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From Punishment to Rehabilitation: Victim-Centric Justice in Mohd. Kaleem v. State of U.P

BACKGROUND AND OVERVIEW OF THE CASE

FACTS OF THE CASE

- I.** The present case is an appeal; in the original case, the appellant has been found guilty of committing grievous hurt to the Victim, Haseen Abbas. As a result of the crime, the trial court has sentenced the appellant to 10 Years of Regressive Imprisonment, under Sections 307 & 506 of the Indian Penal Code along with a fine of Rs. 12,000/-.
- II.** As of now, the appellant has served more than 5 years in jail. On a perusal of records by the present judges, it is found that a re-analysis of the evidence is required. Therefore, on the particular circumstances of the present appeal, bail has been granted to the accused.
- III.** The fact of prime importance in the present case is that the Victim has not been paid any kind of compensation by either the State Government, the Judiciary, or the Legal Service Authorities.

PROCEDURAL HISTORY OF THE CASE

- I.** The Main Issue before the lower courts was to adjudged the guilt of the present appellant which was found to be in affirmative and consequently a punishment was awarded.
- II.** The Trial court failed to effectively cater to the needs of the victim by failing to provide him with any kind of compensation

MAIN ISSUES

The main question of law raised in the present appeal before the High Court is:

- Whether the Victim in the present case could or should be granted compensation.
- Whether the present court is allowed under law to Grant Compensation

PROVISION OF THE LAW APPLICABLE

The following provisions of law apply to the present case:

- I. *Code of Criminal Procedure, 1973*: Section 357, 357-A, 357-B, 357-C.
- II. *Indian Penal Code, 1908*: Sections 307 & 506

BRIEF JUDGMENT OF THE COURT

In the present court case, the appeal was granted, and the appellant was provided bail. Furthermore, the court also provided help to the victim by providing the victim with the rightly deserved compensation, which is required in cases like that in the present matter.

UNDERSTANDING THE MATTER: CASE ANALYSIS

ISSUES

In the present case, the Appellant court has several issues to resolve. The issues of prime importance in the present case are:

- I. Whether the present Appeal court can grant Compensation to the Victim.
- II. Whether the present court can grant Compensation to the Victim at an interim stage of the appeal case.
- III. Whether Compensation could be granted after the amount of time.
- IV. Whether the Effect of Ex-Post Facto Law would be applicable.
- V. Who should grant Compensation to the Victim, should it be the State or the Convict?

THE RATIO OF THE COURT

The present court, in the present case, while allowing the appellant to obtain bail, also addressed the matter of compensation to the victim and ordered the DLSA & UPSLSA to grant the necessary compensation to the Victim. Furthermore, other important Ratios decided by the present court are as follows:

- I. On the application of any victim or a recommendation by the court, the victims of crime are entitled to receive compensation.
- II. Under the aegis of Section 357-A(2) of Cr.P.C., the word “court” is not limited to a specific court instead is inclusive of the trial court, appellate court, or the revisional court.
- III. Effect of Retrospectiveness applies to Section 357-A of Cr.P.C., and thus, the date of offence holds no relevance in the granting of the compensation
- IV. The compensation to the victim can be granted by the trial court, appellate court, as well as the revisional court &, and can be awarded during the interim period as well under Section 357-A Cr.P.C.
- V. The Compensation will be payable as per Section 357-A of Cr.P.C.
- VI. The present court has given a duty to every court to grant compensation to a victim under law, wherein the crime and the gravity of the offence could be the guiding principle for the same; furthermore, the rehabilitation of the victim is another prime area of importance for the DLSA or SLSA.¹

ANALYSIS OF THE COURT

The court in the present matter sought to analyse all aspects of the issues by examining previous case law, law reports, and the wording of the Sections themselves.

Theory of Compensation

The Court in the present case analysed the theory of compensation and the need for it by relying primarily on Section 357 itself and then other judgments of the Supreme Court in the Cases of Hari Krishna and the State of Haryana vs. Sukhbir Singh², Smt. Nilabati Behera vs. the State of Orissa³ Baldev Singh vs. the State of Punjab⁴, Vijayan vs. Sadanandan K and another⁵, and Manohar Singh vs. State of Rajasthan and Ors.⁶

¹ Bodhi Satwa Gautam vs. Subra Chaturvedi [(1996) 1 SCC 490]

² Hari Krishna and State of Haryana vs. Sukhbir Singh, (1988) 4 SCC 551.

