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Compensation to Victims of Crime in India - An Overview

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ABSTRACT

The administration of criminal justice remained generally unsatisfactory from the point of view of the victims of crime. The basic object of the Criminal Justice is to protect the society against crime and to punish the offender. However, Criminal Justice System does not show equal concern to the victims of crime, who have suffered loss or injury. It is flaw of our criminal law jurisprudence that victims of crime and the distress of their dependents of the victim do not attract the attention of law. In fact, the victim compensation is still the vanishing point of our criminal law. The remedies currently available under the law are limited, fragmented, uncoordinated and reactive. This is the lacunae in the system, which must be remedied by the legislature.

The present paper attempts to examine and evaluate the law governing victim compensation in India and the criminal justice system. The paper also accentuates the need for inclusive law to provide assistance to crime victims.

Key words- Victim, Compensation, Crime.

I. INTRODUCTION

Generally speaking, the victim is a neglected party in criminal justice system. The role of the victim of a crime in the present criminal justice system is limited to that of a witness for the prosecution even though he or she is a person who has suffered harm such as physical, mental, emotional, economical or impairment of his/her fundamental rights. The main attention of the State is on the offender, to protect his rights, his fundamental rights, human rights, fair trial, the protection from custodial harassment, etc. faced by them. All the problems of the accused are taken care of by the State ignoring the plight of the victim. The resources are spent by the State to take care of the accused. Of course, accused will have to be treated with dignity as he is deemed to be innocent till he is convicted; but, understanding the fact that the victim, against

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whom the crime was committed, was put to irreplaceable pain and sufferings and punishment alone was not subserving the needs of the victim. It is necessary to give a dominant role of the victims of crime, as otherwise, the victim will remain discontented and may develop a tendency to take law into his own hands in order to seek revenge and pose a threat to the maintenance of Rule of Law, essential for sustaining a democracy.² It is a flaw of our criminal law jurisprudence that victims of crime and the distress of their dependents of the victim do not attract the attention of law. In fact, the victim compensation is still the vanishing point of our criminal law. The remedies currently available under the law are limited, fragmented, uncoordinated and reactive. This is the lacunae in the system, which must be remedied by the legislature.

The present paper attempts to examine and evaluate the law governing victim compensation in India and the criminal justice system. The paper also accentuates the need for inclusive law to provide assistance to crime victims.

II. JUSTICE TO VICTIMS OF CRIME IN INDIA

Justice requires that a person who has suffered must be compensated. Basically, the accused is responsible for the reparation of any harm caused to the victim. However, it might be that the accused, being too poor, is unable to make any payment or otherwise unable to compensate the victim. In such situation, the State that has failed to protect the life, liberty³ and property of its citizens should compensate the victim for loss and suffering.

The idea underlying compensatory justice is not merely to rehabilitate the victim, but also leads to a regime where societal values in seeing such crimes as aberrations, entitling the victim to some form of compensation due to the stark intensity of the crime. The term "compensation" in present context means payment of money or amends for the loss sustained or anything given to make things equivalent, a thing given to amends for loss, recompense remuneration or pay. The literal meaning of compensation is the money which is given to compensate the victim for the loss and injury. The object of the compensation is to restore the victim in his pre-state if possible, and to make the loss and injury good. It does not mean benefit or profit to the victim but a fair and reasonable provision as necessary for the purpose of making good the loss sustained by victim of the crime.

The framework of justice in India has been largely oblivious to what would constitute true

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² (2002) 4 S.C.C. 578.

³ INDIA CONST. art.21 provides that No person shall be deprived of his life and liberty except according to procedure established by law.

vindication to the victim. The ambit of justice has fixated to merely mean the conviction of the accused. This has excused systemic failures in terms of blotchy investigation, poor efforts of the prosecution, and questionable integrity of those who are involved in the process. Further, there is a lack of infrastructure to support or accommodate development in the process. This in turn affects the quality of justice offered to the victim. The word 'victim' is lacking descriptive precision. The word Victim objectively implies more than the mere existence of an injured party, in that innocence or virtuousness is suggested as well as a moral claim to a compassionate response from others. The United Nations General Assembly in 1985 adopted a 'Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power' which defines "Victims" means persons who, individually or collectively, have suffered harm, including physical or mental injury, emotional suffering, economic loss or substantial impairment of their fundamental rights, through acts or omissions that are in violation of criminal laws operative within Member States, including those laws proscribing criminal abuse of power. The term 'victim' has been defined in The Code of Criminal Procedure, 1973 under Section 2(wa) of The Code of Criminal Procedure (Amendment) Act, 2008 also defines "Victim" means a person who has suffered any loss or injury caused by reason of the act or omission for which the accused person has been charged and the expression "victim" includes his or her guardian or legal heir. The literal meaning of word "victim" is a person to whom any harm or injury is caused, or a person killed as a result of an accident, crime or other event or action and also includes his guardian and legal heirs.

