Training on Rights of Acid Attack survivors and Implementation of the Law

28th and 29th April 2018
Training on Rights of Acid Attack Survivors and Implementation of the Law
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I would like to thank everyone from Human Rights Law Network and the Centre for Constitutional rights for their relentless support in making the training successful. This program would not have been possible without the continued efforts of the Meer Foundation and Jamia Hamdard University, New Delhi.

Finally, I would like to thank HRLN’s founder Colin Gonsalves, for his constant, fierce, unapologetic work on behalf of all marginalized and vulnerable communities in India for the past three decades.

Shaheen Malik
National Coordinator
Campaign against Acid Attack
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BACKGROUND

UNDERSTANDING ACID ATTACK

Acid Attack is an attack or attempt to attack a person with the intention to disfigure, torture, or kill, using acid or any other kind of corrosive substance. Such an attack results in permanent physical disfigurement, damage to internal organs, as well as death in some cases. For victims who survive this attack, there is a constant battle of survival for the rest of their life coupled with complete disability and crippling depression.

India records at least 300-500 cases each year. There were no separate statistics for acid violence cases in India until the early 2013 as Indian Criminal Law did not recognize it as a separate offence. With the amendment in the Indian Penal Code in 2013 (The Criminal Law (Amendment) Act, 2013), incidents of acid attacks are now being recorded as a separate offence under Section 326A and 326B of the Indian Penal Code. Despite the aforesaid, there has been a steep rise in the number of cases. While there are Supreme Court guidelines set out in the case of Laxmi v Union of India (2013)\(^1\) regarding the regulation of sale and procurement of acid, acid is still readily available over-the-counter.

Justice for acid attack survivors has evolved through the years with the judiciary taking the lead in setting the tone for compensation and rehabilitation of the survivors. Right from the accessing continuous free medical treatment to compensation and rebuilding their life, the battles a survivor has to face are endless.

Right from immediate medical assistance, to psychological counselling services for survivors and their family, and providing legal aid for compensation, following up the trial procedure, sending representation letters to the state governments and concerned authorities on behalf of the victims and/or filing writ petitions for compensation as well as for the enhancement of such compensation and rehabilitation; a survivor needs to be assisted throughout this long and often cumbersome journey.

HRLN through its acid attack initiative seeks to make use of existing laws to oppose all forms of violence against women and gender-based discrimination. Primarily, HRLN aims to cover all needs and requirements of a survivor, post the acid attack, and their subsequent rehabilitation.

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\(^1\)Laxmi vs. Union Of India and Ors. (WP (CRIM) 129/2006)
HRLN also holds regular meetings with doctors and government organizations such as the Women's Commissions, State Legal Services Authorities and Departments of Women and Child Development to apprise them about the various cases and related data collected by us.

It also connects with organizations that help in providing vocational training to the survivors and help with their rehabilitation. HRLN also publishes books and reports to document attacks, provide information on the issue, and gather support for the survivors.
EXECUTIVE SUMMARY

The Centre for Constitutional Rights in collaboration with Meer Foundation and the Jamia Hamdard University organized the National Meeting and Training on Rights of Acid Attack Victims and Implementation of Law on the 28th and 29th April 2018.

Through this collaboration, HRLN and CCRI intended to bring out the stories of the survivors, their struggles in an effort to help create awareness as well as provide a platform for discussing the law as it stands on acid attack and the way forward. The two-day training programme witnessed advocates, expert medical professionals, and other stakeholders come under one roof with the survivors and discuss the detailed procedure of law, compensation, criminal procedure, investigation, medical procedures, and the impact on the lives of the survivors and their families.

Primary emphasis was on understanding not just compensation but also the support mechanism needed for survivors throughout their lifetime. Experts convened session on understanding the nuances of the criminal procedures and the schemes for compensation and rehabilitation that survivors could avail. Sessions by medical experts clarified various issues regarding first aid, surgery, different treatment procedures and the advances in medical technology which would only help survivors cover further. Each survivor hailing from different corners of the country recounted their experiences, shared their stories and spoke about the change they wanted to see in the implementation of the law.

Each survivor's story lent inspiration and motivation to the other, creating a bond of women and men who have shown immense strength in fighting for their rights. The two-day session of learning concluded with a session on the way forward, where key issues which can be taken up as issues of Public Interest Litigation were narrowed down and it was decided to proceed on a dual strategy - with cases in High Courts as well as Supreme Courts, depending on the issues, states and judges concerned at the same time ensuring advocacy continues at the ground level.
INTRODUCTION

Dr. Seyed Ehtesham Hasnain, Vice Chancellor, Jamia Hamdard University welcomed the survivors, activists, lawyers and all the guests to Jamia Hamdard University.

Dr. Seyed spoke about the need to increase awareness among the people about the work that is being done by such organizations like HRLN, CCRI and Meet Foundation. He spoke about the low number of organisations that work on the issue of Acid Attack. He also shed light on issues beyond acid attack such as housing rights, refugees, death penalty and other forms of violence against women which also demand the need to be brought to the limelight through advocacy and litigation.

He emphasised on the Jamia Hamdard facilities and faculty and that the University is always willing to help and collaborate with organisations such as HRLN and CCRI for any further events and trainings, reflective how the university started, as a place that grew of “Hamdard”.

Jamia Hamdard University’s Vice-Chancellor Dr. Seyed Ehtesham Hasnain
Dr. Colin Gonsalves commenced the session explaining that the aim of everyone present here should be to make the movement against acid attack much stronger. He advised the network to come together and fight against the myriad of issues survivors face. Together, he said, bringing about change would be much easier.
**Brief History of Acid Attack Litigation**

An insight into the history of litigation around acid attack was given in this session.

