contribute to their own injury.
3. The greedy type who are easily duped because of craze for money and easy gain.
4. The 'wanton type' who are particularly vulnerable to stresses of life such as juveniles, pregnant women, prostitutes etc.
5. The tormentor type who are the victims of attack from the target of their abuse such as battered women, or those in living- in-relationship.

Ferraro (1995) has pointed out that emotional distress as a result of crime is a recurring theme for all victims of crime. The most common problems affecting most of the victims were psychological, including fear, anxiety, nervousness, self- blame, shame, anger etc. These problems often lead to development of chronic post-traumatic stress disorder (PTSD) among the victims.

The effect of victimization not only results in generating fear in the victim but this fear is spread in the community as well.

The factors and circumstances affecting victimization constantly keep on acquiring different meanings with changes in the structure of society and growing realization of the complexity of problems involved in crime causation over the years. As said earlier, the idea about the role of victim of crime as a contributory factor in causation of crime is otherwise known as 'victim precipitation' or 'victim blaming'. However, it is now perceived as a negative approach. Therefore, looking into the ways in which victims contribute to their own victimization which formed a part of search in mid-nineteenth century victimology has now become redundant and obsolete.

The noted Canadian Criminologist Abdel Fattah has classified victims of crime into five major categories as follows :-

(1) Non-participating victims are those who are completely innocent. For example, feticide, a crime against being born, which is punishable under 315/316 of Indian Penal Code / Sections 280 of BNSS-2023. Miscarriage, kidnapping, etc. are some other crimes the victims of which fall under this category. Infanticide, that is, crime against unborn child, geronticide, i.e., killing of one's father or mother to get rid of them because of their advanced age etc. are offences the victims of which are non-participating.

(2) Latent victims are those who have fallen a prey to a crime but do not know that they are in any way effected thereby, e.g., blackmailing affects several victims but they do not feel its impact or evil effect.

(3) Provocative victims, e.g., victims of dowry death who are provoked by the offender to commit suicide.

(4) Participating victims. The crimes like sati, deodasi, prostitution, cyber-crimes on internet are some of the examples of participating victims.

(5) The defiant or retaliating victims. Certain crimes by their very nature are such that the victim does not readily yield to the offence and retaliates to the extent possible to see that the offence is not committed by the perpetrator, but eventually fails in his effort to avoid the occurrence of crime. The common illustrations are victims of rape, robbery, dacoity cruelty against women, domestic violence etc.,

Yet another classification of victims may be as shown below :-

VICTIMS		
A. VICTIMS OF CRIME		B. VICTIMS OF ABUSE
1. Victim of Crime relating to injury caused to person or property eg.	2. Victims of Environmental Offences eg.	1. Third degree methods
1. Murder	1. Gas leakage	2. Custodial torture or death
2. Dowry Death	2. River Pollution etc.	3. Hospital victims
3. Grievous Hurt		4. Custodial rape (FRPF, BSF, Traffic Police)
4. Dacoity		5. Groundless arrest
5. Robbery		
6. Assault etc.,		

Benjamin & Masters, through their criminological studies have attributed three factors which generate crime viz. (1) precipitating factors such as being in the wrong place at the wrong time; (2) Attracting factors such as choices, options, life style etc.; and (3) Pre-disposing factors which include all the demographic characteristics of the victims, being female, young, poor, minority, living in squalor, living single, being unemployed and so on.

Victimology of modern time has been greatly affected by the societal influences which recognizes the people's concern about crime and rights of victims. In U.S.A., a number of legislations have been enacted for the protection of victim's rights and providing them compensatory justice. In India, the recent judicial trend is to provide relief to the victims by awarding pecuniary damages and ensure their rehabilitation. The state's concern for the welfare of crime victims is reflected in number of legislative enactments, both at the Centre and State level.

However, the reluctance of victims to report cases to the police remains an issue to be probed in by victimologists. Some of the reasons for non-reporting of crimes are:-

- (1) people's apathy and attitude of indifference;
- (2) the effect of crime being insignificant or petty;
- (3) identity of the offender being unknown;
- (4) apprehension of threat or harassment from the culprit;
- (5) social and public indignation, particularly in cases of rape, illegal abortion and other sexual offences;
- (6) considerable loss of time, money in prolonged criminal litigation;
- (7) reluctance of witnesses to testify or possibility of their turning hostile;
- (8) lack of faith and confidence in police action.

Needless to say, that apathy of victims to report against the offender encourages criminality. Therefore, victimologists should concentrate the problems which hinder victim's approach to the agencies of criminal justice system for redressal of their woes and sufferings. Since the ultimate end of penal justice is to protect and add to the welfare of the people and society as a whole, victims' rights should not only be recognized by the State but they should be well protected by the law and victims' services should be further extended. The emergence of compensatory jurisprudence is indeed a welcome step from the point of view of human rights philosophy.

Impact of Victimization:-

The impact of crime on victim may be physical, financial or psychological.

Physical impact:- The victim is likely to experience a number of physical reactions to crime to which he has fallen a victim. These may include hypertension, increased heart-beats, numbness, grief, sadness etc. At the time of

crime being committed against a person, he/she has to choose between "fight or flight", that is either to fight against the perpetrator of crime and offer resistance or the subdue and meekly fall a prey to his criminal act. Many a times, the physical reaction may not occur until the threat or danger has passed away and the victim may suffer from a mental trauma at a later stage when his memory returns and he may suffer the distress or shock even throughout his/her life.

Another significant physical impact of crime on the victim is physical injury which may be apparent and immediate or may be realized by the victim at a later stage. The injuries caused by knives or firearms are usually fatal and more damaging. There may be some physical injuries which have a permanent effect whereas some may be of a temporary nature i.e. healable in course of time.

Financial impact. The financial impact of crime on the victim may be in any one or more of the following forms:

1. costs and expenses incurred in medical treatment for physical injuries,
2. damage to property or articles in possession;
3. Litigation cost incurred in fighting against the crime and criminal te. perpetrator.
4. Employment loss or financial suffering due to loss of earnings.
5. Funeral or burial expenses, if any.

In some cases, the victim may be compelled to move or shift elsewhere for security or other reasons. In that case, he has to bear additional costs of shifting and expenditure for resetting elsewhere.

Besides the physical and financial impact of victimization, the marital and other relationships of crime victim are also likely to be adversely affected which may result in fatal consequences and even destroy his settled family life. This generally happens in case of women who are victims of rape or any other sexual offence.

The offences such as murder, rape, torture, assault, robbery etc. have a lasting effect of insecurity, fear, helplessness, anger etc. not only in the victim but the community as a whole which might also feel victimized and insecure.

Researches on victimology have shown that the effect of victimization is particularly too hard on poor, disabled and socially neglected people. In many cases, it so happens that once a victim has fallen a prey to a crime, he/she is susceptible to subsequent victimization by the same crime or other form of crime. This is often true in case of victims of rape. These "repeat-victims" find it difficult to get out of the clutches of the perpetrator of crime for a variety of reasons.

Psychological impact: Where the victim is confronted with the crime perpetrator immediate reaction will be anger or fear depending on his physical strength and capacity to face the misfortune. Shock and mental trauma follow subsequently after the crime has been committed and the victim regains senses and is able to recapitulate as to how he has been victimized. He gets so much distressed that he loses self-confidence and self-esteem and life seems to have no meaning for him.

The psychological impact of victimization is clearly reflected in the behavioral responses of the crime victim, which may include increased alcoholism, excessive use of drugs, segregation of social relationships, avoidance of people's contact or social withdrawal and so on. There may, however, be some victims who are able to shed aside their distress and shock and return to normal life in course of time.

The capacity of victims to cope with the effect of crime varies depending on his/her mental frame. While some victims may develop a serious post-traumatic stress disorder (PTSD), others may not be so affected. The PTSD assumes a more serious form when victim finds that he/she is not believed or people do not want to share her horrible "experiences and attribute his/her

victimization to his/her own fault or carelessness. This is more true in case of a rape victim when people blame her for having 'walked alone' or "dressed attractively".

Secondary Victimization From Criminal Justice & Society:-

Having suffered primary victimization in the form of physical, financial or emotional impact of crime, the crime victim, more often than not is also subjected to secondary victimization from tiresome court proceedings and also the society as a whole. The victim suffers from secondary victimization if his/her human or legal rights are refused by the court due to manipulated evidence put forth by the criminal and the court gives its decision against the victim on the basis of that evidence.