III. LEGAL FRAMEWORKS OF VICTIM COMPENSATION IN INDIA

The idea of relief and compensation to victims is not a new one. Many commentators pointed out that the Code of Hammurabi contained provisions for a system of victim compensation. The references are also from the Manusmiriti to compensation being paid to the victims of criminal offences. Even in the recent times the Anglo-Saxon system of Criminal Justice was introduced in India, the victim was not completely neglected. References to victim's compensation are also found in the 'Code of Hammurabi'. It is said that it was quite common for the early civilisation to extract payments for the victims from the offenders, which process is not known as restitution. However, the picture began to change with modern criminal justice in which the government assumes responsibility for dispensing justice by bringing the offenders to book, but it also meant that, with the appropriation of the fines to the State Coffers, the victim was left with ineffective remedies. As a modern state emerged and the government took itself the responsibility of enforcing justice, the offender gradually became in the criminal justice arena.

India is a signatory to numerous International human rights conventions such as the Universal Declaration of Human Rights, International Covenant on Civil and Political Rights, International Covenant on Economic, Social and Cultural Rights and the Convention on eliminating all forms of Discrimination against women and children. These conventions impose on India the obligation of offering an effective criminal justice system to its citizens. This includes the concept of legal remedy such as compensation. The right of compensation to the victim was finally crystallised in the United Nations Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power of 1985⁴, which recognises four types of rights and entitlements of victims of crime: (a) Access to justice and fair treatment, (b) Right to restitution, (c) Personal assistance and support services, and (d) Compensation.

Right to compensation is recognised in UDHR, 1948⁵ and International covenant on civil and political Rights.⁶ Considering victim as the key player in the criminal justice process, UN general assembly passed The UN Declaration on the Basic principles of justice for victims of crime and abuse of power in 1985. The Declaration lays down basic standards for the fair treatment of victims, consideration of their views in the criminal justice process, restitution and compensation. The Declaration reconceptualised victimhood as a notion inclusive of those who had been victimised by the state as well as by private individuals. The reports culminated in the formulation of the Basic Principles and Guidelines on the right to remedy and reparation for victims of gross violations of international human rights law and serious violations of international humanitarian law adopted by the UN general assembly, in 2005. Apart from these victims specific instruments many other international documents also require the interests of victims to be taken into account in different ways.

In India, victim's compensation has always been the weeping beggar at the door of criminal justice system. The concept of victim's compensation though not specifically mentioned and recognized in the Criminal procedure Code of 1899. However, it had its own short comings as the right of a victim to receive compensation was available only where a substantive sentence of fine was imposed. There is neither a comprehensive legislation nor ingenious statutory

⁴ United Nations Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, G.A. Res. 40/34, U.N. Doc.A/RES/40/34 (Dec. 11, 1985).

⁵ Art 8, which provides that everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.

⁶ Art 2 clause 3. Each State Party to the present Covenant undertakes: (a) To ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity; (b) To ensure that any person claiming such a remedy shall have his right thereto determined by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by the legal system of the State, and to develop the possibilities of judicial remedy; (c) To ensure that the competent authorities shall enforce such remedies when granted. Art 95. Anyone who has been the victim of unlawful arrest or detention shall have an enforceable right to compensation.

scheme or a public policy in India either allowing a victim of crime to seek compensation from the offender or state or to participate, as a matter of right, in the criminal justice process. However, a careful reading of provisions of Code of Criminal Procedure, 1973 as amended on date and that of Probation of Offender's Act, 1958 reveals that a few sections contained therein can be invoked to provide justice and compensation to the victims of crime. The provisions of Criminal Procedure Code concerning victim compensation occupy a prominent place in the progressive development of the law relating to victim compensation through judicial approach. Various Reports of Law Commission of India as well of Committees on Reforms of Criminal Justice administration have played a pivotal role in developing compensatory jurisprudence in India. In 1980s Justice Krishna Iyer had always given importance of the compulsory recoupment by the wrong doer of the damaged. The 154th Law Commission of India made radical recommendations on the aspects of compulsory justice through a victim compensation scheme. Justice Malimath Committee 2003⁷ made a series of recommendations with respect to victim of crime, particularly recommended to be enacted as a separate legislation to deal with all the issues pertaining to Victims of crime. Second Administrative Reforms Commission in 5th Report on *Public Order*, 2007 and Law Commission of India's 226th Report on "Compensation to the Victims" 2010 have recommended several measures for victims' empowerment and rehabilitation. There is no single law that deals with compensation to the victims of crime and abuse of power, but as a solace, in a number of cases, the Supreme Court has laid down sound guidelines with regard to assessment of just compensation to be paid to various types of victims.