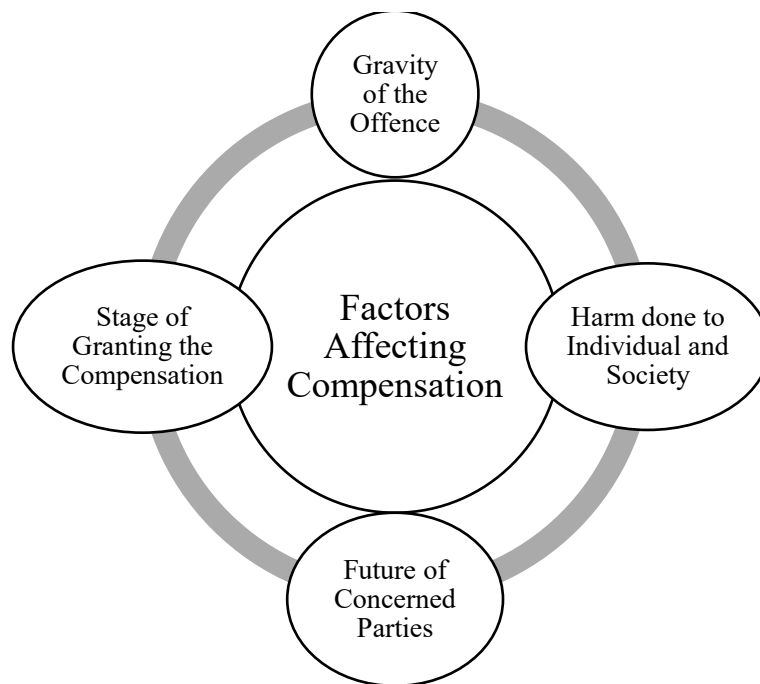
³ Smt. Nilabati Behera vs. State of Orissa (1993)2 SCC 746.

⁴ Baldev Singh vs. State of Punjab (1995) 6 SCC 593

⁵ Vijayan vs. Sadanandan K and another (2009) 6 SCC 652

⁶ Manohar Singh vs. State of Rajasthan and Ors. 2015 (89) ACC 266 (SC)

From a combined analysis of this judgment which focused upon Articles 21 & 32 of the Constitution⁷ along with the reading of Section 357⁸ itself, the court concluded that although in ancient times, compensation was done, to protect the accused and the family of the accused from the reprisals of the victim and their family, however now with the rise of society, welfare state and the numerous rights under the Constitution and other authorities.⁹ It now becomes the duty of the state itself to safeguard the interest of the victim and to provide compensation not to prevent reprisal but to alleviate the damages suffered by the victim, which, as an event, was not supposed to happen in a rule of law.¹⁰



Power of the Court to award Compensation

Moving forward, the court then analysed the question of Compensation and whether the present appellant court is allowed to make the same under the law. To understand the following issue, the court referred to Section 357 of the Criminal Code. P.C., along with important previous case laws on the matter and other references.

The court noted that the word being used under section 357 refers to the court, not a specific time of the court, which suggests that the legislature, when making the law, was more focused

⁷ Constitution of India, 1950.

⁸ Id.

⁹ Dube, D., 2018. Victim Compensation Schemes in India: An Analysis. *International Journal of Criminal Justice Sciences*, 13(2), pp.339-355.

¹⁰ Wasik, M., 1978. The place of compensation in the penal system. *Criminal Law Review*, pp.599-611.

on helping the victim rather than on the procedural aspects of the same. Furthermore, the meaning of judicial proceedings and the court was further derived from Subhash Chandra vs. S.M. Agarwal¹¹ along with Manohar Singh vs. the State of Rajasthan¹².

Ex-Post Facto Effect

The court also analysed the issue of ex post facto law and concluded that, unless otherwise declared, the retrospective effect is generally assumed to be applicable.¹³ Under the law, primarily criminal law is affected by ex post facto laws, as per Article 20(1) of the Constitution.¹⁴

In the present issue, the court concluded that the legislature intended for the victim to be offered relief at the interim stage only¹⁵ along with which the DLSA/SLSA should be required to make the payment. Furthermore, the court also noted that the appellant in the present case could be required to pay compensation; however, that is a matter for the legislature to decide, not the courts.

CONCLUSION

In their concluding remarks, the court allowed the present appeal and granted bail to the appellant. However, along with this, the court also directed the DLSA & SLSA, which is UPSLSA in this case, to pay compensation to the victim. On a personal note, I would like to state that I am in complete support of the court's judgment concerning compensation for the Victim.

One pertinent thing to note in this judgment is the fact that the present appeal is being done to request bail for the appellant; however, it ended up helping the victim, which shows the change in behaviour of the court and the adoption of a more liberal and victim-centred approach in the Indian Criminal Justice System, which is the need for a post-modern India. Furthermore, this case law also opened floodgates and cleared several doubts regarding compensation that could

¹¹ Subhash Chandra vs. S.M. Agarwal, 1984 Criminal Law Journal 481

¹² Manohar Singh vs. State of Rajasthan and Ors. 2015 (89) ACC 266 (SC)

¹³ www.mondaq.com. (n.d.). Principles of Retrospective Operation of Law and Ultra Vires - Finance and Banking - India. [online] Available at: <https://www.mondaq.com/india/finance-and-banking/19039/principles-of-retrospective-operation-of-law-and-iultra-viresi> [Accessed 26 Sep. 2025].

¹⁴ Rattan Lal vs State Of Punjab, 1965 AIR 444

¹⁵ State of Madhya Pradesh vs. Mehtab, 2015 (5) SCC 197

be used to enhance the victim compensation process in India, especially in the state of Uttar Pradesh, which sadly still has a large number of crimes being committed in India.¹⁶

Concludingly, it will be right to state that the present decision is a step in the right direction for the Criminal Justice System in India; the ratio of the present judgment could be used as recommendations and suggestions for implementation in the whole of India, as the present matter is limited only to the state of Uttar Pradesh.

¹⁶ Ncrb.gov.in. (2019). Crime in India 2019 | National Crime Records Bureau. Available at: <https://ncrb.gov.in/en/crime-india-2019-0>