

Bihar Victim Compensation Scheme, 2014

BIHAR

India

Bihar Victim Compensation Scheme, 2014

Rule BIHAR-VICTIM-COMPENSATION-SCHEME-2014 of 2014

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Bihar Victim Compensation Scheme, 2014 Published vide Notification

No.-L.G.-6-01/2011-151/46/leg, dated 24.3.2014 Preamble. - No.-L.G.-6-01/2011-151/46/leg. -

Whereas, regarding The Victim Compensation Scheme of The Home Ministry, Government of India and sale of Acid etc. and in the case of Laxmi (minor), The Hon'ble Supreme Court has directed that under section-357A of the Code of Criminal Procedure all State should prepare a scheme. Bihar Victim Compensation Scheme, 2011 had been framed in that light, but certain amendment is felt necessary in the light of the observation of the Hon'ble Supreme Court. Therefore is lie of amendment Bihar Victim Compensation Scheme, 2014 is necessary to be notified. Now, therefore in exercise of the powers conferred by section 357-A of the Code of Criminal Procedure, 1973 (Act 2 of 1974), the Governor of Bihar is hereby pleased to make the following scheme, superseding The Bihar Victim Compensation Scheme, 2011 for purpose of granting compensation to the victims or their dependants who sustain damage or hurt due to offences and who are in need of rehalitation:-

1. Short title, extent and commencement.

(1) This scheme shall be called the Bihar Victim Compensation Scheme, 2014. (2) It shall extend to the whole of the State of Bihar. (3) It shall come into force at once.

2. Definition.

- In this scheme, unless the context otherwise requires :- (a) "Act" means the Code of Criminal Procedure, 1973 (2 of 1974); (b) "Schedule" means Schedule appended to this scheme; (c) "Crime" means illegal act of omission or commission or an offence committed against the human body of the victim; (d) "Dependents" means wife/husband, father, mother, unmarried, daughter, minor children, widow daughter, divorcee daughter, son and daughter-in-laws and includes other legal heir of the victim who, on providing sufficient proof, is found fully dependent on the victim by the District Legal Services Authority; (e) "Court" as defined under section-3 of the Indian Evidence Act, 1872. (f) "Family" means parents, children and includes all blood relations living in the same

household;(g)"Victim" means victim as defined under section 2(wa) of the code of criminal procedure 1973 (2 of 1974);[Provided that victim of an occurrence which took place before date of enforcement of this Scheme shall be deemed to be a victim for getting benefit under this Scheme if his/her treatment or rehabilitation or both is still required in the opinion of the court making reference U/S. 357(A) (2) or (3) of Cr.P.C. or in the opinion of the concerned District Legal Services Authority on recommendation of District Criminal Injury Compensation Board.] [Added by Bihar Notification No. L.G.-06-01/2011 Part 56/J, dated 19.6.2018 (w.e.f. 24.3.2014).](h)"State" means the State of Bihar.(i)["District Criminal Injury Compensation Board" means a Board consisting of the District Judge as its Chairman and District Magistrate, Superintendent of Police and the Civil Surgeon or CMO of the district or their nominee as members.] [Added by Bihar Notification No. L.G.-06-01/2011 Part 56/J, dated 19.6.2018 (w.e.f. 24.3.2014).]

3. [State] [Added by Bihar Notification No. L.G.-06-01/2011 Part 56/J, dated 19.6.2018 (w.e.f. 24.3.2014).] Victim Compensation Fund.

(1)There shall be constituted a fund namely victim Compensation Fund.(2)The Victim Compensation Fund shall consist of-(a)budgetary allocation for which necessary provision shall be made in the annual budget by the State.(b)receipt of amount of fines imposed under section 357 of the Act and ordered to be deposited by the Courts in the Fund.(c)amount of compensation recovered from the wrong doer/accused under clause 7 of the Scheme.(e)[the grant received from Central Victim Compensation Fund. [Added by Bihar Notification No. L.G.-06-01/2011 Part 56/J, dated 19.6.2018 (w.e.f. 24.3.2014).](f)Amount of cost imposed by courts and directed to be deposited in victim compensation fund.](3)Law Department shall be Nodal Department for regulating, administering and monitoring this scheme.(4)To alleviate the suffering of the victim, The District Legal Services Authority, may order for immediate first aid facility to be made available free of cost on the certificate of the Police Officer not below the rank of Officer Incharge of the Police Station or Magistrate of the area concerned, or any other relief, as it may deem fit.(5)The Fund shall be operated by the Member Secretary, State Legal Services Authority.

3A. [District victim compensation fund. [Inserted by Bihar Notification No. L.G.-06-01/2011 Part 56/J, dated 19.6.2018 (w.e.f. 24.3.2014).]

(1)A fund shall be constituted in all districts in which costs imposed by courts of that district and directed to be deposited in The Victim Compensation Fund shall be credited.(2)All expenses made in providing immediate first aid facility to victims in accordance with section 357 A (6) shall be made out of this fund.(3)Maximum amount which may be kept in this account at a time shall be Rs.-2,50,000/- (Two Lakh Fifty Thousand) and the excess amount shall immediately be transferred to the account of State Victim Compensation Fund.(4)This fund shall be operated by the Secretary, DLSA on sanction made by Chairman of the concerned DLSA.]