(A) Constitutional provisions

Constitution of India also provides for certain safeguards to the victim of crime. It has several provisions which endorse the principle of victim compensation.⁸ The guarantee against unjustified deprivation of life and liberty⁹ has in it elements obligating the state to compensate victims of criminal violence. The Supreme Court of India in has interpreted right to compensation as an integral part of Article 21 of the Constitution.¹⁰

⁷ Government of India Report: Justice V.S.Malimath Committee on Reforms of Criminal Justice System, Govt. of India Ministry of Home Affairs, 2003. Available at https://mha.gov.in/sites/default/files/criminal_justice_system_2.pdf.

⁸ INDIA CONST. art. 14

⁹ INDIA CONST. art. 21

¹⁰ In several cases the apex court has repeated its order, making compensation an integral aspect of right to life Rudal Sah v. State of Bihar, 1983; Bhim Singh v. State of Jammu & Kashmir, 1985; Dr. Jacob George v. State of Kerala, 1994; Manju Bhatia v. N.D.M.C. A.I.R 1998 S.C 223, 1998; Paschim Bangal Khet Mazdoor Samity v. State of West Bengal & Ors., 1996; People's Union for Democratic Rights Thru. Its Secy. v. Police Commissioner, Delhi Police Headquarters, PUDR v. State of Bihar, 1987.

(B) Legislative Provisions

The provisions relating to compensation to victims of crime are contained in sections 357, 357(1), 357 (2), 357 (3), 357A, 358, 359 and 250 of the Code of Criminal Procedure, 1973. Section 357 of the CrPC, 1973 provides specifically empowers a court imposing a sentence of fine or a sentence (including a sentence of death) of which fine forms a part, in its discretion, inter alia, to order payment of compensation, out of the fine recovered, to a person for any loss or injury caused to him by the offence. However, such compensation to victims can be awarded only when substantive sentence is imposed, of which fine forms a part, and not in cases of acquittal.¹¹ That the scope and application of this Section however extends to any order for compensation passed either by the trial court, Appellate Court, or by the High Court, or Court of Session while exercising their revisional jurisdiction. The Hon'ble Supreme Court is also empowered to order compensation under this provision. The applicability of this Section is limited in application to four defined instances. Such compensation may be afforded to the complainant for meeting the expenses incurred during prosecution. It can also be recovered in the aforementioned competent courts by any person who has suffered loss or injury by the offence. The courts so empowered, can award such compensation to a person entitled to recover damages under the Fatal Accidents Act, when there is a conviction for causing death or abatement thereof. The scope of Section 357 extends to instances of injury to property since courts can order compensation to a bona fide purchaser of property, which has become the subject of theft, criminal misappropriation, criminal breach of trust, cheating, or receiving or retaining or disposing of stolen property, and which is ordered to be restored to its rightful owner. Subsection (3) of Section 357 further enables the court to order the payment of compensation even in cases where the punishment prescribed does not include payment of fine. The analysis of jurisprudence of section 357 divulges that it is activated only upon successful conviction. It works on the deduction that the accused must be identified, prosecuted and convicted. It does not accommodate cases where the person is not pronounced guilty, or in those cases where Summary Reports are filed by the Police, disclosing the commission of the offence, but that such an offence has not been committed by the accused who is sought to be prosecuted, or that the accused has not yet been identified. In such instances, the courts cannot rely on Section 357 to order compensation to the victim.

¹¹ Dipa Dube, "Victim Compensation Scheme in India: An analysis"¹³, INTERNATIONAL JOURNAL OF CRIMINAL JUSTICE SCIENCES, 342 (2018).