This institutionalized victimization is more painful for the victim. Even at the investigation and trial stage of the case, the victim may have to suffer secondary victimization at the hands of police and investigation personnel. It is mainly due to procedural processes and procedure of the criminal justice system which shows little concern for the mental torture and suffering of the victim and concentrates more on the prosecution of the offender.

Other agencies which may cause secondary victimization may be hospital procedures, especially in case of victims of rape and sexual offences and the relatives and friends of the deceased in murder cases. The victim is generally refused immediate medical care and treatment until the matter is taken up by the police and they approach the hospital authorities. Obviously, the victim's treatment is delayed for this reason.

The society's attitude towards the crime victims also accounts for his secondary victimization. Instead of sympathizing and helping the victim, his relatives, friends, neighbours etc. may squarely put the entire blame on the victim himself. They attribute victim's own behaviour to the occurrence of crime, of which he is the victim.

In cases where the victimization is the result of abuse of power, the victim's sufferings are further aggravated because in such cases, the crime is committed by those who are supposed to be the protector of the victim. The instances are custodial tortures, victims of police atrocities, misuse of power by hospital authorities against patients, custodians of jails, orphanages, rescue homes, reformatories etc. The shock and sense of loneliness suffered by the victims of such misuse of power shatters his/her personality and makes him not to trust anyone in this world. Another serious consequence that follows in case of a victim where the offender happens to be a state authority is that it is difficult for the victim to prove the guilt of the accused (offender).

The victims of collective violence in case of communal riots, bomb blast terrorism, religious or racial conflicts etc. not only suffer immediate primary and secondary victimization, but their trauma continues for future having adverse effect on their family and children. This may also result in victim's displacement leaving them without food, shelter and protection until they are re-settled or suitably rehabilitated.

All these problems are directly related to victimization of crime victims and need to be taken into consideration by victimologists. The criminal justice system should provide remedies and relief to crime victims against violation of their human and fundamental rights.

Restorative Justice for Crime victims:-

Gone are the days when retributive and preventive theories of criminal justice were holding the field in dealing with crime live theories of criminal decades, the rehabilitative approaches in penology have gideriminals. Ingen the of justice. It represents given rise to emergence dispensation of criminal justice by involving the offender, the victim and the community as a whole, to ensure a balance between offender's punishment and protection of victim's

rights. Compensatory relief to victim is the 'key-feature of restorative justice system.

The concept of restorative justice is woven around four major themes, namely (1) Restoration (2) Accountability (3) Community Protection and (4) Skill development.

(1) **Restoration**:- It implies help and support to victim of crime, whether the offender is apprehended and arrested or not. The victim is restored to normal life in society by community's restorative efforts. Similar restoration of offender to community is also a part of restorative process wherein the offender is made to realize and acknowledge the harm or injury caused by him to the victim and show willingness to be accountable for his wrongful action and redress the harm or sufferings of the victim. Thus, restorative justice lays equal importance on the rehabilitation of both victim and the offender and makes offender to realize the consequences of his offence on the victim and compensate the latter for the loss or injury caused due to crime.

(2) **Accountability**:- The process of victim-offender mediation leads the offender to accept accountability for harmful consequences of his criminal act on the victim and he makes amends to the victim and also to the community. Accountability of the offender and acceptance of guilt by him, has a soothing effect on the victim which facilitates overcoming trauma and distress caused due to his victimization. It is a positive approach involving both, offender and the victim to understand each other.

(3) **Community Protection**:- Community surveillance provides best opportunities to the offender to rehabilitate and reform himself and channelize his energy into productive activities. For victim, community's protection and assistance greatly helps in his return to normal life, forgetting the past (victimization) and look for the bright future. It provides him moral strength to withstand the sufferings and consequences of his victimization.

(4) **Skill development**:- Vocational training provides opportunities for the offender as also the victim to develop new skills which may help in his restoration and rehabilitation. Competency of development programmes constitutes a vital segment of the restorative justice system.

Victim's Assistance Programme:-

The UN hand book on Justice for Victims has outlined a comprehensive victim assistance scheme for the redress, relief and rehabilitation of the victims of crime. The crime victims need help and support to pull them out of the emotional trauma and physical and financial injuries suffered by them. They also deserve support for participating in the criminal justice process and compensatory relief from the offender and/or the government. The main objectives of the victim's Assistance Programme may be stated as follows:-

1. The governments and voluntary social service organizations should come forward to assist the victims of crime in their restoration and rehabilitation;
2. The services and assistance for victims should not be confined only to the immediate injury, harm or deprivation of rights but should extend further throughout the aftermath;
3. Efforts should be made to expand victim's opportunity to participate in criminal justice process and the courts should also realize the impact of crime upon the victim and his family;
4. Developing community support to crime victims by mustering cooperation of all appropriate agencies, organizations, groups, social activists etc. Services affecting the treatment of victims should also be strengthened;
5. criminal justice system should appreciate the 'unique needs' of victims who are under-served or rendered without service or support of any kind.

Advisory Group:-

In order to attend to the needs of victims in a particular area, the UN has suggested establishment of formal or informal advisory groups having understanding and knowledge of interests of crime victims. These groups should include representatives from police, prosecution, health, psychologists professionals, academicians and ofcourse, peoples representatives from the locality. The groups should interact with victims to solve their problems and work in close liaison with other voluntary social service agencies. The system would facilitate collection of information and data about the victims which may be used for policy formation by the law- makers.

The advisory group should be truly representative in character and include both males and females of varying ages and persons from different geographical areas, cultures, religions, races and economic status.

The functions of the Advisory Group may include-

(1) to collect information regarding incidence of victimization;
(2) to conduct surveys and interviews with victims of crime;
(3) to initiate measures to provide redress and relief to victims on the basis of police report, medical report or media reports etc.

(a) to survey social service institutions and community leaders for assisting the victims and solving their problems.

(b) to participate in the criminal justice process to represent the cause of victims.

However, while interacting with the victims and fighting for their cause, the representatives of the Advisory Group should maintain confidentiality regarding victim's details subject to legal requirements. The identity of the victim should not be disclosed with a view to preventing his stigmatization.

Type of Services:-

The different type of services which the professionals engaged in victim's assistance may render can be in the form of

- (1) crisis intervention;
- (2) Counseling;
- (3) Advocacy;
- (4) Support during investigation process;
- (5) Support during criminal proceedings and trial;
- (6) Support after disposition of the proceedings;
- (7) Violence prevention and
- (8) Offender-Victim mediation.

Safeguarding Victim's Rights through Legal Reforms:-

Ever since the adoption of the Declaration of Basic Principles of Justice, for victims of Power Abuse and Crime in 1985, considerable progress has been made by many nations including India, to provide assistance to victims of crime. However, there has been general lack of support services and counselling as a legal measure for the crime victims and whatever assistance is provided to them, it is more or less in the form of family support or reimbursement of medical treatment expenses or litigation costs etc. Therefore, it has to be admitted that this vital issue has not received the attention of criminal law administrators, which it deserves, and there is general lack of adequate policies sensitive to victims. It may be because of the lack of sense of commitment or want of political will to ameliorate the woes and problems of victims of crime. There is need to mobilize public opinion and sensitize criminal justice administrators to persuade the Government and law-makers to provide a comprehensive legal framework for assistance and compensatory relief to victims on the lines suggested by the World Society of Victimology and the United Nations in its handbook on 'Justice for Victims'.

The legislative policy and law reform on victim's redressal and their assistance should be based on certain fundamental principles which are as follows:-

1. Victims of crime deserve respect for their dignity, privacy and personal liberty;
2. Victims need assistance and support to cope with the aftermath of their victimization and their alienation from the society should be prevented:
3. The costs of policing, criminal justice, corrective measure and of course, the reparation for loss of property or injury to person including medical treatment cost etc should be recoverable by the victim from the offender or the state or from both;
4. Victim being the first-hand witness and the main source of information about crime and criminal, his version (statement) is of crucial importance for police, prosecutors and courts. Therefore, the testimony of victims should be properly weighed and evaluated and not easily discarded:
5. While accepting the plea bargaining under section 265-A of the Code of Criminal Procedure, 1973, the claims of victim(s) should not be ignored in an anxiety to dispose of the case promptly;
6. The constitutional and human rights of the victim of crime should be legally safeguarded.

Care and Protection of Victims in other Countries: -

The continental countries have recognized two types of rights for victims of crime as basic and indispensable. They are right of victim (s) to participate in criminal proceedings, which includes right to be impleaded, right to know and to be heard and help the court to find out the truth. The other right which every victim must avail is to seek and receive compensation for the harm or injuries suffered including right to appropriate interim reliefs during the court proceedings.

