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JUSTICE FOR THE HARMED: EVALUATING THE EFFICACY OF VICTIM COMPENSATION AND RESTITUTION SCHEMES

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INTRODUCTION

The victim's compensation and restitution schemes are recognised as the pillars of the restorative system. The very main aim of compensation is to repair harm suffered by the victims. The criminal justice system historically concentrated more on the restoration of the accused and deterrent systems. In the modern era, the system shifted their focus mainly on victims compensation, physical and mental health, and victim's rights.

The victims compensation and justice system plays a very crucial role in the world of Law. 'Victim' as defined under section 2(wa) of Criminal Procedure Code and section 2(y) of Bharatiya Nagarik Suraksha Sanhitha "means a person who has suffered any loss or injury caused by reason of the act or omission of the accused person and includes the guardian or legal heir of such victim". The victims are not just given fair justice but also they were compensated with decided amounts based on the crime and sufferings of the victims. The victims call the compensation "Blood Money".² Most of the victims and their family refuse to get the compensated amount because they consider it as blood money.

VICTIM COMPENSATION AND RESTITUTION SCHEMES IN INDIA

India's criminal justice system increasingly recognizes the State's responsibility to victims. The Supreme Court has treated victims' right to life and dignity under Article 21 of the

¹ Author, 4th year, B.A. LL.B. (Hons), School of Excellence in Law, TNDALU.

² TK Vineeth, Explainer: Nimisha Priya Case: Blood Money and the Cost of Forgiveness, New Indian Express, July 20, 2025, accessed on July 29, 2026 <https://www.newindianexpress.com/explainers/2025/Jul/20/explainer-nimisha-priya-case-blood-money-and-the-cost-of-forgiveness>.

Constitution as entailing state-paid compensation when authorities fail in their duty.³ Thus, courts have awarded monetary relief as a constitutional public-law remedy (e.g. *Nilabati Behera v. Orissa*, 1993) when a citizen's life or liberty is violated. Complementing this, statutory law authorizes judicial compensation.⁴ Criminal Procedure Code (CrPC) Section 357 (Section 395 in BNSS) permits courts to direct fines or costs toward victims' compensation. In 2009, CrPC Section 357A (Section 396 in BNSS) was inserted to obligate every State Government to establish a Victim Compensation Scheme. Under Section 357A, district/state Legal Services Authorities award compensation from state funds, on court recommendation or victim application, even if the offender is acquitted or insolvent. In effect, the law now mandates a formal fund for all victims of crime and their dependents. For example, the National Legal Services Authority (NALSA) – under the Legal Services Authorities Act, 1987 – has drafted model compensation schemes (such as a 2018 scheme for women survivors of sexual assault) that states have been directed to implement.

JUDICIAL DEVELOPMENT AND KEY CASE LAWS

Judicial decisions have progressively broadened victims' rights to compensation.⁵ In *Suresh & Anr. v. State of Haryana* (2015), the Supreme Court explained that Section 357A's object "is to enable the Court to direct the State to pay compensation to the victim where the compensation under Section 357 was not adequate or where the case ended in acquittal or discharge and the victim was required to be rehabilitated". The Court emphasized that victims have a "legitimate expectation that the State will punish the guilty and compensate the victim", regardless of case outcome. Earlier, in *Bodhisattwa Gautam v. Subhra Chakraborty* (1996), the Court granted interim maintenance to a rape survivor pending trial, noting that criminal punishment alone may not give "significant solace" to victims. In several rulings courts have stressed that compensation orders should not be limited to fines or convictions alone. More recently, a Delhi High Court bench has even held that judges must consider compensation under CrPC 357 in every case and record reasons for any. Indeed, the trend is toward recognizing compensation (and restitution) as an integral part of justice, not merely a "nice-to-have" afterthought. Legislative action has followed these judgments. The landmark Odisha

³ Chandrakant S. Patil v. State of Maharashtra, 1999 SCC (Cri) 1073 (India), <https://indiankanoon.org/doc/42131728/>.

⁴ Rajesh Mahajan, *Victim Compensation Laws in India*, *Chambers & Partners* (Apr. 22, 2024), <https://chambers.com/articles/victim-compensation-laws-in-india>.

⁵ "Crime Victim Compensation," *Victims' Rights: Overview*, NY Crime Victims Legal Help (NYS Crime Victims Legal Network), https://crimevictimshelpny.org/rights/victims/item.9002-Crime_Victim_Compensation (last visited Aug. 24, 2025).

Victim Compensation Scheme (2012) – notified at the behest of the Supreme Court – was the first state-level scheme enabling compensation in all cases, irrespective of conviction. Following *Nipun Saxena v. Union of India* (2017), several states (such as Tamil Nadu) updated their schemes: Tamil Nadu's 2018 Victim Compensation Scheme for Women Survivors directly gives "funds for the purpose of compensation" to women dependents and victims, as ordered by the Court. At the national level, the central government also created a Central Victim Compensation Fund Scheme (CVCF) in 2015 to complement state schemes and minimize inequalities in awards.

STATE SCHEMES AND VARIATIONS

Each state has now formulated its own Victim Compensation Scheme (VCS) under section 357A, but implementation and scope differ widely. Some schemes focus on certain crimes (e.g. rape, acid attacks), while others cover all violent offenses. Coverage and amounts vary: one state may cap awards at a few lakhs, another may tie payments to loss of income or medical expenses. For example, the Odisha scheme (2012) was gender-neutral and comprehensive, while Tamil Nadu's 2018 scheme specifically earmarked a "Women Victims Compensation Fund" for female survivors. Delhi's VCS (2018) provides fixed grids for interim and final compensation based on offense type and victim age. The Centre's CVCF Scheme (2015) aims to equalize these differences by topping up state funds and encouraging uniformity. Even so, significant inter-state disparity remains: a recent analysis notes that compensation amounts and processes are a "patchwork" across the country.

IMPLEMENTATION CHALLENGES

- **Delays in disbursal:** Victims often wait many months after court recommendations. In 2014 Delhi HC enforced a hard and fast two-week payment term after compensation was sanctioned.
- **Red tape and complexity:** Procedural formalities (e.g. proof of loss, police checking) make the procedure slow. Experts note that the entitlement rules remain "complex and inflexible".
- **Low awareness:** Many victims do not know of their compensation rights or how to apply. The Supreme Court has explicitly noted that lack of public awareness has led to under-utilization of funds (e.g. Nirbhaya Fund allocations).
- **Resource constraints:** Several State LSAs report funding shortfalls. In one case the Supreme Court was told a State LSA had only half the money needed to pay pending

claims. While the CVCF supplements state budgets, bureaucratic obstacles in routing funds mean some allocations remain unused.

- **Inter-state inconsistency:** With over two dozen schemes, compensation varies wildly by region. The CVCF aims to “reduce disparity in compensation amounts”, but significant gaps in quantum and eligibility persist between states.

CONCLUSION

Legal scholars and jurists argue that India’s compensation regime still falls short of its goals. Commentators call for broader reforms beyond piecemeal schemes. In a 2024 analysis, it is suggested that compensation schemes “should be treated as a broader institution beyond the scope of Section 357 or Section 357A,” integrating criminal penalties with civil remedies and rehabilitative support. That is, full legislation can be necessary to organize victim reparations. Critical reforms must involve simplifying procedures, firm time frames, and temporary relief; increased funding and oversight; and inclusion of psychosocial rehabilitation with cash assistance.

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