New Provision for Victim Compensation

It appears that in order to overcome the situation, a new section 357A¹² Code of Criminal Procedure was added in the Code of Criminal Procedure by an amendment in the year 2009. This was the much-needed relief to the victims of offences. The scheme contained in the section is indeed a progressive measure to ameliorate the woes of crime victims and providing them restorative justice. The Code also provides compensatory relief to victims of unlawful arrest or detention by police without sufficient cause.¹³ Where an accused is convicted of a non-cognizable offence on a complaint, the court may order him to pay costs to the complainant or in default, suffer simple imprisonment for a period not exceeding thirty days.¹⁴

(C) Victim Compensation Schemes (VCS)

The provision of victim compensation scheme is the much desirable relief to the victim of offences therefore one of the most progressive legislation in recent time. The scheme provides for that the state government in coordination with central government shall prepare a scheme for providing funds for the purpose of compensation to victim.¹⁵ In 2009, the central government gave directions to every State to prepare a scheme which has to be in agreement with the canters scheme for victim compensation. The primary purpose of the scheme is to provide funds for the purpose of compensation to the victim or his dependents who have suffered loss or injury as a result of the crime and who require rehabilitation.

Under the scheme when an application for compensation is made to the court by victim and the court if find that victim is worthy of compensation or any interim compensation during the proceedings as the case may be, it may make recommendation to

¹² Section 357-A Victim Compensation Scheme– (1) Every State government in co-ordination with the Central Government, shall prepare a scheme for providing funds for the purpose of compensation to the victim or his dependants who have suffered loss or injury as a result of the crime and who require rehabilitation.

(2) Whenever recommendation is made by the Court for compensation, the District Legal Services Authority or the State Legal Services Authority, as the case may be, shall decide the quantum of compensation to be awarded.

(3) If the trial court, at the conclusion of trial is satisfied, that the compensation awarded under Section 357 is not adequate for such rehabilitation, or where the cases end in acquittal or discharge and the victim has to be rehabilitated, it may make recommendation for compensation.

(4) Where the offender is not traced or identified, but the victim is identified, and where no trial takes place, the victims or his dependents may make an application to the State or the District Legal Services Authority for the award of compensation.

(5) On receipt of such recommendation or on the receipt of application under sub-section (4), the State or the District Legal Services Authority shall, after due enquiry, award adequate compensation after completing the enquiry within 2 months.

(6) The said 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 police officer not below the rank of officer in charge of the police station or a magistrate of the area concerned, or any other interim relief as the authority may deem fit.”

¹³ Code of Criminal Procedure, 1973(Act 2 of 1974), S.358 (1).

¹⁴ *Ibid*, Section 359.

¹⁵ *Ibid* Section 357A (1).

the District, or State Legal service Authority, and the quantum of compensation and award of compensation shall be decide and made respectively by the authority under the scheme made by State government in coordination with central government.

Victim Compensation Schemes, April 2018 to March 2019

Statistical Information in R/O Victim Compensation Scheme U/S 357-A Cr.Pc

Si. No	SLSA	Applications received directly by Legal Service Institutions (A)	Applications / orders marked / directed by any Court (B)	Applications received including Court Orders (A+B)	Applications Decided	Applications Pending	Compensation Awarded in (Rs.)
1	Andaman & Nicobar Islands	0	0	0	0	0	0
2	Andhra Pradesh	95	33	128	46	75	12374136
3	Arunachal Pradesh	47	2	49	38	2	7820000
4	Assam	139	423	562	371	547	44770402
5	Bihar	578	243	821	470	18	93785000
6	Chhattisgarh	384	436	820	587	446	38498000
7	Dadra & Nagar Haveli	0	6	6	4	1	650000

8	Daman & Diu	0	0	0	0	0	0
9	Delhi	916	1698	2614	2284	1372	521929000
10	Goa	0	4	4	0	4	0
11	Gujarat	230	189	419	394	181	73409000
12	Haryana	98	334	432	396	115	77911000
13	Himachal Pradesh	36	51	87	33	0	1840000
14	Jammu & Kashmir	26	8	34	19	0	5325000
15	Jharkhand	292	499	791	373	981	59395000
16	Karnataka	1696	559	2255	866	1462	107707275
17	Kerala	114	356	470	150	221	30610000
18	Lakshadweep	0	0	0	0	0	0
19	Madhya Pradesh	650	484	1134	590	446	54420000
20	Maharashtra	114	43	157	104	211	7770000
21	Manipur	0	26	26	0	38	0
22	Meghalaya	80	24	104	31	6	2345000
23	Mizoram	231	56	287	88	51	25072000
24	Nagaland	11	0	11	0	12	0
25	Odisha	1024	275	1299	783	1419	100079187
26	Puducherry	1	2	3	1	0	300000