Prior to the case Laxmi vs. Union of India\(^2\) of not many cases of acid attack came into the limelight primarily because they were not being reported and the limited awareness about this crime in mainstream media, amongst legal practitioners and the justice delivery machinery as well. It was in Laxmi’s case that compensation of rupees 3 lakhs was ordered by the Supreme Court of India. All though it is still meagre compared to the expenses that a survivor has to incur, Laxmi’s Case set a precedent on free treatment, compensation and sale of acid.

The next big development with regards to litigation was the case of Parivartan Kendra vs. Union of India\(^3\), where the survivor Chanchal, had to undergo at least 8 reconstruction surgeries for which a sum of 3 lakhs would not be enough in any manner. Only after presenting the bills and predicted expenditure reports did the Supreme Court decided to order for a compensation of rupees 13 lakhs. From practical experience, it is known that even a sum of 13 lakhs is still also not enough for compensation. It is therefore, the right time for the movement against acid attack to come together and push these boundaries of compensation set by the constitutional courts.

With regards to the trials and criminal proceedings, if one were to contrast the law in India with that of Bangladesh with regards to acid attack, on the one hand, acid attack is a non-bailable offence in Bangladesh while in India, more often than not, accused persons are granted bail easily. The never-ending trials and lack of legal aid lawyers to assist survivors are just some of the challenges that exist today when it comes to implementation of the law.

It is important for the movement against acid attack to ponder upon how to strengthen the law as it stands in India to ensure both punitive and deterrent outcomes when such cases comes to trial.

Dr. Colin Gonsalves concluded his session emphasising on survivors, activists and lawyers working together to plan out a litigation strategy by the end of this two-day- conference which addresses the key issue that emerge from the experiences and the change the movement wants to see.

\(^2\) Laxmi vs. Union Of India and Ors. (WP (CRIM) 129/2006)

\(^3\) Parivartan kendra
OVERVIEW OF THE PLIGHT OF ACID ATTACK SURVIVORS AND THE POOR IMPLEMENTATION OF THE LAW

Shaheen Malik, Director, Acid Attacks Survivor’s Initiative, HRLN

National Coordinator of the Acid Attacks Survivor’s Initiative, HRLN, Shaheen Malik started the session by reflecting on her experience as an acid attack survivor. She spoke about the deep-rooted patriarchy and the culture of extreme violence in the society which has caused the number of acid attacks to shoot up in the recent past. Recounting the day that she was attacked she spoke about asking the police officer how long it would take her to get cured. The police officer not knowing much about acid attack either, said it would take at least a year. It has now been 9 years since her attack and she still is in the midst of undergoing surgeries for reconstruction of her skin.

It was while running from pillar to post with regards to her compensation and case that Shaheen came to realise the vast number of survivors of acid attack that remain helpless and unaware within Delhi itself. Shaheen recalled one of the earlier cases she assisted with, where an entire family was attacked with acid. Later, the team of lawyers and Shaheen found that the family was admitted in Safdarjung hospital and that they only breadwinner of the family, the father was a rickshaw puller who could barely earn Rs. 200 a day.

It was only when the media were involved that the case came to the limelight. It was through this experience that Shaheen learnt of the importance if the Laxmi vs Union of India^{4} judgement of the Supreme court according to which acid attack victim can approach a private as well as

^{4}Laxmi vs. Union Of India and Ors. (WP (CRIM) 129/2006)
public hospitals for free treatment. Another case that shocked Shaheen was that of a young child who was attacked which burnt his eye completely. On reading this in newspaper, Shaheen along with two other advocates rushed to the hospital. She recalls the struggle that she and the lawyers had to go through to ensure that survivor was admitted to the hospital. While the hospital agreed to admit the child they later denied admission. It was only after much pressure from the activists and lawyers that any treatment was given. She highlighted that even though the Supreme Court had passed a judgement for the acid attack victims to get treatment, it still is so difficult for survivors to get immediate treatment, let alone long term surgeries and procedures.

Counting on her experience as well as that of the other survivors she has assisted, she spoke about loss of identity being the biggest challenge for victims, especially who were attacked on their face. Even after treatment, a survivor I still has to live through the rest of her live trying out figure out her identity and to be accepted by the society for how they are without being looked down upon with sympathy. This is only one part of the journey, the treatment comes with its own set of precautions and life-time care that must be taken. Besides all these, the bigger concerns of employment, managing expenses and standing on their own two feet are always haunt survivors.

She concluded her experience sharing session with words of encouragement and empowerment for all survivors. She asked them all to never let the physical pain bring down their zest for life. She spoke about the need to continue to pursue authorities, the justice system and the state to better implement policies, improve compensation schemes and bring out employment and livelihood schemes for survivors.

**Stop Acid Attack (Video)**

A video of the Stop acid attack campaign song by Ankisha and Sumit was screened at the beginning of the training session, to give the audience an insight into the life of an acid attack survivor. A person with goals and aspirations, going about her life just as one does and how because someone couldn’t handle being rejected by a woman, in revenge throws acid on her with the purpose of teaching her a lesson. An acid attack survivor doesn’t look for sympathy or pity from anyone, they aren’t weak and are capable of doing anything anyone else can, they do
however require your support, as life after an acid attack changes things for them. A selfish act to satisfy one’s ego can cause grievous damage to someone else’s life. The documentary helped give the audience an idea about the issues that would be covered in the training session for acid attack survivors and to create an environment such that would help them absorb everything better.