The French criminal justice system entitles all the parties who suffer injuries or damages as a result of crime, to be impleaded as parties right from the time of the investigation stage. They can move the court for appropriate action if they find that the investigation is being unnecessarily delayed or distorted. The participation of victim in the criminal proceedings is deemed necessary from the point of view of supplementing the evidence. It may also help in eliminating the possibility of unjustified withdrawal or closure of the case on extraneous or flimsy grounds as the victim may resist the same or in case the victim has died, his legal representatives may move the court for the cause of justice to the deceased victim. Even the registered welfare organizations may get themselves impleaded in case of victims of rape or sexual offences or where the victim is a child.

The modern American criminal justice system seeks to be more focused on safeguarding the rights and interests of the victims of crime by affording there every possible opportunity to ventilate their just cause before the trial court and seek relief.

The victimological developments in USA during the past three decades have shown that understanding of victim facilitation helps considerably in increasing public awareness about the victim-offender relationship and at the same time it also helps in crime investigations.

Mauvice Godwin (1998), has suggested that victim's social behaviour and personality are directly related to his involvement in crime and therefore, study of victims is necessarily multi-disciplinary in nature. It not only involves scope for compensation to the victim as a means of redressal but also approaches the problems of victims form the epidemiological point of view.

The National Crime Victimization Survey is the primary source of information on statistics relating to victims of crime in United States. It represents victimization rate for different offences and various segments of the population such as women, elderly citizens, racial groups, urban groups, etc

The survey also contains data regarding the frequency and consequences of criminal victimization in the country which enables the criminal law agencies to formulate preventive strategies to minimize victimization.

The Supreme Court of the U.S. recognized the rights of crime victim for the first time in the case of Payne v. Tennessee! at the sentencing stage of the trial. It marks the beginning of judicial recognition of the rights of victims and need for restorative justice for them. It has now been accepted as an indispensable aspect of the American criminal justice system. A victim impact panel is formed in which the crime victim (relatives of deceased victim) meets with the offender after his conviction and tells him about the impact of crime and asks for restoration.

South Asian Society of Criminology & Victimology (SASCV):-

More recently, an international association called the South Asian Society of Criminology & Victimology (SASCV) has been founded in February 2011, to nurture and promote criminological and victimological knowledge in South Asian countries such as Afghanistan, Bangladesh, Bhutan, India, Pakistan, Maldives, Sri Lanka and Nepal. The countries share their best practices in order to develop understanding of criminology and victimology as two important branches connected with criminal justice system. The emphasis is in victim's restorative justice, both at the governmental and the non-governmental level.

It has been generally accepted that the South Asian countries are facing acute problems of corruption, criminal violence, terrorism, extremism, white collar crime and cyber-crimes, human rights violations, victimization etc. The SASCV seeks to initiate measures to assist member countries in framing criminal justice oriented legislative policies to support and cater the needs of victims of crime and of abuse of power.

The main objectives of the South-Asian Society (SASCV) are as under :-

1. to serve as an international impartial, non-political and non-profit making association whose purpose is to promote criminology and victimology in South Asian region;
2. to function in close collaboration with other national and international bodies to use the available resources for propagation of victimological knowledge;
3. Scientific exchange of experts and organization of international seminars, symposia, workshops, conferences etc. on the related subject;
4. to encourage, promote and co-ordinate research development programmes and evaluation activities related to criminology and victimology in the South Asian region.
5. to sensitise those who are responsible for criminal justice system regarding need for care, help and assistance to victim of crime through resort to restorative justice;
6. to promote education and training of criminologists and victimologists and professionals working in this field, particularly, the officials entrusted with the administration of criminal justice.

Victims of Crime-Indian Position:-

Section 2 (x) "victim" means a person who has suffered any loss or injury caused by reason of the act or omission for which the accused person has been charged and includes the guardian or legal heir of such victim;

The expression 'victims of crime' has been defined in section 2 of BNSS-2023 Initially, the criminal justice system in India was focused on punishment as part of the crime without much attention on the suffering of victims of crime. The rights of prisoners were protected even after their conviction whereas little concern was shown for the rights of victims of crime. However, with the emergence of public interest litigation the higher courts attention was drawn to these lacunae in the existing criminal justice system by social activists, and

the courts started granting compensatory relief to victims of crime, but a comprehensive legislation on this aspect of criminal justice was still awaited.

Expressing concern for the plight of victims of crime Justice V.R. Krishna Iyer commented "the criminal law in India is not victim oriented and the suffering of victim, often immeasurable are entirely overlooked in misplaced sympathy for the criminal. Though our modern criminal law is designed to punish as well as reform the criminals, yet it overlooks the by-product of crime i.e. the victim."

The Supreme Court has reiterated time and again, that a prisoner, be he a convict or an under trial or a detenu, does not cease to be a human being even when lodged in jail and therefore, he continues to be entitled to all his fundamental rights including right to life guaranteed under Article 21 of the constitution. As such he cannot be deprived of his right to liberty in accordance with the procedure established by law, even after his conviction and imprisonment in jail. But no such concern is shown for the poor victim of crime who is left to suffer the aftermath of his victimization except awarding him monetary compensation in certain cases.

However, the victimological developments that have taken place during the preceding two decades and the international efforts to focus on need for restorative justice to victims have yielded positive results and the member states have started framing laws and legislative policies extending protection to the rights of crime victims.

In response to the UN Declaration, In India the Code of Criminal Procedure was amended in 2008 as to widen the definition of 'victim as contained in Sec. 2 (1)(x) of the BNSS. The term victim means a person who has suffered any loss or injury caused by reason of the act or omission for which the accused person has been charged and includes his/her guardian or legal heir.

Compensatory relief to victims:-

The legislative framework regarding compensatory relief to victims of crime in India may be traced to the Code of Criminal Procedure. The Probation of Offenders Act, 1958 and the Motor Vehicles Act, 1988 also contain provisions for award of compensation to victims of crime. Besides these legislations, the constitutional scheme for compensatory victims is to be found in the form of decisions of the Supreme Court while interpreting fundamental rights or directive principles of State Policy or Articles 32, 136 and 142, when the Court may direct payment of compensation to victim's of crime.

Compensatory Provisions in BNSS:-

Sub sections (1) and (3) of Section 357 of CrPC (Section 198 of BNSS-2023) vest power in the trial court to award compensation to victim of crime whereas similar power is conferred to the appellate and revisional court under sub-section (4). The Court may appropriate the whole or any portion of fine recorded from the offender to be paid as compensation to the victim of crime.

The compensation ordered to be paid under section 198 of BNSS may be for costs, damage or injury suffered or loss caused due to death or monetary loss incurred due to theft or destruction of property etc.

Sub-section (3) further empowers the court, in its discretion, to order the accused to pay compensation to victim of his crime, even though no fine has been imposed on him.

It is significant to note that a new section 357-A of CrPC (**396 of BNSS**) with effect from December 31, 2009, which envisages 'Victim Compensation Scheme.' The section reads as under "357-A. Victim Compensation Scheme. (1) Every State Government in coordination with the Central Government, shall prepare a 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.

(2) Whenever recommendation is made by the Court for compensation, the District Legal Services Authority or the State Legal authority, as the case may be, shall decide the quantum of compensation to be awarded under the scheme referred to in sub-section (1).

(3) If the trial court, at the conclusion of trial, is satisfied, that the compensation awarded under Section 357 is not adequate for such rehabilitation, or where the cases end in acquittal or discharge and the victim has to be rehabilitated, it may make recommendation for compensation.

(4) Where the offender is not traced or identified, but the victim is identified, and where no trial takes place, the victim or his dependents may make an application to the state or the District Legal Services Authority for award of compensation.

(5) On receipt of such recommendations or on the application under sub-section (4), the State or the District Legal Services Authority shall, after due enquiry, award adequate compensation by completing the enquiry within two months.

(6) The State or the District Legal Services Authority, as the case may be, to alleviate the suffering of the victim, may order for immediate first aid facility or medical benefits to be made available free of cost on the certificate of the police officer not below the rank of officer-in-charge of the police station or a Magistrate of the area concerned, or any other interim relief as the appropriate authority may deem fit."

The scheme contained in the section is indeed a progressive measure to ameliorate the woes of crime victims and providing them restorative relief.

The Code also provides compensatory relief to victims of unlawful arrest or detention by police without sufficient cause.