27	Punjab	337	61	398	138	236	16552350
28	Rajasthan	1295	777	2072	2170	674	276523750
29	Sikkim	0	0	0	0	0	0
30	Tamil Nadu	757	118	875	425	947	57661540
31	Telangana	20	10	30	13	26	0
32	Tripura	31	22	53	69	28	10820000
33	U. T. Chandigarh	7	12	19	10	10	8200000
34	Uttar Pradesh	26	0	26	26	0	3625000
35	Uttarakhand	42	54	96	76	36	16280300
36	West Bengal	136	136	272	198	24	28719806
	Grand Total	9413	6941	16354	10753	9589	168,43,92,746

Source: National Legal Services Authority, 2019

The statistics on Victim Compensation scheme divulge that, in spite of a lapse of more than five years, in many States the scheme has not picked up (Statistical Information in R/o Victim Compensation Scheme u/s 357A Cr.P.C., 2017). The number of applications for instance in Arunachal Pradesh, Assam, Gujarat, Goa, Himachal Pradesh and even Uttar Pradesh are very low, compared to the incidence of crimes in the States. On the contrary, Delhi, Karnataka, Odisha and Tamil Nadu indicate impressive number of applications signifying increased awareness of the scheme. The Delhi courts have also referred substantial number of cases to the legal services authorities for compensation, which is not true for the other regions. Another disturbing trend is the rising pendency of applications.

Karnataka reports the highest pendency with 1910 applications, followed by Delhi, Odisha and Assam. Such pendency may go a long way in defeating the purpose of the scheme, since crime

injuries call for immediate financial assistance. Furthermore, for those states whose statistics are available, the amounts of compensation given appear to be grossly insufficient. Here, the average figures for some states have been calculated by dividing the number of applications with the total amount of compensation given.

Thus, as may be seen, all the states have complied with the mandate laid down in the code by formulating schemes for compensation. While the VCSs are more or less uniform on broad parameters, there are certain variances as well. Absence of clearly laid down criteria for determination of compensation, absence of scope of duties for the authority, absence of monitoring authority to oversee the functioning of the scheme and the grossly inappropriate amounts of compensation maybe identified as some of the drawbacks in the VCSs as operational in the various states. It may also be noted that the burden imposed on the victim to report the crime promptly, to cooperate with the investigation and court, to provide reasonable assistance in furnishing materials in support of the claim for compensation, to obtain certificates etc. from police or magistrate to avail of facilities under the scheme may prove to be barriers in the way of smooth operation of the scheme

(D) Compensatory Jurisprudence evolved by the Judiciary

Despite the absence of any special legislation to render justice to victims in India, the Supreme Court has taken a proactive role and resorted to affirmative action to protect the rights of victims of crime and abuse of power. The court has adopted the concept of restorative justice and awarded compensation or restitution or enhanced the amount of compensation to victims, beginning from the 1980s.¹⁶ In this context, series of debates are mooted & Judgments of the Supreme Court and High Courts right from 1979 onwards are delivered. In the case of Maru Ram's¹⁷ the Apex Court has observed that while considering the problem of penology the Court should not overlook the plight of victimology and the suffering of the people who die, suffer or are maimed at the hands of the criminals. The Apex Court in the case of State of Gujarat v. High Court of Gujarat¹⁸ has observed that in our effort to look after and protect the human rights of the accused or human rights of the convict we cannot forget the victim or his family in case of his death or who is otherwise incapacitated to earn his livelihood because of the crime committed by an offender. Subsequently numbers of similar judgments are delivered by the Apex Court and High Courts in India.

¹⁶ Kumaravelu Chockalingam, "Measures for Crime Victims in the Indian Criminal Justice System", *Resource Material Series* No.81, The 144th International Senior Seminar Visiting Experts' Papers.

¹⁷ Maru ram v. Union of India, A.I.R 1980 S.C. 2147.

¹⁸ (1998)7 S.C.C. 392.

Without any fault of him the victim has to suffer all through his life. On the contrary accused who commits crime enjoys at the cost of State. He is taking advantage of his crime because the law provides the same to him. I am not saying that the law should not aid the accused but the same facility in the sense of rehabilitation, reparation or compensation at least to some extent in any form shall have to be provided to victim.

