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Research Article

The Implementation of Victim Compensation Scheme in India: A Critical View

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The CrPC Amendment Act 2008, inserted the historically significant provision of the Victim Compensation Scheme (shortly, VCS) under its Section 357A CrPC. The provision of VCS now comes under Sec.396 of the Bhartiya Nagarik Suraksha Sanhita, 2023. The section deals with compensation to be provided to the victims of certain crimes or his dependents for their suffering or loss or their rehabilitation, by the state government. However, the extent to which this section is enforced for the purpose of compensating victims remains questionable. It is also questionable whether the compensation awarded under this scheme reaches the actual victims. Many reports and studies have raised speculations about this. The rights of victims of violence must be properly met. If such victims are not accurately informed of their rights, it will undermine their trust in the criminal justice system. So, it is also necessary to identify and correct the defects, if any, in the implementation of the victim compensation scheme. The article aims to find out the major shortcomings in implementing the Victim compensation scheme and why it happened. This theoretical paper will be based on available secondary data including literature and case studies. The paper's outcome will attempt to provide recommendations to address the shortcomings in the implementation of VCS.

Keywords
Victims, victim assistance, section 357A CrPC, victim compensation scheme, implementation

INTRODUCTION

The basic principles of the Criminal Justice System (hereinafter CJS) include the protection of victim rights along with the maintaining law and order and punishing and reforming the criminal. But unfortunately, the situation fails to see the difficulties of the victim and the system tends to run after the accused, leaving the victim behind alone. The victim has to fight him/herself for their justice for a longer term (Sahni et al., 2017).

The needs of the victims and their family will be wide ranging depending on the nature

of victimisation, victim's psychological character, financial status, cultural background & so on. Hence, the needs and rights of the victims of crime should receive prime concern in the process of CJS. One of the known and practical methods to protect the victim's right is compensation, through which the rehabilitation and their varied needs can be fulfilled to some extent. It comes to the responsibility of the state to compensate the victims of crime to fulfil the needs of victims and their family, even when the accused person is untraceable or acquitted by the law (Law Commission of India, 1996).

Victim compensation is a form of victim support in meeting the physical, emotional and society-related needs of the victim, and has played a crucial role in victim recovery. In order to fulfil this, the Code of Criminal Procedure (Amendment) Act 2008 inserted the historically significant provision of the Victim Compensation Scheme (shortly, VCS) under its Section 357A CrPC (The Code of Criminal Procedure (Amendment) Act, 2008).

The timely implementation of VCS is very important to protect victim rights. This paper aims to critically analyse the current status of the implementation of victim compensation schemes in India especially the implementation of section 357A. This provision currently comes under the section 396 Bharathiya Nagarik Suraksha Sanhita (BNSS). The major outcome of this study is to identify the loopholes in implantation of VCS in order to provide recommendations for policy reforms and enhance the implementation effectively in India.

Objectives

1. To analyse the current status of the Victim Compensation Scheme in India.
2. To discuss the adequacy of compensation provided to victims using the existing schemes.
3. To provide recommendations for policy reforms and improvement to enhance the implementation and effectiveness of the victim compensation scheme in India.

METHODOLOGY

In order to fulfil the objectives of the study, qualitative and descriptive research design has been used. The relevant and supporting data for the study were collected from published secondary sources such as journals, articles, books, case laws, and government orders. The researchers have carefully chosen the genuine and quality sources of data for this study.

RESULTS AND DISCUSSION

It has been 15 years since the introduction of the Victim compensation scheme in the Criminal procedure code of India, followed by its implementation in the world's largest democracy (Bhatia, 2024). Now it's the time to understand the effectiveness in the implementation of VCS. Under section 357A all the state governments in coordination with the central government need to prepare a scheme for victim compensation. Where the compensation awarded under section 357 is inadequate or the case ends in acquittal or discharge and the victim has to be rehabilitated, the Court may make recommendations for compensation. Where

the offender is not identified or traced or no trial took place but the victim is identified, the victim can apply to the State/District Legal Services Authority for award of compensation. State/District Legal Services Authority (SLSA/DLSA) is the institution which is authorised to provide compensation as per VCS.

The Indian Judiciary has played a substantial role in formatting the victim compensation landscape. In the Supreme Court judgement of Nilabati Behera v. State of Orissa (1993) the victims of human rights violations are entitled to compensation, even when the perpetrators are not found or convicted. This landmark judgment was a forerunner to the statutory framework established by Section 357A of the CrPC.