Where an accused is convicted of a non-cognizable offence on a complaint, the court may order him to pay costs to the complainant or in default, suffer simple imprisonment for a period not exceeding thirty days.

In case of recovery of amount of fine, of which, the whole or a part has to be paid as compensation to the victim, the court may order attachment or sale of movable property of the offender for its recovery as arrears of land revenue, if necessary.

Compensation under Probation of Offenders Act:-

The Probation of Offenders Act, 1958 also contains provision for compensatory relief to victim of crime under section 5(1) of the Act. The section provides that the court directing the release of an offender under Section 3 or Section 4 of the Act, may if it deems fit, further direct the accused to pay such compensation to the victim, as the court thinks reasonable for the loss or injury caused to the latter, as also the costs of the proceedings.

Compensation to victim under Motor Vehicle Act:-

The victims of vehicular accidents or their legal representatives in case of death of the victim are entitled to claim compensation from the offender under Section 5 of the Motor Vehicle Act, 1988. However, the power in this regard is vested only with the trial court and none else.

Compensatory Relief to Victims-Judicial Trend:-

The contribution of judiciary to redress the claims of victims of crime is no less significant. The higher courts have played a dominant role in assuring compensatory justice to the victims of crime. While awarding such compensatory relief, they have exercised due care and caution to ensure that people's faith in judicial process is not shattered and the victims protective rights are not denied to them. Some of the landmark judgments of the Supreme Court ensuring restorative justice to victims of crime reflect the growing concern of judiciary to protect the rights of victims.

Elaborating the scope of award of compensation to victim of crime, Justice VY. Chandrachud CII (as he then was), in Rudal Shah v. State of Bihar, observed that a person is entitled to compensation for the loss or injury

caused by the offence, and it includes the wife, husband, parent and children of the deceased victim.

The Apex Court in *Sarwan Singh v. State of Punjab*, enumerated the factors which the courts should take into consideration while ordering award of compensation to the victim of crime. These factors include capacity of the accused to pay, nature of the offence and the nature of injury suffered by the victim as also the overall effect of crime on the victim's familial and social life and emotional or financial loss caused to to him/her. The Court ruled that the quantum of compensation must be reasonable, depending upon the of facts, circumstances and justness of victim's claim. The accused must be given reasonable time for payment of compensation and if necessary, it may be ordered to be paid in instalments.

In *Bhim Singh v. State of J & K.*, the Apex Court observed that "compensation for illegal arrest and detention is an area which unearthed new doctrines pertaining to compensatory jurisprudence in India. In this case, the appellant was a Member of the J.&K. Legislature Assembly who was arrested by the police in connivance with the local A.D.M. while on his way to attend the assembly session. He was maliciously and deliberately arrested and detained in policy custody in order to prevent him from attending the assembly session. Allowing the petition, Justice Chinnappa Reddy, speaking for the Apex Court observed that where a person has been arrested and detained with a malicious and mischievous intent and his legal and constitutional rights are invaded, the malice and the invasion is not washed away by his being set free. The court has the jurisdiction to order compensation to the victim. The State was therefore, directed to pay a compensation of Rs.50,000/- to the petitioner for the violation of his legal and constitutional right.

The question of award of compensation to a victim of rape came up for adjudication before the Supreme Court in the historic *Bodhisatva Gautam v. Subhra Chakraborty's* case. The Court in this case noted:

"Rape is a crime not only against the person of a woman, it is a crime against the entire society. It destroys the entire psychology of a woman and pushes her into deep emotional crisis. It is, therefore, a most dreaded crime. It is violative of the victim's most cherished right, namely right to life, which includes right to live with human dignity as contained in Art. 21 of the Constitution."

The Court ordered that the accused shall pay an interim compensation of Rs. 1000/- per month to the victim (woman) of his crime (ie. rape) during the entire period of trial proceedings. The Court further ruled that "compensation to victim under such conditions will be justified even when the accused was not convicted.

In *State of Maharashtra v. Christian Community Welfare Council of India*, the Supreme Court was called upon to decide whether the compensation paid by the State to the victim can be recovered from the guilty officer. Justice Hedge, speaking for the court held that it will depend on the fact whether the alleged misdeed by the officer concerned was committed in the course of the discharge of his official duties and whether it was beyond or in excess of his lawful authority. If it was found that the appellant officers did cause the death of the deceased and exceeded their lawful authority, then they cannot escape the liability to compensate the heirs of the deceased victim.

In *R. Gandhi v. Union of India*, the District Collector of Coimbatore had recommended that the State Government shall pay Rs. 33,19,003/- as compensation to those families of Sikhs and others living in Coimbatore, who were victims of arson and rioting in the wake of assassination of the former Prime Minister of India, Shri Rajeev Gandhi. The High Court of Madras, upheld the order of the District Collector. Justice S.A. Kadar of the Court observed:

"Legally and morally by all canons of fair play, by all principles of justice, equity and good conscience, the State of Tamil Nadu is bound to pay compensation to victims as assessed and recommended by this senior officer, the Collector of Coimbatore."

In yet another landmark case on victim's compensatory relief, namely, *D.K. Basu v. State of West Bengal*, the Supreme Court, inter alia made the following observation:

"The monetary and pecuniary compensation is an appropriate and indeed an effective and sometimes perhaps the only suitable remedy for the redressal of the established infringement of the fundamental right to life of a citizen by the public servants. The State is vicariously liable to which the defence of sovereign immunity is not available and the citizen must receive the amount of compensation from the state; which shall have the right to be indemnified from the wrongdoer."

The Supreme Court in *State of Andhra Pradesh v. Chalia Ramakrishna Reddy*, relying on its earlier decision in *D.K. Basu*, awarded Rs. 1,44,000/- as compensation against the State Government for death of a person caused while he was in judicial custody. Rejecting the defence plea that the prisoner was put in jail in exercise of State's sovereign function, the Court ruled that the concept of sovereign power is not an exception to the right to freedom of life, and constitutional guarantee of right to live overrides the theory of state immunity.

In *Delhi Democratic Working Women Forum v. Union of India* seven military jawans raped six village girls who were travelling by train. The court directed the Central Government to pay Rs. 10000/- to each victim as compensation and ordered that the names and identity of the victimized girls be kept secret to save them from social stigma. The court also directed the

National Women Commission to prepare a rehabilitation scheme for such victims and expressed the need for setting up of a Criminal Injuries Compensation Board which should decide the quantum of compensation to be paid to victims of rape after taking into consideration their shock, suffering as well as loss of earning due to pregnancy and the expenses of child birth, if caused as a result of rape.

In the case of SAHELI (a women social activist organization) the Apex Court directed the Delhi administration to pay Rs.75,000/- as exemplary compensation to the mother of a nine year old boy who died due to beating by police officer while extracting information from him regarding the offence. The dispute in this case was related to the land lord (house owner) trying to oust the appellant (mother of the deceased boy) from his house and the police was allegedly favouring the land lord.

Justice Malimath Committee Recommendation on Victims of Crime:-

Malimath Committee in its report has suggested that the right of the victim to appeal against the order passed by the trial court should be further extended. The committee found no credible reason for the provision in the code of Criminal Procedure that an appeal against acquittal should lie only to the High Court and not to any court below. Moreover, the right to such appeal should not be limited only to the prosecution but it should be available to the accused as well where the prosecution declines to file the appeal. However, now provides that the victim need not approach the prosecution for its consent or approval to file an appeal against the acquittal of the accused. This is indeed a welcome change in the procedural law which now enables the victim to move in appeal against the acquittal order passed by the trial court or against an order awarding the accused a lesser sentence or against an order convicting the accused for a lesser offence or where the compensation awarded to him (i.e. victim) is inadequate.

It would thus be seen that the amendment of the Code of Criminal Procedure, in 2008, has undoubtedly made a beginning towards statutory protection of victim's rights under the criminal justice system and now it is for the criminal law administrator to implement the law in its true spirit.

Before concluding, it must be stated that victimology and justice for victims of crimes is not exclusively a legal problem, it also has sociological, psychological, financial and ethical implications which need to be addressed jointly by experts working in these adopting multi-disciplinary fields approach. A community based Joint Victim Impact Panel on the American pattern may be constituted comprising lawyers, judges, sociologists, psychologists, women activists, politicians etc. to decide victim's rights and claims and their rehabilitation in the society.