Asmita Theatre Group

The very popular Asmita theatre performed a play at the Training Session held for Survivors of Acid Attack, focusing on the issues of acid attacks, rape, eve-teasing and all such forms of sexual harassment, with a view to sensitize and make aware the audience comprising of students, lawyers, acid attack survivors and organisations that work for the welfare of acid attack survivors. Each and every aspect of how and why such crimes are often committed like rejection and revenge were portrayed beautifully. It gave an insight into the lives of these survivors and got us as close as one could ever get to understanding the plight of the people that have lived through such violence.
Kafi 11 years old now and studying in 6th Standard at The Institute for the Blind in Chandigarh is a survivor of an acid attack. The unfortunate incident happened when Kafi was really young, around 2 years old, and her father along with his relatives were sitting in the open outside the house, Kafi was sitting on the lap of her uncle when the acid was thrown on her due to which Kafi lost both her eyes and suffered severe disfigurement of the face and body.

No clear motive could be figured out for the accused to have resorted to such measures. The accused were 4 brothers, that lived in their neighbourhood aged about 50, 35, 32 and 30 respectively, at the time. The father had filed a complaint in the nearest police station, in Hisar District, but the police did not take immediate action against the accused, only two of the four accused were arrested due to lack of evidence, and in the criminal case that was being carried out at the District Court, Hisar, the court gave the sentence of three years in prison to the accused. Not satisfied with the judgement of the District Court they decided to file an appeal in the Punjab and Haryana High Court. The case is still ongoing and Kafi’s father only hopes that the accused are punished in accordance with the heinous crime committed by them.

Kafi has come a long way from the time of the incident and has grown into a talented young girl. She writes poetry and on the day of the training program Kafi graced us with her poetry which she very gracefully recited. She has a beautiful voice and sang a beautiful song for the audience as well. Kafi’s father does not come from a financially sound background and has had to take loans to pay for Kafi’s treatments and surgeries which amounted to around 10 lakhs, and he has only received relief of Rs. 3 Lakhs, from the Haryana Govt.
ACID ATTACK SURVIVOR TESTIMONIES

Sonali Mukherjee | Jharkhand

“When I was attacked with acid, I was totally unaware of anything remotely close to what an acid attack is. No one in my family knew, either. In fact, mine was the first reported case of acid attack in the state of Jharkhand. With the help of activists and well-wishers, I filed a complaint and my case was taken to court. The culprit in my case was given a punishment of 6 months. Despite the short punishment duration what shocked me the most was that we were told that the accused can be given bail.

As an acid attack survivor we are dying a death every day -- and yet have to struggle constantly to even get heard in court. We’re told that the delay is because the courts are clogged with murder cases. I would like to ask the courts and the state; “Are our cases any less important than murders?”

My treatment cost me lakhs of rupee and the treatment continues till date. My treatment itself was done in a negligent and inadequate manner which resulted in me suffering a lot with fungus and infections on my body. With adequate guidelines and training of doctors this could have been avoided completely.

After continuous struggle for compensation and to stand on my two feet, I was given a government job by the Hon’ble Chief Minister of Jharkhand. However, this is the exception not the norm. So many survivors continue to struggle to make ends meet. Survivors have no source of income, have lost jobs or are not in the condition to take up certain jobs.

Our ask as members of the campaign against acid attack should not only be about compensation but for full social, political and economic empowerment.”
“As a young girl I was always interested in makeup, fashion and cosmetics. I loved to experiment with different products as well as help other girls my age with makeup. In 2004 while returning from work one day I was attacked with acid by two men who fled away on a bike. At the age of 19, after the attack I was frozen. I didn't know what to do and whom to approach and I lost my right eye because I couldn't get proper treatment at the right time. Since my attack it has been 14 years and just like other survivors, I have had to fight for my rights, asserting myself and demanding equality in the society. Beyond the justice system and courts, the real struggle has been to regain my life. After a couple of years of intensive treatment, I decided to take things in my hand, fulfill my childhood dream and start my own salon. Today, I am not known for the attack but the distance I have travelled after the attack and the life I have made for myself and my daughter.

We survivors, think that someone who hasn't gone through what we have would never be able to understand our pain. However, we should let go of this way of thinking. We should let go of the shame and humiliation. In fact we should walk with our heads held high, we should be proud of our journeys and our struggle. It is this struggle and journey that will empower us and others.

I want us to come together to fight for the bigger fights; the fights to ensure that acid is banned, to guarantee that the law includes provisions for male as well as female survivors and to ensure that each survivor no matter when they were attacked gets access to free medical treatment as well as compensation.

“As a survivor I have learnt a lot in the past couple of years. One of my biggest learnings is that our brain only understands that which we allow it to. When I was attacked I thought I would not be able to face people. However, years later, I am here, in front of a crowd of people, away from home, talking about my story and my fight. We need to make our lives beautiful ourselves. No one else can do it for us.
To all the survivors here I would like to say that if there is any hesitation that you still have in your heart, I request you to leave it here and walk out of this place today with confidence!

Life doesn’t stop for anyone, does it? It teaches you what it wants to! So, we have to make our own laughter, because the world can make a fool out of you in an instant.”

Mohini Atri | Delhi

“In a summer afternoon of 2005 I was attacked with acid while I was with my father. We were both burnt by the attack. I was admitted in the ICU for 3 months. When I came back home I could not accept what my face looked life, and this made my life very difficult. I had lost hope of stepping out of the house. I feared neighbours and children making fun of me and my face. I was ashamed. I believed my face was my only identity and post the attack I was left with nothing.

After struggling for year, one day, I asked myself, is Mohini just a face? We are more than our faces!

