BLOGS

Victim Compensation in the Cr.P.C. for CLAT

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Original Provision of Section 357, Cr.P.C.

The provisions regarding the payment of compensation are present in **Chapter XXVII** of the Code, titled "*Judgment*". Originally, in the Code of 193, Section 357 governed the payment of compensation to the victim[i] (term 'victim' not used here).

1. When fine forms a part of the sentence: The provision provided that while imposing a sentence (of fine or a sentence [ii] of which fine forms a part), the Court may order the fine or part of it to be used in:

- In the payment to any person of compensation for any loss or injury caused by the offence, when compensation is recoverable by such person in a Civil Court. [Section 357(1)(b)]
- In paying compensation to the persons who are, under the Fatal Accidents Act, 1855 entitled to recover damages from the person sentenced for the loss resulting to them from such death [When any person is convicted of any offence for having caused the death of another person or for abetment of such an offence] [Section 357(1)(c)]
- In compensating any bona fide purchaser of property for its loss, if such property is restored to the possession of the person entitled thereto [When any person is convicted of any offence which includes theft, criminal misappropriation, criminal breach of trust, or cheating, or of having dishonestly received or retained, or of having voluntarily assisted in disposing of, stolen property knowing or having reason to believe the same to be stolen] [Section 357(1)(c)]

2. When fine doesn't form a part of the sentence: In such cases, the Court in its discretion while passing judgment, *may* order the accused person to pay 'compensation' of a specified amount to the person who has suffered any loss or injury. **[Section 357(3)]**

3. The amount of compensation awarded under this Section shall be taken into account in a subsequent civil suit regarding the same matter. **[Section 357(5)]**

VICTIM COMPENSATION SCHEME

It may be noted here that the term “victim” doesn’t appear in Section 357 but it appears in the later provisions, e.g., Section 357A. It is because the definition of the victim and the Victim Compensation Scheme of the later provisions were added in the Cr.P.C. in 2009[iii].

This scheme is codified in Section 357A of the Code, and contains the following important elements:

- Who shall prepare the scheme? The State Government in coordination with the Central Government.
- Purpose of this scheme: For preparing funds for compensation to the victim/his dependents (a) who have suffered loss or injury as a result of the crime and (b) who require rehabilitation.
- Authority responsible for determining the quantum of compensation: The District Legal Service Authority or the State Legal Service Authority, on the recommendation of the Court.
- When can the trial Court make recommendations for such compensation? (a) When the compensation awarded under Section 357 is not adequate for rehabilitation (b) Where the cases end in acquittal/discharge and the victim has to be rehabilitated.
- Application to the District/State Legal Services Authorities: Victim/his dependents can make an application to these authorities for the award of compensation: (a) Where the offender is not traced/identified but the victim is identified and (b) Where no trial takes place.
- Duties of the District/State Legal Services Authorities:
  - On receipt of such recommendations/application, the Authority shall award adequate compensation by completing the due enquiry within two months.
  - Interim Reliefs: The Authority may order for (a) 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 in charge of the police station OR a Magistrate] (b) any other interim relief as it deems fit.

OTHER MISCELLANEOUS PROVISIONS [iv]

- Section 357B: This provision clarifies that the compensation payable under Section 357A shall be in addition to the payment of fine to the victim under Section 326A, Section 376AB, Section 376D, Section 376DA and Section 376DB of the Indian Penal Code, 1860.

- Section 357C: This provision takes forward the victim-friendly vision and objective of the Victim Compensation Scheme. It imposes a duty on all hospitals [public or private/run by the Central Government or the State Government/local bodies or any other person]. They are obligated to provide, without any cost, first-aid or medical treatment to the victims of offences like[v] acid attacks and rape. A duty is also imposed on the hospital to immediately inform the police of such an incident.

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[i] **Victim** is defined under *Section 2(wa)* of the Code: “means 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”.

[ii] This sentence may include a sentence of death.

[iii] Inserted by Act 5 of 2009 (w.e.f. 31-12-2009)

[iv] Ins. by Act 13 of 2013, s. 23 (w.e.f. 3-2-2013).

[v] This covers offences under Section 326A, 376, 376A, 376AB, 376B, 376C, 376D, 376DA, 376DB or section 376E of the Indian Penal Code, 1860.