The role of courts and judges is no less important in imposing sentences which have great impact on social order and therefore public interest, especially those of victims, should not be lost right of. Any liberal attitude by imposing meager sentences without taking into consideration the woes and sufferings of the victims and its impact on society shall be result wise counterproductive in the long run. The victimological researches for the past three decades have shown that care and protection of victim's right is an inseparable part of the sentencing system though apparently it refers to the accused who perpetrates the crime. The law and particularly, the criminal law as a cornerstone of the edifice of "order" in the society, should focus not only on challenges confronting the society but also the sufferings of victims of crimes who are faced with multiple problems for years and, in some cases even for the whole of their life. It hardly needs to be stated that crime is one single act perpetrated by the offender but its implications on society in general and victim(s) in particular are far more painful, torturous and disgusting which the criminal law administrators must keep in the forefront while dispensing criminal justice.

VICTIM COMPENSATION SCHEME IN INDIA

A huge number of victims are affected by crime. People suffer harm whether it be physical or social or it be monetary they should be given access to justice. In the recent decades it has been noticed that impact of crime on victims has withdrawn their attention of criminal laws jurisdiction and the conclusion that has come out that victims should be treated with empathy and there basic rights must be protected. In today's time understanding the perspective of victims is emerging as a new branch of criminology also known as victimology.

The compensation to the victim of crime is big matter of concern, all over the world the condition of the victims of crime is not better. The function of compensation is simple, it serves to right of the victim what would else count as unlawful injuries to persons or their property. It has been stated under different provision of the Code of Criminal Procedure, The Probation of Offenders Act, 1958 and Motor Vehicle Act, 1988.

In this paper the focus is given on understanding the perspective of victims, need for victim compensation. Indian provisions and statutes and the judicial trend related to the victim compensation: Keywords: basic rights, compensation, empathy, perspective, victimology.

1. BACK-GROUND

A huge number of victims are affected by crime. People suffer harm whether it be physical or social or it be monetary they should be given access to justice. In the recent decades it has been noticed that impact of crime on victims has withdrawn their attention of criminal laws jurisdiction and the conclusion that has come out that victims should be treated with empathy and there basic rights must be protected. In today's time understanding the perspective of victims is emerging as a new branch of criminology also known as victimology.

II. VICTIM COMPENSATION

The compensation to the victim of crime is big matter of concern, all over the world the Condition of the victims of crime is not better. For quite a long time the victims were not the major Concern for criminology. The function of compensation is simple Compensation serves to right of the victim what would else count as unlawful injuries to persons or their property.

The advancement of victim compensation played a major issue in the victim support movement. Part of the dilemma in opinion might be traced to the fact that a lot has been written through these years about arrangement and function of victim compensation. Victim compensation is a form of victim support in meeting physical emotional sand society related need of the victim. An has played a crucial role in victim recovery. Not much attention is given on the role of victim compensation in future victim support efforts.

III. VICTIM COMPENSATION: DEFINITION, NATURE & SCOPE

In today's era the victimology is not only limited about studying penal relation. But compensation to victim is also gaining importance. Any person who has suffered damage he or his dependants are entitled to get compensation. In the medieval era criminal or his kin used to give compensation for any wrongful act. If the accused is not in the capacity to pay the compensation, then the state is duty bound to pay the compensation.

"Ubi jus ihi remedium is a principle in the of torts which says that states that there is no wrong without a remedy and the rule of law demands that one should not be disturbed by wrongdoing Compensation is a mandatory measure in tort law and the principles governing the compensation and determination of damages are very well acknowledged in the tort law.

The term "Compensation" in the current scenario means repayment for the loss suffered. Anything that is given to make things equal is called compensation, a thing that is given to make reparation for the loss, repay, recompense or pay. It can be seen as a liability of the society which is of civil Compensation, is different from damages is used for any unlawful act, which cause the damage or loss to way person. The meaning of compensation is the money is given for compensating any damage or loss. The main objective behind the compensation is to make the loss bearable to the victim either the person has suffered financial loss or not. The crux of providing compensation is to provide some sort of help to the victim who has suffered the damage either it be physical, psychological or emotional and supports the victim to recover from the trauma as soon as possible and works as a helping hand.

Need for victim compensation:

The Hon'ble Supreme Court stated the importance of victim compensation in Maru Ram v. Union of India

"A victim of crime cannot be a 'forgotten man' in the criminal justice system. He is the one who suffered the most. His family is devastated, especially in terms of death and physical injuries. This is in addition to factors such as loss of honor and humiliation. An honor that is lost or a life lost cannot be regained but then the currency compensation will at least give some comfort."

Laxmi Vs. Union of India 2014 SCC (4) 427 case

Date of Judgement: 10th April 2015 (Sitting Judges: Justice Madan B. Lokur; Justice Uday Umesh Lalit)

In this case, Laxmi, who was a strong acid attack survivor, filed a PIL against the Union of India, which resulted in the publication of recommendations for the benefit of acid attack survivors. The [Supreme Court](#)'s ruling placed limitations on the vending of acid and awarded the victim

compensation. In the past, acid assaults fell under the general category of crimes which was part of “grievous harm.” Following the “Justice J.S. Verma commission’s” recommendations subsequent to the gang rape that happened in the year 2012 along with the killing of a physiotherapy student, “The Criminal Amendment Act of 2013” passed a number of new laws, including one that classified acid violence as a distinct crime punishable by a life sentence in prison and a fine. The sale of acid on counters was not prohibited prior to this Supreme Court decision, and the government’s compensation was inadequate. The long-term effects of an acid assault include unending suffering, lasting harm, and other issues for the victim’s whole life.

Their ongoing lives become shambles, and fighters are too frightened and ashamed to step out of their homes or carry out routine duties. There is no assurance that society would treat them as regular people despite their desire to lead a normal life due to their post-attack looks and limitations. Therefore, the state should punish the wrongdoers severely so as to decrease similar acid assaults on females. Before *Laxmi vs. Union of India and Others*, acid assaults were not well known, but when it was brought to light, more incidents became public.

Facts

Laxmi, who was aged about 15 years suffered an acid assault and filed this PIL. She was raised in a middle-class household and helped her parents by taking a part-time job as a salesman at a bookseller. Two acquaintances visited her on the tragic day of April 22, 2005, and they doused her in acid. When they heard her screams, a crowd gathered, but no one attempted to aid. After that, she was brought to the “Ram Manohar Lohiya Hospital”, where she received medical care. According to the medical report, the girl got about 25% acid blisters on her face, chest, eyes as well as the forearm. She then told the authorities that Naeem Khan (Guddu) and Rakhi were responsible once she regained consciousness (his sister-in-law). She said that family friend Naeem

Khan had asked her to marry him, but she had categorically rejected his proposal.

The accused and co-accused were found guilty by the Delhi Sessions Court of violating "[Indian Penal Code](#) Sections 307 (Attempt to Murder) and 120B (Punishment for Criminal Conspiracy)". Following that, the accused appealed the Sessions Court's ruling to the Delhi High Court. The High Court affirmed the lower court's judgement. Additionally, "Section 357(1) (b) of the Criminal Procedure Code", ordered the blamed to recompense the victim an amount totalling Rs. 3 lakhs in damages.

Laxmi filed a Public Interest Litigation before the Supreme Court in 2013 to bring to light the miseries of acid attack sufferers. There is a number of causes for acid attacks, but most customers include not agreeing to marry, refusal of sexual approaches, and dowry matters. The primary goal of submitting this PIL was to have an outright prohibition on the selling of acid, tighter regulations governing acid assaults, and a better reimbursement structure.

Issues

Amendments must be made to pertinent laws, such as the "Indian Penal Code, the Code of Criminal Procedure, and the Evidence Act", to ensure that the criminal justice system recognizes acid assault as a distinct crime and that the perpetrator of the attack faces harsh punishment. Creating regulations to prohibit the selling and purchasing of acid. Providing compensation along with rehabilitation to the sufferers.

Arguments by the Petitioners

- The petitioner spoke up against the ease with which acids were being sold in the marketplaces.
- She explained how the acid assault had left her with physical, mental, and emotional damage.
- She asked the government for rehabilitation.

- She said that the existing rules did not consider acid assaults as a specific occurrence but rather regarded them as a generalised occurrence and called for harsher and more rigorous penalties to be applied to those who perpetrated these horrible crimes.
- She demanded that survivors of acid attacks receive both free care and compensation.