My family stopped getting out of their house in shame. I felt like I either had to kill myself or face my reality. It took me three years of struggle to get out of my house, but I took life in my own hands.

I had heard about the compensation scheme for acid attack survivors and subsequently applied for it. I kept going to court for two years only to be denied. It was only after struggling for long that I came across lawyers and organisations that were willing to help and support me.

I would like to tell you (survivors) all that if you have the determination to fight there is no one that can stop you! Despite my struggle, today, I work as a clerk in Delhi Legal Services Authority.

And now I know, beauty does not lie in your face. It is in your heart, in the eyes of the beholder!”

Mohini from Delhi
Gulnaaz | Jammu

“I am from a small village in Jammu and Kashmir. I used to work in a beauty parlour when I was married off at the tender age of 16. I started my own beauty parlour to earn some money and take care of my three children. One day, when I had gone to the shop to buy meat, there was an electricity supply shortage.

I approached the local Imam for meat instead and at that moment, the Imam came from the front, in pitch darkness and threw acid on my face. I had to come to
came to Delhi for the first stage of my treatment which lasted for 4 months. I had three operations, but they weren’t properly done. Living as a survivor is though; the people, society and the criminal justice system only make it harder. My own daughter came home crying saying she was teased by one of the kids at school about her mother having just one eye.

It was only after a lot of struggle that I received helped me with my treatment and am able send my daughter to college.”

Durjan Singh | Delhi

“In early 2008, I was coming home after dropping my granddaughter to school and I was attacked by unknown persons who threw acid on me. As soon I was attacked, I was taken to Safdarjung Hospital, where I was told that my injury could have no treatmen
t. Months later I came across a newspaper article about the Victim Compensation Scheme. I immediately approached multiple government offices to avail the scheme and received no answers. My daughter came across Shaheen's organisation on the internet. We got to know that she would be able to help me with the treatment as well as compensation. Upon approaching Shaheen, she assured me that I would get compensation. Firstly, an application was made with the District Legal Services Authority, Delhi. Despite going to the DLSA continuously and following up with them, I was given no help, in fact I was repeatedly harassed and belittled. Without any recourse, we went to the High Court with an urgent application. The court ordered that despite being a male survivor, I should be given compensation immediately and I have received about 7 Lakhs in compensation now.”

Durjan Singh is the first male acid attack survivor in Delhi to receive compensation vide an order of the Delhi High Court.

Archana | Uttar Pradesh
“In 2008 my neighbour came into my house and threw acid on me. My eyes were completely damaged. I lived in a village and couldn’t get immediate necessary treatment. Our entire family never knew about acid attacks and thinking it is oil, my mother immediately wiped my face with her saari. This worsened my burn as it spread the acid all around my face. No one thought to remove my clothes or put cold water on me. A couple of hours later, a local doctor was called who then suggested to take my clothes off and to put cold milk on me. It was when my father realised that this was an acid attack that I was taken to Safdarjung hospital.

My experience there was extremely humiliating at the hospital. I was kept in Safdarjung Hospital for 15 days and then I was discharged. During this time my father and mother went through extreme mental trauma. The trauma also resulted in my father suffering a stroke. We have suffering extremely financially and are reminded everyday about what has happened to me.

I do not want to be looked down upon as a victim but as a fighter. Increasing the compensation is not the answer they need to empower us and make us independent!”

Reshma| Delhi

“At the tender age of 17 I was attacked by my brother-in-law along with his friend. I was attacked in a crowded market are and not a single person lend their hand to help me. It was only after two hours that someone helped me and took me to the closest hospital, where they refused to treat me. On hearing this I and my mother were in shock. I immediately went to a Police Station and then I was taken to a Government Hospital. By the time I was referred to a private hospital my eyes were completely ruined. I am from Mumbai, so I was then taken to back for better treatment. When I looked at myself I was broken, and I wanted to kill myself. After my attack, I started to confide in myself and didn't speak to anyone or go outside for a very long time.
During this period that I met Riya Sharma. It is through her that I gained my confidence back. She told me about the numerous other women who are suffering through this same as me and not giving up. With the support of other survivors and their stories that inspired me, I started my makeup channel on YouTube, started modelling and just a few months back I was invited walk the ramp at New York Fashion Week, something I couldn’t have dreamt of a couple of years back.

Just after I got back from the United States, I got to know that the accused in my case approached the courts to quash proceedings against them because primarily seeing me move forward in life and live a life they could have never imagined I would be leading. At first, I was shocked to hear that.

I won’t say that we are living our lives, we are fighting! Each day, we are fighting, Fighting against stigma, against society and against the patriarchal and prejudicial system.

I would like to tell everyone here that if you can’t support us you should not say anything. It is extremely important for the society to support and lend a hand to victims of acid attack. This is not just monetary help. It is much more important to help survivors with counselling and supporting them in any other way. This could involve providing first aid and emergency relief. However, the most important thing is for the society to not look at survivors with a look of disgust or fear, instead like humans, with love, care and affection….this is all I want from the people of the society.

As far as my story is concerned, I believe that today I went to the New York, tomorrow another girl will, and every survivor will fulfil their dreams just like other girls."

Basanti | Delhi

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“My name is Basanti from Bihar. I was doing a field duty at an IAS officers house where I was taking care of his family and children. The children of the house loved me dearly and I was very close to the children as well. One day when I went to drop his children, at the bus stop, my employer's driver came on the bike and threw acid on me and fled away. I was in shock and trauma and had no idea who to walk up to for help. No one helped me or gave me immediate help. I called 100 and was not given any response. I walked myself to a small shop and poured water on myself. Much later I was taken to the Safdarjung Hospital where I was taken back to my employer's house. There I was not taken to any hospital. By this time, the acid had seeped deeply into my skin, leaving me with extreme burns and need for immediate care. I was able to survive despite this, get medical help and slowly recover.

