

Compensation Scheme for Women Victims/Survivors of Sexual Assault/other Crimes, 2019

BIHAR

India

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Rule

COMPENSATION-SCHEME-FOR-WOMEN-VICTIMS-SURVIVORS-OF-SEXUAL-ASSAULT-OTHER-CRIMES-2019

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1. Short Title and Commencement.

(1)This Chapter may be called the Compensation Scheme for Women Victims/Survivors of Sexual Assault/other Crimes, 2019.(2)It shall come into force on the date of publication in official gazette.(3)It shall apply to the Victim and their dependent(s) of Bihar who have suffered loss, injury, as the case may be, as a result of the offence committed and who require rehabilitation.

2. Definitions.

(1)In this Chapter, unless the context otherwise requires:-(a)"Code" means the Code of Criminal Procedure, 1973 (2 of 1974);(b)"Dependent" includes husband, father, mother, grandparents, unmarried daughter and minor children of the victim as determined by the State Legal Services Authority or DLSA on the basis of the report of the Sub-Divisional Magistrate of the concerned area/Station House officer/Investigating officer or on the basis of material placed on record by the dependents by way of affidavit or on its own enquiry.(c)"District Legal Services Authority" means the District Legal Services Authority of Bihar (DLSA) constituted under section 9 of the Legal Services Authorities Act, 1987 (Act 39 of 1987), Bihar;(d)'Form' means form appended to the Scheme as applicable to this Chapter.(e)'Fund' means State fund i.e. victim compensation fund constituted under the State Victim Compensation Scheme.(f)'Central Fund' means funds received

from CVCF Scheme, 2015.(g)'Women Victim Compensation Fund' - means a fund segregated for disbursement for women victim, out of State Victim Compensation Fund and Central Fund. [Within the State Victim Compensation Fund, a separate Bank Account shall be maintained as a portion of that larger fund which shall contain the funds contributed under CVCF Scheme by MHA, GOI contributed from Nirbhaya Fund apart from funds received from the State Victim Compensation Fund which shall be utilized only for Victim covered under this Chapter](h)'Government' means 'State Government' of Bihar wherever the State Victim Compensation Scheme or the State Victim Compensation Fund is in context and 'Central Government' wherever Central Government Victim Compensation Fund Scheme is in context and includes UTs.(i)'Injury' means any harm caused to body or mind of a female.(j)'Minor' means a girl child who has not completed the age of 18 years.(k)'Offence' means offence committed against women punishable under IPC or any other law.(l)'Penal Code' means Indian Penal Code, 1860 (45 of 1860);(m)'Schedule' means schedule applicable to the Chapter/Part of the scheme.(n)"State Legal Service Authority" means the Bihar State Legal Services Authority (BSLSA), as defined in Section 6 of the Legal Services Authorities Act, 1987 (39 of 1987)(o)"Sexual Assault Victims" means female who has suffered mental or physical injury or both as a result of sexual offence including Sections 376 (A) to (E), Section 354 (A) to (D), Section 509 IPC.(p)'Women Victim/survivor of other crime' means a women who has suffered physical or mental injury as a result of any offence mentioned in the attached Schedule including Section 304 B, Section 326A Section 498A IPC (in case of physical injury of the nature specified in the schedule) including the attempts and abetment.(2)Words and expressions used in this Chapter and not defined here, shall have the same meaning as assigned to them in the Code of Criminal Procedure, 1973 or/and the Indian Penal Code, 1860.

3. Women Victims Compensation Fund.

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

4. Eligibility For Compensation.

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

5. Procedure For Making Application Before The Slsa or Dlsa.

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

6. Place of Filing of Application.

- The application/recommendation for compensation can be moved either before the State Legal Services Authority or the concerned District Legal Services Authority or it can be filed online on a portal which shall be created by State Legal Services Authority. The Secretary of the respective DLSA shall decide the application/recommendation moved before him/her as per the Scheme. Explanation. - In case of acid attack victim the deciding authority shall be Criminal Injury Compensation Board as directed by Hon'ble Supreme Court in Laxmi VS Union of India W.P.CRML 129/2006 order dated 10.04.2015 which includes Ld. District & Session Judge, DM, SP, Civil Surgeon/CMO of the district.