4. Eligibility for compensation.

- A victim shall be eligible for the grant of compensation where.- (a) a recommendation is made by the Court under sub sections (2) and (3) of section 357-A of the Act or the offender is not traced or identified, and where no trial takes place, such victim may also apply for grant of compensation under subsection (4) of section 357-A of the Act; (b) the victim/claimant report the crime to the officer incharge of the police station or any Judicial Magistrate of the area within 48 hours of the occurrence. Provided that the District Legal Services Authority. If satisfied, for the reasons to be recorded in writing, may condone the delay in reporting; (c) the offender is traced or identified and where trial has taken place, the victim/claimant has co-operated with the police and prosecution during the investigation and trial of the case; (d) The Crime on account of which the compensation which to be paid under this scheme should have been occurred within the jurisdiction of Bihar State.

5. Procedure for grant of compensation.

(1) Whenever a recommendation is made by the Court under sub-section (2) of section 357-A of the Act or an application is made by any victim or his dependent [in Form I] [Added by Bihar Notification No. L.G.-06-01/2011 Part 56/J, dated 19.6.2018 (w.e.f. 24.3.2014).] under sub-section (4) of section 357-A of the Act to the District Legal Service Authority, the District Legal Service Authority shall examine the case and verify the contents of the claim with regard to the loss or injury caused to victim and arising out the reported criminal activity and may call for any other relevant information necessary in order to determine genuineness of the claim. After verifying the claim and by conducting due enquiry, the District Legal Service Authority shall award compensation within two months, in accordance with provisions of this scheme; Provided that to the victim of the acid attack Rs. 1,00,000/- (one lac rupees) shall be paid to the victim within fifteen days of the information of occurrence and rest Rs. 2,00,000/- (two lac rupees) shall be paid within the two months from the aforesaid payment. [Remaining amount of compensation, if any, shall be paid within 3 months from the date of payment of second installment.] [Added by Bihar Notification No. L.G.-06-01/2011 Part 56/J, dated 19.6.2018 (w.e.f. 24.3.2014).] (2) [The District Criminal Injury Compensation Board of the district shall examine and verify the claims with regard to loss or injury, eligibility of claim/claimant, quantum of compensation and also about condonation of delay in reporting of the occurrence or filing of the claim and on its recommendation the Chairman, DLSA shall pass an order about claim/payment of compensation. The quantum of compensation shall be decided on taking into account the loss caused to victim, medical expenses to be incurred in treatment and minimum sustenance amount required for rehabilitation subject to minimum amount as mentioned in Schedule-1.] [Substituted by Bihar Notification No. L.G.-06-01/2011 Part 56/J, dated 19.6.2018 (w.e.f. 24.3.2014).] (3) The quantum of compensation to be awarded to the victim or his dependents shall be as per Schedule. (4) The cases covered under Motor Vehicle Act, 1988 (59 of 1988) wherein compensation is to be awarded by the Motor Accident Claims Tribunal, shall not be covered under the Scheme. (5) The District Legal Services Authority, 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-incharge of the police station or Magistrate of the area concerned, or any other relief, as it may deem fit. (6) Compensation received by the victim from the Central/State Government, insurance company

in relation to the crime in question, namely, insurance, exgratia and/or under any other Act or any other State run scheme, shall be considered as part of the compensation amount under this scheme and if the eligible compensation amount exceeds the payments received by the victim from collateral sources mentioned above, the balance amount shall be paid out of Fund.

6. Order to be placed on record.

- Copy of the order of compensation passed under this Scheme shall be mandatorily placed on record of the trial Court to enable the court to pass order of compensation under sub-section(3) of section 357 of the Act.

7. Recovery of compensation awarded to victim from wrong doer/accused.

- The District Legal Services Authority, if deem it proper, may institute proceedings before the competent Court of law for recovery of the compensation granted to the victim or his/her dependent(s) from the person responsible for causing loss or injury as a result of the crime committed by him.

8. Limitation.

- No claim made by the victim or his dependents under sub-section(4) of section 357-A of the Act shall be entertained after a period of six months of the crime; Provided that the District Legal Services Authority, if satisfied, for the reasons to be recorded in writing, may condone the delay in filing the claim.

9. Appeal.

- Any victim aggrieved of the denial of compensation by the Distinct Legal Service Authority may file an appeal before the State Legal Services Authority within a period of 90(ninety) days; Provided that the State Legal Services Authority, if satisfied, for the reasons to be recorded in writing, may condone the delay in filing the appeal. [Explanation. - It is hereby clarified that the Executive Chairman of Bihar State Legal Services Authority shall hear and pass orders in connection with such appeals.] [Added by Bihar Notification No. L.G.-06-01/2011 Part 56/J, dated 19.6.2018 (w.e.f. 24.3.2014).]

9A. [[Inserted by Bihar Notification No. L.G.-06-01/2011 Part 56/J, dated 19.6.2018 (w.e.f. 24.3.2014).]