Arguments By the Respondent

- The Central Government will implement the model guidelines, according to the learned solicitor general.
- The model regulations, which have to be applied from today's date in a week, regulated the sale of acid and other hazardous chemicals under "The 1919 Poisons Act" to all state governments and union territories.
- They also maintained that the model standards would cover a variety of topics, such as the kinds of acids that can be kept and sold (liquid and crystallized), the granting of licenses, and individual gains. Institutions engaged in education or research, hospitals, businesses, government agencies, or activities in the public sector.
- "The Hon'ble Counsel for the State of Tamil Nadu" declared that adequate and rigorous legislation will be regularized within 2 months on this day to control the sale of acid and other hazardous chemicals.
- The state and union territory administrations declared that they would totally abolish cognizance of and availability of bail for offences under the 1919 Poison Act.

Judgement

- This resulted in the following changes to the laws governing the criminal justice system:
- Sections 326A and 326B, which particularly addressed the offence of the acid assault, were added to "Section 326 of the Indian Penal Code".

- The Code of Criminal Procedure, 1973 has been changed to incorporate Section 357B, which ensures that the victim will get reimbursement in addition to the penalties required under “Sections 326A and 376D of the IPC. Section 357A explains the victim compensation programmer”.
- Section 114B, which describes the purpose and knowledge that the perpetrator is likely to have under section “326A of the IPC”, was also added to the Indian Evidence Act.
- The victim is entitled to compensation of at least three lakh rupees, according to the government’s Victim Compensation Scheme, which also established a consistent method for paying the compensation. It was emphasised that no facility, not even a private hospital, could refuse the victim medical care. When hospitals are short on equipment, the victim should first get primary care before being transferred to the appropriate hospital.
- The restriction on acid sales and purchases.
- Under the Victim Compensation Scheme, a legal service authority was also established to aid victims in obtaining justice.

Inferences

The case’s decision in Laxmi vs. Union of India and Others resulted in the adoption of stringent guidelines and recommendations under the victim’s compensation scheme as well as revisions to certain criminal justice-related legislation. Numerous more rules for the assistance of acid attack fighters were adopted as an effect of the PIL petition. After the survey, it was found that the three states with the highest rates of acid assaults were “Uttar Pradesh, Gujarat, and Madhya Pradesh”. Only acid assaults occurred in Delhi, a Union Territory.

Conclusion

The case of Laxmi v. Union of India and others has become a standard in society, from education to the application of strict laws. The goal is to safeguard women from egotistical men who are chauvinistic to the point of disfiguring others to satisfy their own needs. By designating acid attacks as heinous crimes and holding the federal and state governments accountable for the rehabilitation of the victims, the Criminal Amendment Act, of 2013, brought about a good transformation in society.

The judiciary's imposition of free medical care demonstrated its genuine concern and empathy for the victim and her family. The main issue is the authority's ability to put in place an operative approach to stop acid attacks, which requires constant monitoring of acid trades and buying.

The responsible and concerned judiciary believes that since the legal system is so important in establishing social outcomes, it is necessary to alter the law to make acid attacks a serious offence. In this instance, the predetermined compensation and regularity in the administration of justice were both accomplished. Every person must comprehend the concepts of equality, uniqueness, and humanity since society as a whole is equally to blame for the commission of such crimes.

IV. COMPENSATION PURPOSE

When a victims gets compensation for any crime he has suffered it becomes very important to the person because it symbolizes justice towards the victim and it can be seen as a financial help for the victim.

In the society when compensation is awarded its shows that there is something wrong that is done by the victim.

The compensation would work as a step towards helping the victim to overcome the trauma and the damages that is suffered by the victim at individual level.

The compensation helps victims in transforming their lives.

Funds to Provide Compensation to the Victims:-

Compensation can be provided by both offender as well as the state as the case may be. In some state there are programs which are state administered in cases of violent crimes. In some cases it is not necessary that the offender is caught or known in those cases it is helpful if there is a state funded program to give compensation to the victims. basically state programs are biased un formal than any other civil proceeding. There may be different sources from which the victim compensation funding can be done these sources are confiscated property, fines, tax revenues and other funding of the state or any private institution.

Claim for victim compensation can be made on different bases but it is not only limited to:

- Pain and suffering due to physical or mental violence
- Medical cost
- Unpaid or low paid wages
- Fines imposed by criminals for bad behavior

V. VICTIM COMPENSATION: INDIAN POSITION

Under different provision of the Code of Criminal Procedure, The Probation of Offenders Act, 1958 and Motor Vehicle Act, 1988 various provisions governing compensation has been stated.

1. Compensatory Provisions under Cr. P.C/BNSS.

In the CR.P.C 1973 has authorized the courts in which criminal matters are tried in India for ordering the compensation to the person who has suffered loss or damage. Section 357 of CrPC deals with compensatory provisions. Under Section 357(1) it is given "Whenever under any law in force for the time being a criminal court puts fine... or a sentence (including a sentence to death) of which fine forms a part, the court may, when imposing judgment, order the whole or any part of the fine recovered to be applied;

- a) In covering expenses properly incurred in the prosecution;
- b) In the payment to any person of reimbursement for any loss or injury caused by the offence when compensation is, in the view of the court, restorable by such person in a civil court;
- c) When any person is prosecuted of any offence for having caused the death of another person. Under the Fatal Accident Act, 1855, another person is compelled to pay compensation to a person entitled to receive compensation from a person who has been compensated for such a death."

Under section 358 gives power to a magistrate to force or give an order to a person to pay or give compensation not more than Rs1000 to person for making police officers to arrest that person in wrong case. Likewise, section 359 of CR.P.C directs to pay compensation in non- cognizable cases.

It can be seen clearly that only small action is possible under section 357 of the Cr.PC in case of compensation to a victim of a crime. And it has been proved through various restrictions and limitations. Some restrictions given in the section are the capacity of the wrongdoer of paying the compensation amount its ability to pay acts as a obstacle for the victim from getting the compensation.

The state government on the direction of Supreme Court made certain modification to sec 357 A of CrPC in the year 2008 for the benefit of V.C.S.

The amendment provided for various compensatory measures and the main objective of the modification of 2008 was to broaden the definition of victim as defined under sec. 2 (wa) of CRPC. In context to the amendment made in 2008 all the Indian states came up for the benefit and providing remedy to the victim with the help of victim compensation scheme. In lieu of the following amendments and the initiative taken by the various states, the Delhi govt. also issued an order giving 200 crores to victims of various types of offences like rape, acid attack. These scheme of victim compensation was effectively addressed and implemented which was seen in various case laws that came up. In one of the cases Delhi Domestic Working Women's Forum v. Union of India and others, Ankush Shivaji Gaikwad v. State of Maharashtra, and other cases. Where the court implementing the order of govts gave the compensatory relief to the victim. Owing to the situation the 2008 amendment also ratifies sec 372 of crpc and added certain rights to be given to the victims of such kind of offences. Some of the rights include "1. Acquittal of criminated. 2. Condemnation for a trivial offence or limle legal in nature, and; 3. Not satisfied with the amount of compensation given before."

Implementation of victim compensation scheme in relation to crpc.

The victim compensation scheme which has been started by various states under the direction of the supreme court for the protection of the victims against the mental harm and dependents of the victims against the offences under sec. 357A of crpc. Further the sec 357A providing for compensation to the victims has been categorized into various parts which are as follows:-

■ Sec 357A(1) provides for compensation to be given to either the victim or his legal heirs who have suffered misfortunes or faced any kind of discrimination by the society should be given an opportunity to recover under the formation of victim compensation scheme as implemented by the states.

The criteria of compensation for victims which has been laid down in sec 357A (2) is based upon sub sec (1) itself. The District legal service

authority which referred as DALSA when ordered by any court under its judgement have The power to decide on the amount of compensation to be paid to the victim. This power has been granted to the District legal authority as expertise in understanding the nature and effect on the victim for granting the proper quantum of compensation.

After the insertion of sec 357A the District or the Trial courts are also allowed to give necessary compensation to the victims as earlier they were not authorized. Under sub sec(30) of sec 357A it has been provided that the District legal authority on the direction of the District court has the power to grant compensation under those circumstances where the victim is released or require any kind of rehabilitation to recover from the event as it might hamper in his life ahead. Also, the compensation provided by the D.L.S.A. should be sufficient enough that the individual can recover from the event.