7. Reliefs That May Be Awarded By The State or District Legal Services Authority.

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

8. Factors To Be Considered While Awarding Compensation.

- While Deciding a matter, the State Legal Services Authority/District Legal Services Authority may take into consideration the following factors relating to the loss or injury suffered by the victim: (1) Gravity of the offence and severity of mental or physical harm or injury suffered by the victim; (2) Expenditure incurred or likely to be incurred on the medical treatment for physical and/or mental health including counselling of the victim, funeral, travelling during investigation / Inquiry/trial (other than diet money); (3) Loss of educational opportunity as a consequence of the offence, including absence from school/ college due to mental trauma, bodily injury, medical treatment, investigation and trial of the offence, or any other reason; (4) Loss of employment as a result of the offence, including absence from place of employment due to mental trauma, bodily injury, medical treatment, investigation and trial of the offence, or any other reason; (5) The

relationship of the victim to the offender, if any;(6)Whether the abuse was a single isolated incidence or whether the abuse took place over a period of time;(7)Whether victim became pregnant as a result of the offence, whether she had to undergo Medical Termination of Pregnancy (MTP)/ give birth to a child, including rehabilitation needs of such child.(8)Whether the victim contracted a sexually transmitted disease (STD) as a result of the offence;(9)Whether the victim contracted human immunodeficiency virus (HIV) as result of the offence;(10)Any disability suffered by the victim as a result of the offence;(11)Financial condition of the victim against whom the offence has been committed so as to determine her need for rehabilitation and reintegration needs of the victim.(12)In case of death the age of deceased, her monthly income, number of dependents, life expectancy, future promotional growth prospects etc.(13)Or any other factor which the SLSA/DLSA may consider just and sufficient.

9. Procedure For Grant of Compensation.

(1)Wherever, a recommendation is made by the court for compensation under sub-section (2) and/or (3) of Section 357A of the Code, or an application is made by any victim or her dependent(s) under sub-section (4) of Section 357A of the Code, to the State Legal Services Authority or District Legal Services Authority, for interim compensation it shall prima facie satisfy itself qua compensation needs and identity of the victim. As regards the final compensation, it shall examine the case and verify the contents of the claim with respect to the loss/injury and rehabilitation needs as a result of the crime and may also call for any other relevant information necessary for deciding the claim.Provided that in deserving cases and in all acid attack cases, at any time after commission of the offence, Secretary, SLSA or Secretary, DLSA may suo-moto or after preliminary verification of the facts proceed to grant interim relief as may be required in the circumstances of each case.(2)The inquiry as contemplated under sub-section (5) of Section 357A of the Code, shall be completed expeditiously and the period in no case shall exceed beyond sixty days from the receipt of the claim/petition or recommendation.Provided that in cases of acid attack an amount of Rs. One lakh shall be paid to the victim within 15 days of the matter being brought to the notice of DLSA. The order granting interim compensation shall be passed by DLSA within 7 days of the matter being brought to its notice and the SLSA shall pay the compensation within 8 days of passing of the order. Thereafter, an amount of Rs. 2 Lakh shall be paid to the victim as expeditiously as possible and positively within two months of the first payment*Provided further that the victim may also be paid such further amount as is admissible under this Scheme.(3)After consideration of the matter, the SLSA or DLSA, as the case may be, upon its satisfaction, shall decide the quantum of compensation to be awarded to the victim or her dependent(s) taking into account the factors enumerated in Clause 8 of the Scheme, as per schedule appended to this chapter. However, in deserving cases, for reasons to be recorded, the upper limit may be exceeded.Moreover, in case the victim is minor, the limit of compensation shall be deemed to be 50% higher than the amount mentioned in the Schedule appended to this chapter.* Victim of Acid attack are also entitled to additional compensation of Rs. 1 Lac under Prime Minister's National Relief Fund vide memorandum no.24013/94/Misc/2014- CSR.III/Goi/MHA dated 09.11.2016.Victim of Acid Attack are also entitled special financial assistance up to Rs. 5 lacs who need treatment expenses over and above the compensation paid by the respective State UTs in terms of Central Victim Compensation Fund Guidelines-2016, no.24013/94/Misc/2014-CSR.III. MHA/Gol.(4)The SLSA/DLSA may call from

any record or take assistance from any Authority/Establishment/Individual/Police/Court concerned or expert for smooth implementation of the Scheme.(5)In case trial/appellate court gives findings that the criminal complaint and the allegation were false, then Legal Services Authority may initiate proceedings for recovery of compensation, if any, granted in part or full under this Scheme, before the Trial Court for its recovery as if it were a fine.

