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Victims Compensation with Special Reference to Acid Attack - A Critical Study

RAJESH BHARATHI S¹

ABSTRACT

An acid attack involves the premeditated throwing of acid on a victim, usually on her face. It is a gender-based heinous crime against women. In addition to causing psychological trauma, acid attacks result in severe pain, permanent disfigurement, subsequent infections and often blindness in one or both eyes. According to the National Commission of India acid attack is “any act of throwing acid or using acid in any form on the victim with the intention of or with knowledge that such person is likely to cause to the other person permanent or partial damage to any part of the body of such person”. As per the study, it can be concluded that the acid attack incident is for refusal to marry, rejection of love or for any personal causes. Acid attack on women is increasing day by day, basically on the girls in the age of 11-30 years. The easy accessibility of inexpensive acid makes the perpetrators to use it as an ideal weapon against this heinous crime against women. Illegal sale and purchase of acid are considered as non-bailable offence, still it is readily accessible in all most the grocery and hardware stores in urban and rural areas. The most common types of acid utilized in these assaults include sulphuric, nitric, and hydrochloric acid. Attack by acid rarely kills a human being but it causes severe physical, psychological and social scarring. The research shows that most of the respondents to acid attack who had faced the violence had faced other form of violence like cast-out from the society, difficult to arrange marriage, employment problem, etc. Several community awareness programs are being conducted by local authorities and administrative departments, to make people aware of this heinous crime.

I. INTRODUCTION

Acid attack is the worst crime against the humanity. High rates of acid attacks in any country indicate that the country's failure to protect its constituents from specific harm.² Several countries including India have adopted stringent measures to eradicate acid attacks, and many have been successful. In India however, the measures have had little to no effect.³ The National

¹ Author is a Professor at Law college, Tirunelveli, India.

² Vidhik Kumar, *Acid attacks in India: A Socio- Legal Report, Dignity: A Journal on Sexual Exploitation and Violence*, Volume 6, Issue 1, Article 5

³ *ibid*

Commission of India defined acid attack as “any act of throwing acid or using acid in any form on the victim with the intention of or with knowledge that such person is likely to cause to the other person permanent or partial damage or deformity or disfiguration to any part of the body of such person”.

In a study conducted by UNICEF reveals, “Acid attack is a serious problem all over the world, even children are become victim of acid attack in many cases. In an Acid attack, acid is thrown at the face or body of the victim with deliberate intent to burn and disfigure. Most of the victims are girls, many below the age of 18, who have rejected sexual advances or marriage proposals. Acid attack is defined as the act of throwing acid onto the body of a person “with the intention of injuring or disfiguring (them) out of jealousy or revenge”.⁴

According to *Encyclopedia of Crime and Justice* ‘violence is a general term referring to all types of behaviour either threatened or actual, that result in the damage or destruction of property or the injury or death of an individual’.

According to *Black’s Law Dictionary*, ‘violence means unjust or unwarranted use of force usually accompanied by fury, vehemence, or outrage physical force unlawfully exercised with the intent to harm’. Violence can take variety of forms.

II. CONSEQUENCES OF ACID ATTACKING

The long-term effects of acid attack are permanent disfigurement of the body. The acid attack victim’s life changes completely in one day, their loved ones start hating them, they are condemned by society for their horrible appearances. The acid attack makes the person’s life hell and it also affects their opportunities for social, psychological, and work.⁵

1. PHYSICAL - Acid eats through two layers of the skin, i.e. the fat and muscle underneath, and sometimes not only eats through to the bone but even dissolve the bone. The deepness of injury totally depends on the strength of the acid and the duration of its contact with the skin.

2. PSYCHOLOGICAL - Even after recovery, acid attack victim suffers from many mental health problems. Victims of acid attack have higher levels of anxiety due to their appearance, depression.

4 Ms. Meghna Bajapai & Ms. Sugandha Singh, *Acid Attack: Burning Issue in India*, 2015 GJLS, Volume III, No.2.

5 Shivani Rawat, *Acid Attack in India- A study from Victim’s Perspective*, Available at <https://lexforti.com/legal-news/acid-attack-in-india/> accessed on 04.01.2021.