Further the rights of the victim and the legal heir or representative has been dealt under sub sec (4) of sec 357A. These right include right of compensation for any kind of damages suffered by the victim before the identification of culprit and before the start of the court proceedings. This sec. talks in favour of the victim as they can ask for compensation even before the start of any court proceeding from the District legal authority. This sub sec. is very important for providing quick remedy to the victim

2. Probation of Offender Act 1958

Under section 5(1) of the probation of offender act contains provision regarding compensatory claim. As stated in this section, the court directs the release of a wrongdoer under section 3 or section 4 of the Act, if it is deemed fit, it may further direct the accused to further pay to the victim the amount, as the court deems fit and the cost of the procedure.

3. Compensation under Motor Vehicle Act 1988

In case of death or injury in case of vehicle accident or their representatives can claim compensation from the wrongdoer under section 5 of motor vehicle act 1988. These cases can be tried under trial court.

4. Compensation under *Protection of Children from Sexual Offences Act, 2012 [POCSO]*:

The gang-rape of *Gudiya* (real name of victim not disclosed) at the tender age of five, by a man she called 'uncle', shook our collective conscience while we were still reeling under the trauma of what had happened to Nirbhaya.

Yet, eight years into the enactment of the *Protection of Children from Sexual Offences Act, 2012 [POCSO]*, and seven years after *Gudiya*'s barbaric rape in April 2013, there are basic aspects of the legislation that remain alarmingly unaddressed. It is no secret that a number of POCSO cases end in acquittals. While a more uninformed opinion is that the cases themselves might not have been genuine, the grim reality is that there is a gross failure to support and rehabilitate the victim and her family. As a result of this, either the victims turn hostile or the family turns hostile, or they simple lose hope and stop cooperating. Thus, timely payment of compensation and due rehabilitation of the victim are key to ensure a proper trial that actually brings out the truth. Let's examine what the statute says about these two aspects.

Section 33(8) of POCSO provides that in appropriate cases, in addition to punishment, the Special Court may direct payment of compensation to the child for any physical/mental trauma caused to the child or for immediate rehabilitation. Pursuant to the parent Act, the POCSO Rules of 2012 dedicated **Rule 7** to the procedure and parameters of providing such compensation. Rule 7(3) enlisted the various parameters/factors to be considered by the Special Court in deciding such compensation, such as-

gravity of the offence, expenditure incurred/likely to be incurred on medical treatment, loss of educational opportunity, financial conditions, etc. Rule 7(4) and (5) state that after the amount is decided/granted by the Special Court, it is to be disbursed from the Victims Compensation Fund or such other scheme by the legal services authority within 30 days of receipt of such order.

While the law clearly provides for compensation, in reality, POCSO victims are facing colossal problems in this respect. It is seen that grant of compensation by Special Courts under POCSO is both sporadic and erratic. There is utter confusion as to whether Delhi Legal Services Committee or the Special Court is to decide the amount, though a thorough reading of the Act made it quite apparent that the latter was the disbursing authority.

There is also confusion as to who is to apply for compensation on behalf of the victim, with many victims under the impression that the investigating officer would apply for compensation on their behalf. To top it off, even in cases where the compensation was granted by the Special Court, the amounts were rather inconsistent and arbitrary, some being as meagre as Rs. 10,000. This, despite the fact that when many of [these cases](#) reached the Delhi High Court in appeal, more often than not, the compensation amounts were increased manifold.

Contrast this paltry amount to the compensation granted in cases of rape as per the [Compensation Scheme for Women Victims/Survivors of Sexual Assault/other Crimes, 2018](#) issued by National Legal Services Authority, where a minimum amount of Rs. 4 lakh and a maximum amount of Rs. 7 lakh is provided for. In a sample study conducted by the Delhi Commission for Protection of Child Rights (a statutory body constituted under Section 17 of The Commissions for Protection of Child Rights Act, 2005) titled [Mapping of Needs and Priorities: A Study of Child Rape Victims in Delhi](#), startling revelations were made. The study highlighted the challenges child rape victims and their families face, and aspects that have a definite

bearing on their rehabilitation and social reintegration. An analysis of the study revealed the following:

1. 42% of the child victims dropped out of school.
2. 50% of the children suffered from different types of physical illnesses that were linked to rape. About 81% of parents stated that they were unable to fulfil the health needs of their children who were victims of child rape.
3. With regard to compensation, the study revealed that only 1 child had got compensation of more than Rs. 50,000, whereas 99% of the children had not got compensation *as per* the prevalent scheme.
4. Only 15% of the victims had received any compensation and 85% had not received compensation.
5. 38% of the victims had not received any legal aid.

This study was instrumental for two reasons - firstly, it was conducted by a statutory body ordained by law with the task of monitoring the implementation of the Act; and secondly, the study threw light on the dismal state of implementation of the Act, seven years into its passing. The message was loud and clear - for those who wanted to hear it - we are failing to protect and provide succour to our children.

These issues were raised and argued at length in a [PIL](#) filed in the Delhi High Court back in 2016. The PIL highlighted that as per the [National Crime Records Bureau Report \(2014\)](#), the pendency rate of trials under POCSO in Delhi was a staggering 95%. Moreover, an abysmally low 1% of the trials were leading to convictions. The primary prayer was that unless *exclusive* as opposed to *assigned* courts are made under POCSO, trials cannot get completed within the stipulated period of one year under Section 35 of the Act

and other special provisions of the Act will not get the specialized attention they deserve.

If this data sounds astonishing, consider this. When the NCRB data of 2017 was released, its analysis revealed that at the current rate of completion of trials, it would take approximately 24 years to complete the trial of existing POCSO cases in India, even if no new cases are sent to trial during that time. In other words, we were essentially telling our children to fend for themselves and not expect justice, at least not unless they are willing to relentlessly fight their case of child abuse till much after they have their own children!

While the matter was still being heard in the High Court in the captioned PIL, the Supreme Court passed a significant direction on the aspect of compensation under POCSO in [Nipun Saxena & Anr v. Union of India & Ors.](#) It was directed that the Special Court, upon receipt of information as to commission of any offence under the Act by registration of FIR, *shall* on his own or on the application of the victim make an enquiry as to the immediate needs of the child for relief or rehabilitation and pass appropriate order for interim compensation.

It was further held that if the court declines to grant interim or final compensation it shall record its reasons for not doing so. Finally, the Apex Court made it abundantly clear that the Special Court must mandatorily take up and consider each POCSO case for the aspect of compensation. This does not mean that compensation must be granted in every case, but the adjudication on compensation must be there in every case.

Nipun Saxena's case was preceded by another pertinent judgment passed under POCSO by the Supreme Court in [Alakh Alok Srivastava v. UOI](#), wherein the Apex Court directed for each High Court to constitute a three-judge committee to regulate and monitor the progress of trials under POCSO. In addition, each state was directed to constitute a Special Task Force to ensure that investigation is properly conducted under POCSO. In

Delhi, a Special Task Force has been constituted vide order dated May 17, 2018, headed by Special CP, Crime. Yet, on the ground, the position has not substantially improved.

It was the *Unnao Rape* case and the [Supreme Court's suo motu cognizance](#) of it that truly brought many of these issues to the fore. The Supreme Court noted that timelines of the Act are not being followed at all. Besides [granting interim compensation of Rs. 25 lakh](#) to the victim, the Supreme Court directed that in each district in the country (if there are more than 100 POCSO cases) an *exclusive* Special Court will be set up, which will try no offence except those under POCSO Act. Though the Court had granted 60 days for the same, the process of setting up and functioning of these courts all over the country is still underway.

On March 9, 2020, the **POCSO Rules, 2020** came into effect. These Rules are notable for certain pertinent additions such as:

1. Rule 3 mandates both the Central and state governments to carry out appropriate awareness generation and capacity building under the Act, dissemination of information at airports, railways stations and other public places, etc. Moreover, it provides for the formulation of a 'Child Protection Policy'. This provision will be instrumental in terms of 'prevention', as well as 'cure'.
2. Rule 8 provides for 'Special Relief' or immediate financial assistance, in the case of any contingency or essential needs, to be sanctioned and provided by the concerned Child Welfare Committee.
3. Rule 4 provides that the support person appointed for the benefit of the child must submit monthly reports with respect to the child victim to the Child Welfare Committee.

4. Form A and Rule 4 (14) ensure that each victim/family is made aware of his/her rights under the Act, at the nascent stage itself, when they first come in contact with the Police.
5. Form B and Rule (14) is a "Preliminary Assessment Form" to assess the immediate financial needs of the child victim and has been incorporated to ensure that he/she gets the financial help where needed, without delay.