Under section 357A, all the state and union territories are obligated to formulate a Victim Compensation Scheme, managed by a Victim Compensation Committee. The responsibility of the committee is to assess the eligibility of the applicants, determine the amounts, and supervise the distribution of funds. The National Legal Services Authority (NALSA) provides the guidelines and ensures the consistency of state schemes (NALSA, 2015). Victims of rape, acid attacks, domestic violence etc. are included in the VCS. Currently all 28 states and 8 Union Territories have formulated their own victim compensation scheme.

Victim Compensation Process in India

There are various steps in India's victim compensation scheme process. It is crucial that victims of crime receive prompt relief and rehabilitation. The victim requires rapid assistance in order to address their medical issue and make repairs for their loss. The following section discusses the various VCS stages and current statistics on victim compensation in India.

Eligibility Criteria for Compensation

In order to be eligible for compensation, a victim must have had a significant loss or injury that made it extremely difficult for them to pay for their bills and significantly reduced their family's income (Dube, 2018). Additionally, a victim should not have received any compensation from other schemes of the Central or State Government or insurance company.

Interim Compensation Scheme

As the victim of a crime can be affected physically, mentally and economically, rehabilitation and restoration of the victim is very important. Victim assistance may not finish in one go. Especially when it comes to the victim compensation will take time to complete its complete process from application to releasing funds. Hence, for meeting especially for their medical expenses immediate assistance is needed. For the purpose a scheme is introduced is termed as Interim Compensation Scheme (Figure 1).

The Interim Compensation Scheme can be received by the victim of a crime or his or her dependent as an immediate assistance within 15 days of registration. Such a program often covers first aid or emergency medical help, along with any additional relief that may be needed, such as financial aid. A certificate from the court or police station officer in charge that attests to the victim's need is

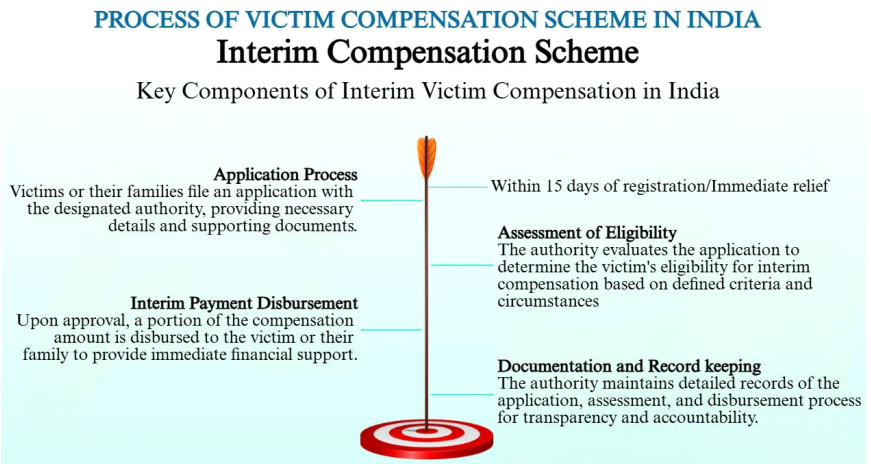


Figure 1: A brief representation of the application process for the Interim Compensation Scheme
Source: This figure was created using Slidesgo by Freepick (2024)

required in order to issue an interim scheme (Dube, 2018).

National Level Status of Application Received for Victim Compensation

All the information regarding the status of applications for victim compensation will be updated by the NALSA every year. The report ensures transparency.

The Figure 2 shows the nation-wide data of receiving application for victim compensation along with court direction for compensation. From the data it is clear that there is an increase in the receiving of the