10. The Order To Be Placed On Record.

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

11. Method of Disbursement of Compensation.

(1)The amount of compensation so awarded shall be disbursed by the SLSA by depositing the same in a Bank in the joint or single name of the victim/dependent(s). In case the victim does not have any bank account, the DLSA concern would facilitate opening of a bank account in the name of the victim and in case the victim is a minor along with a guardian or in case, minor is in a child care institution, the bank account shall be opened with the Superintendent of the Institution as Guardian. However, in case the victim is a foreign national or a refugee, the compensation can be disbursed by way of cash cards.Interim amount shall be disbursed in full. However, as far as final compensation amount is concerned, 75% (seventy five percent) of the same shall be put in a fixed deposit for a minimum period of three years and the remaining 25% (twenty five percent) shall be available for utilization and initial expenses by the victim/ dependent(s) as the case may be(2)In the case of a minor, 80% of the amount of compensation so awarded, shall be deposited in the fixed deposit account and shall be drawn only on attainment of the age of majority, but not before three years of the deposit.Provided that in exceptional cases, amounts may be withdrawn for educational or medical or other pressing and urgent needs of the beneficiary at the discretion of the SLSA/DLSA.(3)The interest on the sum, if lying in FDR form, shall be credited directly by the bank in the savings account of the victim/dependent(s), on monthly basis which can be withdrawn by the beneficiary.

12. Interim Relief To The Victim.

- The State Legal Services Authority or District Legal Services Authority, as the case may be, may order for immediate first-aid facility or medical benefits to be made available free of cost or any other interim relief (including interim monetary compensation) as deemed appropriate, to alleviate the suffering of the victim on the certificate of a police officer, not below the rank of the officer-in-charge of the police station, or a Magistrate of the area concerned or on the application of the victim/ dependents or suo motto.Provided that as soon as the application for compensation is received by the SLSA/DLSA, a sum of Rs.5,000/-or as the case warrants up to Rs. 10,000/-shall be immediately disbursed to the victim through preloaded cash card from a Nationalised Bank by the Secretary, DLSA or Member Secretary , SLSA.Provided that the, interim relief so granted shall not

be less than 25 per cent of the maximum compensation award able as per schedule applicable to this Chapter, which shall be paid to the victim in totality, Provided further that in case of acid attack a sum of Rs. One Lakh shall be paid to the victim within 15 days of the matter being brought to the notice of SLSA/DLSA. The order granting interim compensation shall be passed by the SLSA/DLSA within 7 days of the matter being brought to its notice and the SLSA shall pay the compensation within 8 days of passing of order. Thereafter an additional sum of Rs. 2 Lakhs shall be awarded and paid to the victim as expeditiously as possible and positively within two months.

13. Recovery of Compensation Awarded To The Victim Or Her Dependent(S).

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

14. Dependency Certificate.

- The authority empowered to issue the dependency certificate shall issue the same within a period of fifteen days and, in no case, this period shall be extended. Provided that the SLSA/DLSA, in case of non-issuance of Dependency Certificate, after expiry of 15 days, may proceed on the basis of an affidavit to be obtained from the claimant.

15. Minor Victims.

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

16. Limitation.

- Under the Scheme, no claim made by the victim or her dependent(s), under sub-section (4) of Section 357A of the Code, shall be entertained after a period of 3 years from the date of occurrence of the offence or conclusion of the trial. However, in deserving cases, on an application made in this regard, for reasons to be recorded, the delay beyond three years can be condoned by the SLSA/DLSA.

17. Appeal.

- In case the victim or her dependents are not satisfied with the quantum of compensation awarded by the Secretary, DLSA, they can file appeal within 30 days from the date of receipt of order before the Chairperson, DLSA. Provided that, delay in filing appeal may be condoned by the Appellate

Authority, For reasons to be recorded, in deserving cases, on an application made in this regard.

18. Repeal & Saving.

(1) In case this Chapter is silent on any issue pertaining to Victim Compensation to Women, the provision of Victim Compensation Scheme of the State would be applicable. (2) Nothing in this Scheme shall prevent Victim or their dependents from instituting any Civil Suit or Claim against the perpetrator of offence or any other person indirectly responsible for the same. Explanation. - It is clarified that this Chapter does not apply to minor victim under POCSO Act, 2012 in so far as their compensation issue are to be dealt with only by the Ld. Special Courts under Section 33(8) of POCSO Act, 2012 and Rules (7) of the POCSO Rules, 2012.

Applicable To Women Victim of Crimes

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

a.	In case of disfigurement of face	Rs. 7 Lakh	Rs.8 Lakh
b.	In case of injury more than 50%	Rs. 5 Lakh	Rs. 8 Lakh
c.	In case of injury less than 50%	Rs. 3 Lakh	Rs. 5 Lakh
d.	In case of injury less than 20%	Rs. 3 Lakh	Rs. 4 Lakh

Note. - If a woman victim of sexual assault/acid attack is covered under one or more category of the schedule, she shall be entitled to be considered for combined value of the compensation. Form-I Application For The Award of Compensation Under Compensation Scheme For Women Victim/survivor of Sexual Assault/other Crime, 2019 For Interim/final Relief For Women

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