However, I was not going to sit back and wait, I was determined to knock the doors of the courts. I decided to ask a private lawyer to take up my case, but here too, I faced the worst of the system as I had to give all my compensation money to that lawyer. When I approached a government lawyer, he wouldn't turn up on my dates, even though I didn't have to pay him anything. It was much later that I came in contact with Shaheen, who helped me with a pro-bono lawyer and has reinstated my willingness to continue fight.

Savita Chaudhary
I am from Ghaziabad - many years back, when I was attacked with acid, I had to struggle a lot and still I have not lost my confidence. I can never forget the incident, but I have come a long way from it. We are victims despite having done no wrong.

My sole crime was that my father, a teacher, had denied a boy from taking an exam. This boy had threatened my father, and as you can see, he made good on his threat. When I was admitted at the Safdarjung hospital, I was not treated because of the strike. I was just kept lying at the beds. Much later I was admitted at a co-operative society hospital, where my grafting and surgeries. The state of affairs when it comes to our rights as survivors is extremely poor and we need to come together to ensure that it does not remain the same for long.

I was fortunate, that even after such an attack, I found a husband who reminded me of the existing goodness in this world. But I still dream of working someday, so I can regain the confidence I have lost. I only hope and wish that we, acid attack victims should not be just content with life, we should strive to be much more and go ahead in life.

ROLE OF NGOs

Day 1: Geetika Hazari, Director, Meer Foundation; Alok Dixit, Founder, Stop Acid Attack; Bhaskar Aggarwal, Founder, Helping Human; Anahita Mehra, Remedy

Day 2: Chandrahas Mishra, Acid Survivors and Women’s Welfare Foundation; Swati Chatterjee, Secretary, South Kolkata Sannidhya

In a solution-oriented discussion with representatives from organisations and activists working for acid attack survivors discussed the technical aspects, challenges and the way forward while working to ensure relief, support and rehabilitation for acid attack survivors.
Awareness

Apart from the traditional methods used by civil society to create awareness around issues, one of the key suggestions of this session was for NGOs to create a platform to encourage survivors to talk and write about their stories. This was especially important to generate awareness about the issue, the struggle faced by survivors as well as the challenges they face in the within the justice system.

Advocacy

Bringing something new to the discussion on advocacy was another key area that was discussed by the panel. It was said that the time had come to shift the lens on advocacy and look at it in a wholesome manner. From working with the District and State Legal Services Authorities to ensure the compensation amount is given without delay to demanding a huge wave of policy change with regards to a rehabilitation and livelihood of survivors was the ask of the hour. With an increasing number of NGOs working on this issue, it was the time to specify asks as per the needs of survivors. Newer asks of state sponsored education, livelihood schemes, reservations and insurance schemes solely for acid attack survivors were for the civil society to put forward through advocacy. It was highlighted that a stronger push for NGOs collaborating with the justice delivery system was needed as well.

Collective action

For NGOs to really shake up the system, a 360 degree approach is essential. This was a key role identified for the collective as a whole. The panel noted the importance of partnerships and working together utilizing each other’s areas of expertise and strengthening the movement against acid attack. For real change it is essential for lawyer, activists, campaigners, foundations, and individual donors to come together and unite their voices.
Ms. Vijayanta Arya, DCP South, IPS

Vijayanta Arya DCP South, IPS, discussed the role of police in dealing with acid attacks in this session. Accompanying her were a team of four women police officers of the Women's Patrolling team of Delhi Police. During the session, Ms Vijayanta spoke about the role of the police in cases of acid attack and addressed the concerns of several acid attack survivors in the audience, offering them viable steps to seek relief.

**The first step**

It was highlighted that informing the police of any such incident was of great importance. Survivors or witnesses of any such incident must report to the nearest station without fail. Particularly survivors must never be put down by any unfavourable experience or preconceptions regarding the approach of the police they have. Always approach a senior officer if not heard at the first go.
During the interactive session it was also stated that survivors must file written complaints directly to the police if they fear that the First Information Report (FIR) would not capture what they want to state. Further, survivors could bring along a trusted person when coming to write complaints to ensure the process was conducted smoothly.

Addressing the issue of the lack of response of emergency calls to the police, it was said that the Police Control Room calls are dealt with on levels of urgency and priority which may be why some calls are not given an immediate response.

Emphasis was also laid on the fact that often acid attack victims aren’t in the state of mind to give a proper statement, and as it is true that the police is duty bound to take the statement of the survivor as soon as possible what is also true is that they cannot interact with the survivor as long as the doctor doesn’t approve it. The first statement however important is also considered to be a limited statement, which can be added to and modified by the survivor when she/he feels that they can now deliver a proper statement and investigation then proceeds with the new statement.

**Survivors safety and related issues**

Addressing the safety, of survivors or those who have reason to believe they might be attacked, contacting the district Superintendent of Police to assist for protection was suggested. This was particularly important in cases where the trial was still on and the accused is out on bail.
In cases where any kind of improper and unprofessional behaviour by the police was seen, the survivors and their families were advised to immediately complain to superiors and write a written complaint if they weren’t heard.

The session concluded her session with Ms. Vijayanta Arya encouraging people to collaborate and cooperate with the Police and never back down from reporting any case.