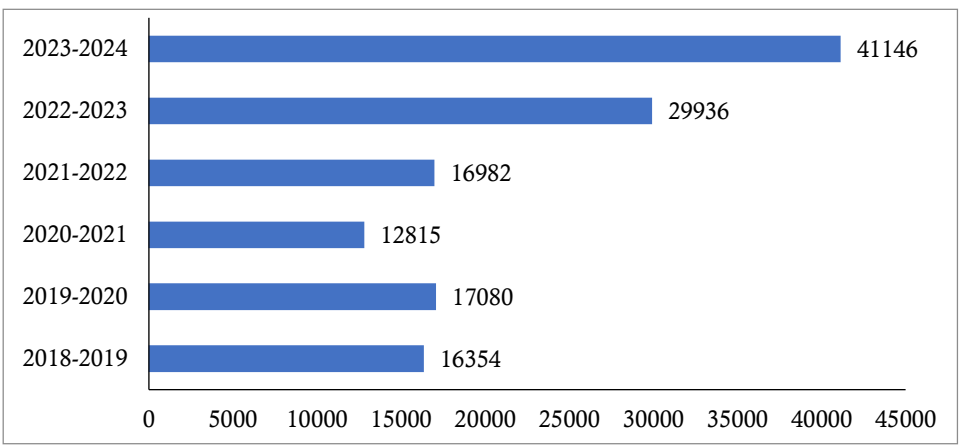


Figure 2: Year-wise data of number of applications received including court direction for victim compensation from the year 2018–19 to 2023–24
Source: Compiled Data of Application Received for Victim Compensation Scheme U/S 357-A CrPC (2018–19 to 2023–24), NALSA

applications. Which can be assumed as that the victims are getting awareness and proper direction regarding victim assistance provided by the state.

The Figure 3 shows the number of applications decided for the compensation. The data gives an increasing rate in deciding the applications for compensation. Especially, from 2022 to 2024 it shows a higher increasing rate. In 2023–2024 statistics showed a high increase in compensation decisions (38103) compared to 2022–2023 statistics (20900). This gives a positive trust for the public towards the high implementation of the Victim Compensation Scheme.

One side of the data showed an increasing rate in the number of applications for compensation and increasing rate in the deciding compensation. But, on the other side the above given Figure 4 shows the pendency of application also increasing by year. Especially from 2022 to 2024 high numbers of pending applications are there according to the statistics. Compared to the number of pending cases in the year 2022–2023 (17085) is almost doubled in the year 2023–2024 (33257).

The above gives an example of delay in final decision making. Here, the system needs to be critically analysed and find the reason behind the delay in the process and increasing number of pending applications.

STATE-WISE ANALYSIS OF VICTIM COMPENSATION

As the guidelines given by NALSA, every state in the country including all the union territories have their own victim compensation scheme existing. In comparison, the amount of compensation,

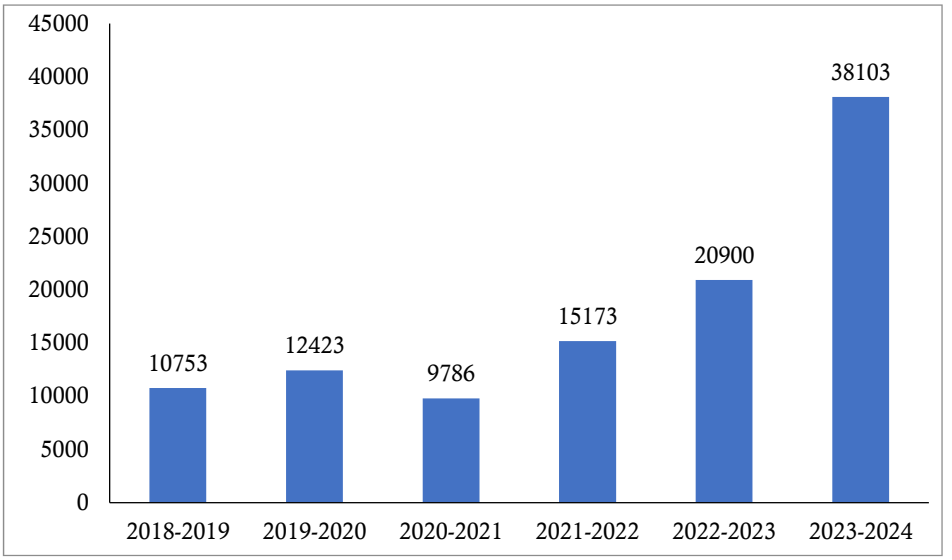


Figure 3: National level status of applications decided for compensation

Source: Compiled Data of Applications Decided under Victim Compensation Scheme U/S 357-A CrPC (2018–19 to 2023–24), NALSA