3. SOCIAL - Acid attacks usually leave victims handicapped in some way, rendering them dependent on either their spouse or family for everyday activities, such as eating and running errands.⁶ They face a lifetime of discrimination from society and they become lonely. These dependencies are increased by the fact that many acid survivors are not able to find suitable work, due to impaired vision and physical handicapped. As a result, divorce, abandonment by husbands is common in the society.⁷

III. ECONOMICAL

Apart from physical and psychological impact on the victim of acid attack, this heinous crime also puts a person in a financial crunch. The treatment of acid attack victim involves assorted number of surgeries, skin grafting, medication, etc. Since single surgery does not suffice, leading to multiple surgeries, it makes a person out-of-pocket fiscally. Apart from this, acid attack leads to a number of physical disabilities, and those people who are already employed, they face a number of challenges in their employment and are unable to cope up with their job. For those people who are jobless, people are hesitant to hire them, though they might show full empathy with them.

Victim Compensation

Victim Compensation was a unique concept formulated by the Indian Judiciary in order to secure justice. The modern concept of Justice has shown immense concern by providing relief mechanisms to compensate victims. Hence provisions and legislations catering to victim compensation have been evolving ever since the formulation of the Indian Constitution. One primary aspect to reassure and assist the victim would be compensating for the damage caused, this was considered as an essential proponent of 'Right to life' under Article 21 of the Indian Constitution. Later, Section 357-A of the Code of Criminal Procedure, 1973 made it mandatory for the state to provide compensation for the victims and their dependents who have been injured as a consequence of the damage caused. Victim Compensation Schemes were formulated by almost all states of the Country, to provide for appropriate compensation.

In *State of Maharashtra v. Ravikant Patil*,⁸ the Bombay High Court held that handcuffing and parading of the petitioner was unwarranted and violative of Article 21 and directed the Inspector of Police who was responsible for this to pay Rs. 10,000 by way of compensation.⁹

6 Ms. Meghna Bajapai & Ms. Sugandha Singh, *Acid Attack: Burning Issue in India*, 2015 GJLS, Volume III, No.2.

7 *ibid*

8 (1991) 2 SCC 373

9 Pandey J N, *Constitutional Law of India*, (Central Law Agency, Allahabad 45th ed.,) 2011

In *Peoples Union for Democratic Rights v. Police Commissioner, Delhi Police Headquarter*,¹⁰

A labourer who was taken to the police station for doing some work, was severely beaten when he demanded wages. The Supreme Court held that the State was liable to pay as compensation Rs. 75,000 to the family of the deceased.

In *Rudal Shah v. State of Bihar*,¹¹ the Court awarded Rs. 30,000 as compensation to the petitioner who had to remain in Jail for 14 years because of the irresponsible conduct of the State authorities. In *Bhim Singh v. State of Jammu and Kashmir* (1985) 4 SCC 677 the petitioner was awarded compensation of Rs. 50,000 for the violation of his constitutional right.

IV. DOMESTIC VIOLENCE

Violence within home is one of the leading causes that has attributed to the throwing of acid by family members on vulnerable and browbeaten women. In this male-domineering society, denial by women on anything or her vocal nature has been taken as a defiance and rebelliousness by the husband or his family members and has resulted in such tormenting and traumatic incidents. It could be related to bringing of less dowry, inability to bear a child, refusal to obey, suspicion, property disputes, family disagreements, etc.

In *Ram Charittar and Another v. State of Uttar Pradesh*, the husband wanted to kill his wife and daughters so as to appropriate the property. He perpetrated an acid attack following which she died. The Supreme Court upheld his conviction but no compensation was awarded to the victims.¹²

V. BACKGROUND OF THE AMENDMENT

The Gonda Acid Attack case, where three minor sisters were attacked with acid in the middle of the night and suffered 5 to 30 percent burns, raises questions of the ineffective implementation of laws. Violence against women has been rising despite numerous laws in place designed to stop it. This is mainly due to the reluctance of public authorities to participate and solve matters and these results in a rise of crimes against women without deterrence. Acid attacks are exceptionally horrifying in nature as the perpetrator intends to disfigure and cause mental and physical agony to the victim.¹³

¹⁰ (1989) 4 SCC 730

¹¹ (1983) 4 SCC 141

¹² Amlanika Bora, Harshita Priyadarshi, *The Concept of Victimology through the Lens of Acid Attack Victims: A Judicial Paradigm*, International Journal of Science and Research.