ROLE OF DOCTORS

Day 1: Dr. Rakesh Kain, Senior Plastic Surgeon, Safdarjung Hospital and Dr. Shalabh, Senior Plastic Surgeon, Safdarjung Hospital

Day 2: Dr. Rajesh Vats, Senior Plastic Surgeon, Apollo Hospital, New Delhi

First aid

The session on the role of doctors started with a brief discussion on the importance of first aid and the responsibility of hospitals, witnesses and caregivers in this regard. Hospitals for instance cannot deny first aid. However, it was important to acknowledge that more often than not approaching hospitals can be a very difficult task in the country and therefore caregivers i.e. people who first come in contact with someone who is attacked have an essential role to play as well. Firstly, caregivers should make sure to protect themselves from the acid; remove the clothing of the person so that acid soaked clothes does not cause more damage and make sure that the acid does not come in contact with other parts of the body.
The best first aid is to splash a lot of water on the burnt areas. Running water being the best first aid in this situation. An important thing to remember however is that, less water can dilute the acid and make it flow farther over the body and cause more burns. If possible, it is important to get the survivor under a shower or running tap to wash off the acid as soon as possible. Splashing buckets of water to direct the acid flow away from the affected parts, is also another efficient first aid mechanism. For dilution one should not use a high pressure water source as it might worsen the gravity of the burns. Although its best to avoid dirty water, if there is no other method of first aid or access to any liquid, one can use such water. Other methods of first aid, especially for burns covering less skin can be using toothpaste, ointments and milk. One of the most important thing to note when administering first aid, is to ensure that the damage to eyes is minimised as much as possible by making sure that the acid doesn’t come in contact with the eyes while diluting.

**Surgeries**

Post the discussion on first aid, the panels gave a detailed insight into the type of surgeries, the challenges faced in grafting and answered specific questions of the audience. It is importance to note the detailed and continuous nature of the surgeries, when it comes to acid attack survivors. He spoke in detail about the different kind of surgeries involved and grafting technology currently used in India. For each body part, the panels explained what the different steps for reconstruction are. For example, the eyelid reconstruction surgery, eyebrow reconstruction, skin grafting etc. Primary
focus is to ensure the part is functional to the best possible extend. It was important to also understand that since each person's skin is different, each case is different and subsequently the treatment for each case is different. The duration of treatment also is largely varying across survivors. The gap between surgeries may also vary, even such that some survivors have to come back after years after their first surgery for different procedures.

Answering a survivor's question on pigmentation the panel informed the survivors that Skin grafting will always be darker and will never match the skin colour. However, with the advancement of technology it might be possible to soon hope for procedures to change pigmentation. Further the panel advised survivors to be patient when it comes to seeing visible results on their skin as the skin regenerates and the appearance and functionality gets better over time.

One of the important issues discussed was about the mental health of a survivor. From the testimonies of victims we realise that it’s more a personal loss, where the person loses their sense of identity, an identity which they often attribute with their physical features. It takes a lot to walk in public wearing your scar with confidence. Counselling at a time like this is a need. The wounds caused physically aren’t miraculously cured with just one surgery, a person undergoes multiple surgeries to have their physical features look as close as is possible to what they did before. And during that time while they are still adjusting to what has happened and coming to terms with the consequences, counselling is the most important. It is therefore crucial for caregivers, doctors, paramedical, family and friends to support the survivors while they build their self-confidence throughout their journey, recovering physically and mentally. One of the essential aspects that the current rehabilitation system completely ignores is the need for immediate counselling especially because of how long the treatment can take.

Dr. Rajesh Vats
Lastly, equal importance is also to be given to the care and protection immediately after the surgery is done. For faster and better recovery survivors should take extra care, personal grooming, keep out of the sun and keep the new skin cool.
"I was attacked on November 19, 2009. At the time, I was pursuing an MBA at and also working as a student counsellor there – a position where I began to face increasing hostility from my seniors and colleagues. For this reason, I had been trying to quit my job, but this only seemed anger my seniors even more and eventually, the bullying began to get too much to bear.

One evening, while leaving the office, I saw a man standing by the street with his face covered. Not paying much attention to him, I was on my way when he splashed a liquid on me. My first thought was that this was a probably a mischievous student throwing water, but then my face began to burn. It was only when I touched my skin and felt the thickness of the liquid that I realised that it was acid. I ran back to the office, screaming. Someone took me to the hospital. Even before we could reach, my face had burned and my eyelids had melted shut.

At the hospital, the doctors made me sit under a shower to wash off the acid, but every drop felt as if I was being assaulted by needles. The pain was unbearable, like nothing I had known before. For better treatment, my family tried to get me transferred to Delhi Apollo Hospital in Delhi, but the authorities there rebuffed us, saying that since this was a criminal matter, they couldn’t admit me if we hadn’t filed a police complaint. At this point, we didn’t even know whether to file a complaint with the Delhi police or the Haryana police. However, after my family pleaded and paid them Rs. 5 lakh, the hospital agreed to admit me and I began my skin treatments there.

When the police did come, I couldn’t give them any solid leads about my attacker since I had not seen his face. Surprisingly, the cops did not pursue the matter further and stopped visiting me. Afterwards, every time I tried to get in touch with them for updates, I was scolded.

In the meantime, my eyes were being treated at AIIMS – very expensively. Each vial of medicinal eye drops, custom-made for me, cost Rs 70,000.

ed, my eyes were stitched shut for about two and a half years. I felt like I had lost a part of myself. With not much else to do, I’d reminisce about how earlier, I would watch celebrities on TV and wish to look like them. Now, all I wanted was to go back to looking like I did
In a month and a half, my family had already spent Rs 1.5 lakh on just purchasing drugs. Surgeries would be an added expense, we found out. My family was forced to take a loan to cover these costs. I wondered, then, how a poor acid attack survivor would ever be able to afford these treatments.