To ensure financial accountability, internal audit shall be carried out by an independent auditor from a board of auditors appointment by CAG. In addition, statutory audit shall be carried out annually by the CAG. The reports and observation will be brought to the notice of the State Government.]

10. Scheme to be laid before Legislature.

- Scheme shall be laid, as soon as may be after it is made, before the House of the Legislature, while it is in Session for a total period of fourteen days. This period may be comprised in one Session or in two or more successive Sessions. If, before the expiry of the Session immediately following in Session or the successive Sessions aforesaid, the House agree in making any modification in the Scheme or the House agrees that the Scheme should not be made, the scheme shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under the Scheme.

10A. [[Inserted by Bihar Notification No. L.G.-06-01/2011 Part 56/J, dated 19.6.2018 (w.e.f. 24.3.2014).]

Information relating to all activities of the Bihar Victim Compensation Scheme along with the relevant FAQs will be uploaded on the website of the Department of Law, Government of Bihar.]

11. Power to remove difficulty.

- If any difficulty arises in giving effect to any of the provisions of this scheme, the Government may, by order published in the official gazette, make such provisions not inconsistent with the provisions of this scheme, as may appear to it be necessary or expedient for removing the difficulty.

12. Repeal and savings.

- With effect from the date of coming into force of this scheme, the Bihar Victim Compensation Scheme, 2011 shall stand repeal and notwithstanding such repeal, anything done or any action taken in exercise of any power conferred by or under that scheme shall be deemed to have been done or taken in exercise of the powers conferred under this scheme, as if this scheme were in force of the day on which such things or action was done or taken.[Schedule-I] [Substituted by Bihar Notification No. L.G.-06-01/2011 Part 56/J, dated 19.6.2018 (w.e.f. 24.3.2014).]

Sl No.	Description of Injuries/Loss		Minimum Amount of Compensation	Maximum Amount of Compensation
1	Acid Attack	1. In case of disfigurement of face	Rs. 3 Lakhs	Rs. 7 Lakhs
	2. In case of injury more than 50%		Rs. 3 Lakhs	Rs. 7 Lakhs
	3. In case of injury less than 50% (other		Rs. 3 Lakhs	Rs. 5 Lakhs

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of face)

		1. Where victim is aminor or she is physically or mentally handicap2. In other cases	Rs. 3 Lakhs Lakhs	Rs. 3 Lakhs	Rs. 7 Lakhs Rs. 5 Lakhs
2	Rape				
3	Physical abuse of minor		Rs. 2 Lakhs		Rs. 3 Lakhs
4	Rehabilitation of victim of Human Trafficking		Rs. 1 Lakhs		Rs. 2 Lakhs
5	Sexual assault (Excluding rape)		Rs. 50,000/-		Rs. 1 Lakhs
6	Death		Rs.2 Lakhs		Rs.3 Lakhs
7	Permanent Disability (80% or more)		Rs. 2 Lakhs		Rs. 4 Lakhs
8	Partial Disability (40% to 80%)		Rs. 1 Lakhs		Rs. 2 Lakhs
9	Burns affecting greater than 25% of the body(Excluding Acid Attack cases)		Rs. 2 Lakhs		Rs. 4 Lakhs
10	Loss of foetus		Rs. 50,000/-		Rs. 1 Lakhs
11	Loss of fertility		Rs. 1.5 Lakhs		Rs. 2 Lakhs

Note. - (1) If the victim is less than 14 years of age, the compensation shall be increased by 50% over the amount specified above.(2)In acid attack cases where victim is a girl/woman who has lost her eyesight to the extent of 80% or more or her face has been permanently disfigured, and in rape cases where victim is blind or otherwise handicap and not in position to manage the lump sum amount, instead of a lump sum amount, the District Criminal Injury Compensation Board may recommend payment as compensation a fixed amount not above Rs. 10,000/- per month for the lifetime of the victim or for any other period as it deems appropriate. The final decision regarding this will be taken by the District Legal Services Authority.[Form-1 [Added by Bihar Notification No. L.G.-06-01/2011 Part 56/J, dated 19.6.2018 (w.e.f. 24.3.2014).]]Application for the Award of Compensation under Bihar Victim Compensation Scheme, 2014 for Relief

1234567891011 Name of the ApplicantVictim(s) or his/her/their Dependents(s)Age of the Victim(s)or his/her/their Dependents(s)(a) Father's Name (b)Mother's Name (c) Spouse's NameAddress of theVictim(s) or his/her/their Dependents(s)Date and time of theIncidentWhether FIR has beenlodged? If Yes, enclose Copy of FIR. If No, give status thereof.Whether medicalexamination has been done? If Yes, enclose Medical Report/DeathCertificate/P.M. Report.Status of trial,

if pending. If over, enclose copy of judgment and order on sentence. Has the applicant been awarded any compensation by the trial court or any other Govt. agency. If yes give details. Give details of financial expenditure/loss incurred. Have you instituted any civil suit/claim against the perpetrator of offence. If yes give details.

Signature of the Victim/Dependent