Justice for Rape Victims – Guidelines for Victim Assistance in *Bodhisattwa Gautam v. Subhra Chakraborty*¹⁹, the Supreme Court held that if the court trying an offence of rape has jurisdiction to award compensation at the final stage, the Court also has the right to award interim compensation. The court, having satisfied the prima facie culpability of the accused, ordered him to pay a sum of Rs.1000 every month to the victim as interim compensation along with arrears of compensation from the date of the complaint. It is a landmark case in which the Supreme Court issued a set of guidelines to help indigenous rape victims who cannot afford legal, medical and psychological services, in accordance with the Principles of UN Declaration of Justice for Victims of Crime and Abuse of Power, 1985: The Supreme Court of India has played the most commendable role in evolving compensatory jurisprudence for the victims. Some of the landmark cases in which the Supreme Court provided compensation to the victim are as follows:-*Chairman, Railway Board and Others v. Mrs. Chandrima Das*,²⁰ *Nilabati Behara v. State of Orissa*,²¹ *Rudal Shah v. State of Bihar*²²

The first landmark judgment where compensation to the victim ordered by the Madras High Court and upheld with some modifications by the Supreme Court of India was *Palaniappa Gounder v. State of Tamil Nadu*.²³ In this case, the High Court after commuting the sentence of death on the accused to one of life imprisonment, imposed a fine of Rs.20,000 on the appellant and directed that out of the fine, a sum of Rs.15,000 should be paid to the son and daughters of the deceased under Section 357 (1) (c) of the Code of Criminal Procedure, 1973. The Supreme Court while examining the special leave petition of the appellant observed that there can be no doubt that for the offence of murder, courts have the power to impose a sentence of fine under Section 302 of the IPC but the High Court has put the “cart before the horse” in leaving the propriety of fine to depend upon the amount of compensation. In the case of *Sarwan Singh v. State of Punjab*²⁴, the Supreme Court not only reiterated its previous standpoint but also laid down, in an exhaustive manner, points to be taken into account while imposing fine

¹⁹ A.I.R. 1996 S.C. 922.

²⁰ (2000)2 S.C.C. 465.

²¹ (1993)2 S.C.C. 746.

²² (1983)3 S.C.C.508.

²³ A.I.R 1977 S.C. 1323.

²⁴ A.I.R 1978 S.C. 1525.

or compensation. The Honourable Court observed that while awarding compensation, it is necessary for the court to decide whether the case is fit enough to award compensation. If the case is found fit for compensation, then the capacity of the accused to pay the fixed amount has to be determined.

The Supreme Court of India had pronounced upon the need by the government to setup a Criminal Injuries Compensation Board for rape victims within 6 months. The Supreme Court had suggested that this board should give compensation whether or not a conviction takes place. The Supreme Court explained the justification for this proposal as under-“It is necessary, having regard to the Directive Principles contained under Article 38(I) of the Constitution of India to setup Criminal Injuries Compensation Board. Rape victims frequently incur substantial financial loss. Some, for example are too traumatized to continue in employment. Compensation for victims should be awarded by the court on conviction of the offender and by the Criminal Injuries Compensation Board whether or not a conviction takes place. The board will take into account pain suffering and shocks as well as loss of earnings due to pregnancy and the expenses of the child but if it occurred as a result of rape...”

The paradigm shift towards enhancing the compensation was adopted by the court to provide solace to the victim and to service social justice in the society. Thus, in *Ankush Shiwaji Gaikwad v. The State of Maharashtra*²⁵ it was held that, the legislative intent of the provisions relating to victim compensation was to reassure the victim that he is not a forgotten party in the criminal justice system. Further, a landmark decision of the Court in the case of *Suresh v. State of Haryana*²⁶ awarded the victim with an interim compensation and the State was directed pay an amount of Rs.10 lakhs to the family of the victims who had been abducted and murdered.

IV. CONCLUSION

The victim compensation in India is still the vanishing point of our criminal law. The remedies currently available under the law are limited, fragmented, uncoordinated and reactive. This is the lacunae in the system, which must be remedied by Comprehensive Law by the legislature. Nevertheless the criminal justice system has changed its ambit and the legislatures and judges have been playing a significant role in the expansion of the rights of victims of crime in the criminal justice administration of the country, yet the victims have not received their due concern and their rights have not been given their due weightage. Victims have few legal rights

²⁵ (2013) 6 S.C.C. 770.

²⁶ A.I.R. 2015 S.C. 518.

to be informed, present and heard within the criminal justice system. But regrettably, victims do not have to be notified of court proceedings or of the arrest or release of the defendant, they have no right to attend the trial or other proceedings, and they have no right to make a statement to the court at sentencing or at other hearings. Further, the coordination between the various limbs of justice i.e. the courts, the police, the DLSA and the State Legal Services Authority must be streamlined. Each instrument must inform and assist the victim in realizing compensation.