After 13 days of treatment, when my condition finally stabilised, my eyes were stitched shut for about two and a half years. I felt like I had lost a part of myself. With not much else to do, I’d reminisce about how earlier, I would watch celebrities on TV and wish to look like them. Now, all I wanted was to go back to looking like I did before.

In my naiveté, I had believed movies that showed a character with a similar injury heal completely after a single surgery. So I was shocked when my doctor explained how long it would take to recover my face. Firstly, the skin grafted on to my face would take two years to settle properly. Even then, he said, I would be left with discoloured patches. Further reconstructive and cosmetic surgeries would continue for many years, I was told. Indeed, it has been over 10 years since the attack and I’m still undergoing operations to rebuild my face.

The financial burden of these treatments began to take a toll on my family. So after four years of treatment, when I finally gained some vision, I began to go online and look up organisations that helped acid attack victims financially, but at the time, not many NGOs worked in this field, so I came up with nothing. I also wrote letters to ministers seeking help. At this time, the Laxmi judgement (Laxmi vs Union of India, criminal Writ Petition 129/2006), which set precedent for granting compensation to acid attack survivors, had also not come through, so there was no way for me to be compensated.

Along my way, I was helped by some counsellors that I got in touch with through the 181-helpline set up after the Nirbhaya gangrape case. In 2013, I wrote a letter to the chief minister of Haryana. I also attached a ‘before and after’ picture with the letter.

I also told her that port because they didn’t have my address, but the FIR had been filed under the same address as the one I had at the time of writing the letters, which meant that the police had deliberately stopped following up with me. I also told her that
As my story spread a little, Kiran Walia (a former Congress MLA), met me and offered to buy a month’s worth of medicines. She also spoke to (then Delhi CM) Sheila Dixit, after which I received Rs 50,000 from the CM relief fund, which helped my family a little. I wrote to the Haryana CM again, pointing out that it was their duty to help me since the attack took place in Haryana.

In 2013, my letter was forwarded to the Chief Judicial Magistrate of Haryana, who was very shaken by my photos and took an interest in my case. Once she started probing, she was surprised to find that there had been no progress in my case in all these years. When asked, the police told her that they couldn’t file a closure report because they didn’t have my address, but the FIR had been filed under the same address as the one I had at the time of writing the letters, which meant that the police had deliberately stopped following up with me. I also told her that nobody had ever come to take my statement. With her assurance of security, in October, 2013, I travelled to Panipat and got my statement recorded, which was sent to the SP and SHO of Panipat and this is when the criminal trial began – a full four years after my attack.

The same year, in 2013, the Supreme Court directed in *Laxmi vs Union of India* that acid attack survivors would be paid an interim compensation of Rs 3 Lakh. However, the Haryana state legal services authority decided that compensation would not be paid to survivors who had been attacked before 2011. And so I was told that I could not be considered under the scheme since I was attacked in 2009.

So I decided to challenge this in the Chandigarh High Court through a lawyer from HRLN’s Haryana unit and we succeeded in obtaining a court order that directed that I would be eligible for the compensation scheme, regardless of my year of attack. All my medical bills were finally reimbursed and my treatment – which is still ongoing – began to be taken care of by the state of Haryana. Through this order, several other survivors who were attacked before 2011 also became eligible to seek compensation.
However, in 2014, my lawyer and her family began to face threats and she suggested I transfer my case to Delhi. Thereafter, with Senior Advocate Indira Jaisingh’s help, I successfully filed a transfer petition in the Rohini court. This also helped me attend my case hearings more regularly—something I had not been able to do in Haryana. Around this time, the main accused in my case was proven to be 15 years old—a juvenile—so his case was transferred to the Juvenile Justice Board (JJB). Because of the carelessness of my state-appointed lawyer, he was also granted bail. In January, 2015, the Rohini court framed strong charges against three adult accused in the case, after which they decided to move the Delhi High Court against the order. Because of this, for months, I had to keep running from court to court, going from the JJB to the Rohini court to the High Court for months, to keep fighting my case, exhausting my already frail body.

Even though lawyers and even my family did not seem to be very invested in my case—my family only wanted me to recover—I knew that I wanted my attackers to be punished. Around this time, I started working with organisations such as Stop Acid Attacks and Make Love Not Scars. In 2015, I also began to work with HRLN, helping other acid attack survivors, and volunteering with the Delhi Commission for Women. In the same year, the juvenile accused was convicted for three years by the JJB.

However, in High Court, the defence for the adult accused tried to quash my case. They raised questions like why I had waited for four years to speak up and attempted to downplay my suffering. I tried to explain to the court the magnitude of the trauma I had been through, the treatments and the surgeries and how difficult it had been for me, but in December, 2016, the court dismissed my case. This broke my spirit and after a long time, I broke down into tears.

I then spoke to HRLN founder and senior Supreme Court advocate Colin Gonsalves, who assured me that we could take the case to the Supreme Court.

My experience since my attack and my work with HRLN has taught me a lot; it has given me confidence and support. I handle the Campaign Against Acid Attacks here nationally. I get in touch with survivors, ensure their treatment and counselling, get their FIRs registered and statements taken. I also try and
While speaking to lawyers in HRLN, I also found that technically, the High Court should not have dismissed my case entirely. With renewed spirits, I began to work on my case with Dr Gonsalves and other advocates. My case was moved to the Supreme Court in March, 2017. To my delight, in January, 2018, Supreme Court Justice Dipak Misra ruled that in dismissing my case, the High Court had misused its powers and reprimanded the court. Under its direction, trial was restarted at Rohini Court, and this was a big win for us.