¹³ Sukhman Sandhu, *Where is the justice for victims of Acid Attacks in India?*, Available at <https://www.theleaflet.in/where-is-the-justice-for-victims-of-acid-attacks-in-india/#:::text=The%20sections%20now%20specifically%20criminalised,life%20imprisonment%20and%20a%20ofine> accessed on 12.01.2021

The consequences faced by the victims of acid attacks are that they live a life of seclusion in society. They are denied employment opportunities and there exists inherent and perpetual discrimination towards them because of their appearance, leading them to be termed as 'social outcasts' depriving them of their life and personal liberty. Common reasons that come forward are ones where the aggressor feels a serious threat to his masculinity. It could be instances of refusal to a marriage proposal, non-payment of dowry demands, or refusal to grant sexual favours.

The Law Commission of India in its 226th report published in 2009 highlighted the need of adding 'acid attacks' as a separate offence in the IPC, proposed an enhancement of punishment for causing acid attacks. This was in lieu that the offence of 'grievous hurt' does not match the gravity of offences related to acid attacks. Further, it called for separate legislation called the Victim Compensation Fund Scheme for the purposes of rehabilitation of acid attack survivors.

Sections 326-A and 326 - B were added in the Indian Penal Code through The Criminal Law (Amendment) Act, 2013. The sections now specifically criminalized acid attacks and the attempted acid attacks. The punishment in the case of Section 326-A (Voluntarily throwing or attempting to throw acid, etc.) was the imprisonment of not less than ten years, which could be extended to life imprisonment and a fine. Further, according to Section 326-B (Voluntarily throwing or attempting to throw acid.), the attempts of throwing acid were criminalized and made punishable with an imprisonment of not less than five years which could be extended to seven years, along with a fine.

VI. ACID ATTACK RELATED CASES

In the landmark judgment,¹⁴ the Supreme Court laid down strict guidelines for the state governments to frame stringent regulations regarding the sale and purchase of over the counter acid, in hopes of reducing the occurrence of acid attacks. The court has also framed guidelines regarding emergency medical response and fixed a quantum of compensation for the victims. Further, the Court has pointed out the rate of compensation should be enhanced to at least Rs. 3,00,000 (Three lakhs) as aftercare and rehabilitation cost. Further the Court directed to all the states to adequate rules in this regard keeping the directions issued by this Court in mind.

In the case of the *State of Karnataka by Jalahali Police Station v. Joseph Rodrigues*, the accused threw acid on a girl named Hasina because she refused to accept his job offer. After

14 *Laxmi v. Union of India*, (2014) 4 SCC 427

this attack, her skin colour and appearance of her face was changed. Moreover, this attack left her blind. The accused was convicted under Section 307 of the Indian Penal Code and punished for the imprisonment of life.¹⁵

In *Sabana Khatun v. State of West Bengal & others*, the victim in the present case suffered serious injuries due to pouring of acid in her mouth by the accused. The victim filed a writ petition in the High Court as compensation was denied to her by the Chief Secretary of West Bengal. The plea taken by the state government was that the compensation can only be awarded to the victim on the recommendation of State Legal Service Authority which was denied by the court, and it was ordered that a compensation to be awarded to the victim and her family.

In *State (Delhi Administration) v. Mewa Singh*, the accused was known to the victim. One day he passed some offensive and indecent remarks on the victim which was not liked by the victim, and her father and they admonished him. The accused became spiteful and threw acid on the victim when she was sleeping. She sustained 40 per cent of burn injuries. The Sessions Court, giving benefit of doubt to the accused acquitted him. When the matter came to the High Court in appeal, the Delhi High Court reversed the judgement pronounced by the Sessions Court.¹⁶

15 Diganth Raj Seghal, *Are current acid attack laws successful*, available at <https://blog.ipleaders.in/are-current-acid-attack-laws-successful/> accessed on 15.01.2021.

16 Goswami, S., & Handa, R. K. (2020), *The Peril of Acid Attacks in India and Susceptibility of Women*, Journal of Victimology and Victim Justice, 3(1), 72–92 available at <https://journals.sagepub.com/doi/full/10.1177/2516606920927247#> accessed on 18.01.2021