The advent of the new POCSO Rules, 2020 and the directions of the Supreme Court in 2018-2019 have given a sliver of hope to POCSO victims. As is with all laws, the implementation on the ground is a whole new ball game from the promulgation of the law itself. It remains to be seen whether these new developments provide the care and rehabilitation that POCSO victims need and deserve. Be that as it may, a sliver of hope is better than a sliver of doubt!

Our guiding force in ensuring effective implementation of the Act must be this - we fail every child when he/she is abused/raped/harassed. The least we can do is make concerted efforts to ensure that we do not fail them twice by not providing them timely compensation and rehabilitation.

5. Under the Scheduled Castes and Scheduled Tribes: (Prevention of Atrocities) Act, 1989, victims of atrocities are eligible for compensation ranging from Rs 2 lakh to Rs 8 lakh. The amount of compensation depends on the nature of the crime. The compensation is paid in installments as follows:

- 25% when the FIR is lodged
- 50% when the chargesheet is sent to court
- 25% after the verdict is announced

The compensation is provided for a variety of acts, including:

- Damage or loss of property
- Grievous hurt

- Temporary or permanent incapacitation
- Murder
- Death
- Rape
- Gang rape
- Kidnapping
- Outrage of modesty

Relief in the form of compensation as a changing judicial trend

Judiciary plays a very crucial role in rectifying the claims of the compensation of the victims. There has been very important role of high courts in awarding the compensatory justice to the victim suffered from loss or damage. Some landmark judgments that ensures compensatory justice to victims and its shows the concern of judiciary in that field.

Increasing the area of awarding the compensation to the person suffered **under Section 358 of Cr.P.C.**, in Rudal Shah v State of Bihar, observed that a The person is compensated for the loss or injury caused by the crime, and this includes the deceased's wife, husband, parents and children.

The Apex Court in Sarwan Singh v. State of Punjab, there are several factors that should be taken into consideration before giving order of compensation to the crime victim is the court should keep in mind the ability of paying the compensatory amount by the offender, the type of offence and the amount of damage and injury suffered and should keep in mind the effect of offence on the life of victim and its family the amount of bodily, psychological and emotional loss suffered by the victim and its relatives and family member. Before awarding compensation the court should keep in mind that amount should depend on facts, logic, and the circumstance. A reasonable time period

should be provided to accused to pay the compensation and the offender should be allowed to pay the compensation in installments.

As given in the case SAHELI (a organization of women activist group) the Apex Court of Delhi gave order to the Delhi Administration to pay the sum Rs. 75,000/- as exemplary compensation to nine year old child's mother as the boy died because of getting beaten by the police officer while extracting evidences from him.

Victim Compensation: Judicial Approach towards Compensatory Jurisprudence Dr. Justice G.Jayachandran. 5th Session. 09/04/2023
Victim Compensation Schemes (VCS) • Final and interim compensation • Recording reasons for awarding/refusing compensation • Victims of crimes: Similar compensation for the similar loss • Writ Court and Grant of Compensation•

The justice to the victim of crime can be rendered in two ways: • i) Punish the offender. • ii) Punish the offender and also Compensate the victim. •

To give complete satisfaction to the victim, it is extremely essential to provide some relief to him in the form of compensation. • In ancient Hindu law, awarding compensation was treated as a Royal Right. Sir Henry James Sumner Maine • "Penal laws of ancient communities are not the law of crimes, it is the law of wrongs. The person injured proceeds against the wrong done by an ordinary civil action and recovers compensation in the shape of money damages if he succeeds." [Maru Ram & Ors. Vs Union of India & Ors, AIR 1980 SC 2147. • Victimology must find fulfillment not through barbarity but by compulsory recoupment by the wrongdoer of the damage inflicted, not by giving more pain to the offender but by lessening the loss of the forlorn.- Krishna Iyer J. Code of Criminal Procedure of 1898 • Section 545- Under Clause (b) of Sub-section (1) of Section 545, the Court may direct " the payment to any person of compensation for any loss or injury caused by the offence when substantial compensation is, in the opinion of the Court,

recoverable by such person in a Civil Court.”Section 357 Cr.P.C., 1973 Order to pay compensation.

Recent Update

SECTION 375(A) was added in CR.P.C through amendment act 2008 Section 357 (A) states that: (1) Central government with the help of state governments should prepare a scheme for victim compensation to provide funds to the victims who have suffered death loss damage injury to restore their status of life. This provision would work as a helping hand for victim compensation. These regulations would strengthen the provision of victim protocol given in SAARC protocol.

Victim compensation rules in India include:

Application time :- Victims or their dependents must apply for compensation within 90 days of the accident.

. Application documents:- Applications must include:

- Proof of the victim's age
- Proof of the applicant's relationship to the victim

Processing time :- The Designated Officer must process the claim within 30 days.

- **Compensation amount** :- The District Legal Service Authority or the State Legal Service Authority decides the compensation amount.
- **Compensation for non-cognizable offenses** :-If the accused is convicted of a non-cognizable offense, the court can order the accused to pay the complainant.
- **Compensation for wrongful arrest**

If the arrest was without reason, the Magistrate may award up to ₹1,000 in compensation.

- **State responsibility**

The state is responsible for compensating victims if the offender cannot or will not pay, or if the offender cannot be identified.

- **Central Victim Compensation Fund Scheme**

This scheme was established by the Ministry of Home Affairs in 2015 to supplement state and union territory victim compensation schemes.

The concept of victim compensation has evolved over time. In the pre-independence period, the criminal justice system focused on crime control, but it later expanded to include the concerns of victims

u/Sec.396 of the Bharatiya Nagarik Suraksha Sanhita, 2023

Establishes a framework for a victim compensation scheme. It mandates state cooperation with the central government to provide timely compensation and support for victims. The section also highlights procedures for determining compensation amounts and offering immediate medical assistance to alleviate victims' suffering.

Victim Compensation scheme.

(1) Every State Government in co-ordination with the Central Government shall prepare a 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.

(2) Whenever a recommendation is made by the Court for compensation, the District Legal Service Authority or the State Legal Service Authority, as the case may be, shall decide the quantum of compensation to be awarded under the scheme referred to in sub-section (1).

(3) If the trial Court, at the conclusion of the trial, is satisfied, that the compensation awarded under section 395 is not adequate for such

rehabilitation, or where the cases end in acquittal or discharge and the victim has to be rehabilitated, it may make recommendation for compensation.

(4) Where the offender is not traced or identified, but the victim is identified, and where no trial takes place, the victim or his dependents may make an application to the State or the District Legal Services Authority for award of compensation.

(5) On receipt of such recommendations or on the application under sub-section (4), the State or the District Legal Services Authority shall, after due enquiry award adequate compensation by completing the enquiry within two months.

(6) The State or the District Legal Services Authority, as the case may be, to alleviate the suffering of the victim, may order for immediate first-aid facility or medical benefits to be made available free of cost on the certificate of the police officer not 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 the appropriate authority deems fit.

(7) The compensation payable by the State Government under this section shall be in addition to the payment of fine to the victim under section 65, section 70 and sub-section (1) of section 124 of the Bharatiya Nyaya Sanhita, 2023.

VI. SUGGESTIONS & RECOMMENDATIONS:-

After making a comparative analysis, it can be seen in last decades the scenario of victim compensation has changed drastically. If we compare other countries position with India we can see that other countries are more developed to improve india's stand there are some suggestions given below:-

1. In India there is a need of extensive legislation on victim compensation
2. As the upcoming concepts in America such as statement of victim compensation which helps in increasing the contribution of victim. Such

concepts are required in India to increase the involvement of victims in justice system.

3. The statement for victim impact would contain:

- i) The bodily, psychological or emotional impact of the crime.
- ii) It would cover the loss done to the family such as guardians and caretaker.
- iii) The need for restoration.

4. India should adopt other significant measures to provide compensation as a statutory right, and a special provision that mandates judges to record the reason of not providing compensation.

5. Funds created by state for victim assistance can be taken as ready for anytime relief which can further prevent victimization.

6. On the basis American system acts like victim of crime should be built to give assistance to "victim assistance effort" or "state victim compensation programs" it provides subsidy etc. it is a good step that india should adopt

VII. CONCLUSION

Victim compensation is now an important side of giving justice to the victims. Beside the traditional punishment system reparation to victim has reduced the accused leaning approach in justice system but in the case of India despite some emergent developments in this direction, there are multiple defects and problem in this area for that coordinated effort from all the organization is required in the justice system. After the synchronized work efforts, lucidity and liability in every part of criminal justice system is another important need to make the successful implementation of pre-existing provisions possible.

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*** THANKING YOU ONE AND ALL ***

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