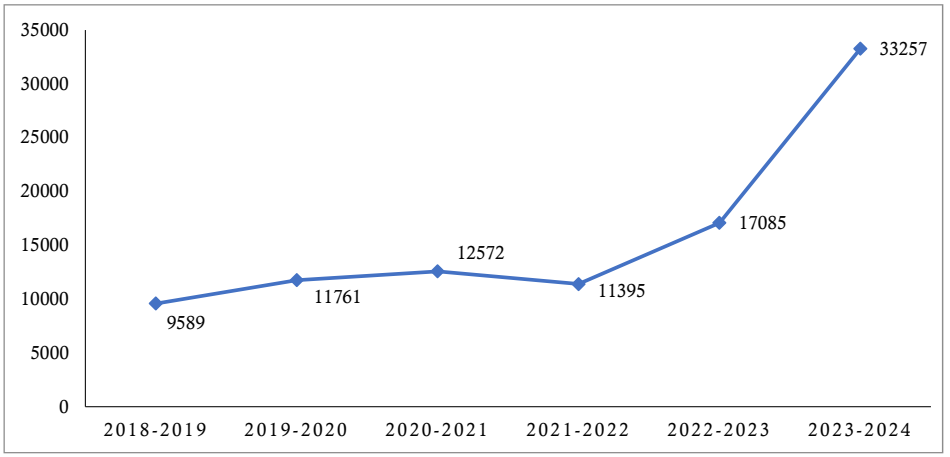


Figure 4: Nation-wide status of number of applications pending
Source: Compiled Data of Pending Applications under Victim Compensation Scheme U/S 357-A CrPC (2018–19 to 2023–24), NALSA

timeline for the compensation etc. are significantly different from one another and each state has notified its system independently (Mahantesh and Rangaswamy, 2024).

If we give a glance to different state's victim compensation scheme for major crime such as Rape and Acid Attack which are the crimes mainly included in section 357A of CrPC. The states such as Bihar, Kerala and union territory Andaman and Nicobar Islands provides minimum compensation amount 3 lakhs for the victim (Bihar Victim Compensation Scheme (Amendment), 2019; Kerala Victim Compensation Scheme (Amendment), 2017 and Andaman and Nicobar Islands Victim Compensation Scheme (Amendment), 2016) at the same time where in Uttar Pradesh the maximum compensation amount for Rape and Acid Attack is 2 lakhs and 3 lakhs respectively (Uttar Pradesh Victim Compensation Scheme, 2015). If we look on to Arunachal Pradesh the maximum amount for rape is 50000 and for acid attack victims it is 1,00,000 (Arunachal Pradesh Victim Compensation Scheme, 2012).

Comparing the other crimes Rape and Acid attack gives more or less similar impact on victims. This wide disparity needed to be addressed and needed to fix uniform compensation amounts in every state and Union Territories over all the country. Then only the equality in treating the victims comes into force.

LIMITATIONS

The victim compensation is a great relief to the victims and their dependents in terms rehabilitation, reformation and restoration needs. But the level of satisfaction of the victims may be low regarding whether the compensation provided is adequate.

Partial rehabilitation becomes one of the major limitations of the victim compensation scheme. For example, of acid attack victims,

they need longer rehabilitative needs. The victim's acid attack will be undergoing plenty of plastic surgeries and other medical needs; this will have high expenses. Hence the amount given as compensation may not be sufficient, it can only help to partial rehabilitation.

Complex and non-uniform application procedures and variation in implementation and compensation amounts across the states is another barrier to VCS. Along with these things bureaucratic red tape and procedural hurdles makes delay in the effective implementation and it leads to high rate of pendency in the application process.

SUGGESTIONS AND CONCLUSION

Victim compensation is a step forward towards a victim-friendly approach in the Criminal Justice System and it is the way of acknowledging the rights of victims (Gupta and Gupta, 2022). Uniformity in implementation and compensation amounts across states along with simplifying administrative procedures to expedite victim compensation and reducing the bureaucratic delays are the major changes that can be made in the implementation of VCS. Increasing awareness among the public by educating them about VCS options and eligibility criteria will enhance the accessibility. More or less making the legal requirements for compensation clear and straightforward will facilitate victim access to justice without complexity. Timely relief is most important, for that purpose the system should ensure timely processing of the applications which will provide timely relief to victims in need.

The victim compensation scheme is a beacon of hope for those who have suffered from crime, providing a measure of financial support and recognition of their trauma, and serving as a reminder that they are not forgotten or ignored by the justice system.

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Disclosure of Interest

There is no conflict of interest.

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