The next month itself, in February, 2018, I received my compensation amount.

My experience since my attack and my work with HRLN has taught me a lot; it has given me confidence and support. I handle the Campaign Against Acid Attacks here nationally. I get in touch with survivors, ensure their treatment and counselling, get their FIRs registered and statements taken. I also try and get them employed to make them self-dependent.

The 2015 final judgement in *Laxmi vs Union of India* directs that an acid attack survivor can seek free treatment from any hospital of their choice, government or private. However, I have found that its implementation is abysmal. In several cases, we have had to fight with hospitals to get survivors admitted, and had even had to resort to calling the police or the media to pressure the hospitals to do their job. However, these opportunities too continue to teach me every day and each victory gives me courage. I know my rights and I’m not afraid to fight for them."

**SOME LANDMARK JUDGEMENTS OF HIGH COURTS**

Adv, Shanno Khan, Madhya Pradesh

Adv. Veena Sharma, Punjab and Haryana
Advocate Veena from the Chandigarh unit of HRLN commenced the panel discussion on Landmark judgements of High Courts. She briefly introduced the policies of different state and emphasised that there were a lot of drawbacks like lack of rehabilitation and livelihood policies.

In a significant case of a 2 and a half year old survivor, the Women and Child Development Department refused to provide compensation as the scheme only provided for women survivors. It was only after approaching the High Court of Haryana and Punjab at Chandigarh, asking for immediate relief for the child, was an order passed to bring a change in the state policy and include male survivors. Such a change be brought in all the state policies and that a uniform policy be implemented across all the states.

Advocate Shanno Khan from Madhya Pradesh, spoke about a recent case of Yashoda Bai’s in Indore who was not only awarded a compensation of 3 Lakhs, as per Laxmi vs. Union of India but received another order for and additional 1 Lakh compensation under the Pradhan mantri Yojana. Even while pushing for compensation within the legal framework we have, it was important to be aware of the different schemes and policies that can be utilised to push the boundaries of the claim.

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6What case is this
7Yashodas case
8Lakshmi
9Link the yojana
ACID ATTACK SURVIVOUR TESTIMONIES

Ramandeep Kaur

“My husband threw acid on me in 2016 when I was alone at home and the rest of her family was out for a wedding. I was attacked with half a litre of acid. Without adequate first aid treatment and care for more than one and a half hours I kept on crying and shouting in pain. Finally, it was a colleague that rescued me and took me to the hospital Rajendra Hospital, Patiala where I was refused treatment because of how severe her burns were. It was later through Shaheen and HRLN that I was able to get treatment and legal support.”

Ms. Jhuma Santra | West Bengal.

“I was attacked with acid on 2014. My son took me to the hospital which only did my dressing and let me go. I was taken to another hospital in the city however, I could not get admitted initially due to lack of money. Somehow, I collected the money and got admitted in National Medical College. For three years I ran from pillar to post for some help from the authorities. Only after 3 years I received the compensation with the help of HRLN. As a result of my attack I am visually challenged, and it has become very difficult to do intricate work.

However, I have a child to look after and I want vocational training so that I can stand on my own two feet and earn. I am working towards this dream of mine which may seem small, but is big in its own way.”

Ramandeep Kaur (right)

Jhuma Santra from West Bengal
Rooper | West Bengal

“I was attacked by my own cousin who wore a mask and threw acid. I was immediately rushed to the hospital. The local nursing home did not even touch me and refused to treatment me until I went to the police. All the hospitals rejected my admission and asked me to go to Kolkata.

At the hospital in the city I was not given any adequate treatment and only was harassed continuously. My story was not let out and I was neither allowed to change her hospital for 21 days.

As a survivor what was most traumatising was how everyone around, be it family or friends lend no support. In fact, I was mocked continuously. Despite this, I never lost hope. I came in contact with another survivor who completed her graduation and continued to pursue her career. This inspired me a lot. Survivors, organisations and the people must come together and fight this battle. I want every survivor to get a job and to be able to live a life in dignity. A life with dignity is all that matters at the end.”

Anu Mukherjee

“I was attacked by acid in 2012 by a woman. I was sent immediately to A.I.I.M.S. where I was informed that I have lost visibility in both my eyes.

After the journey I have lead I am of the opinion that a sum of rupees 3 lakhs is not at all enough for any victim. We need to work together to increase the compensation amount. I have also gotten support from HRLN and Shaheen. I have written to the Prime Minister as well as others governments to strongly demand that the government adopt us and ensures that each victim is given compensation, free treatment and support throughout their life.
This must include, jobs, a place to stay and their families must be. I managed to get a job through reservations under the new rights of persons with disabilities\textsuperscript{10} and now I am extremely proud to have been working”

ROLE OF THE DELHI STATE LEGAL SERVICES AUTHORITY

\textit{Mr. Chanderjit Singh, Secretary, Delhi State Legal Services Authority}

Mr. Chanderjit Singh of the Delhi State Legal Services Authority (DSLSA) took the session on the role of the Legal Services Authorities in acid attack case. He explained that vide the Laxmi vs. Union of India judgement and subsequent notifications the State Legal Services Authorities (SLSA) are responsible for the compensation of victims. As a secretary of the DSLSA himself, emphasised that compensation is not the SLSA’s contribution towards the issue but its duty towards the society.

While answering an audience question with regards to the delay in releasing of funds for compensation, it was explained that issues related to allocation of state budgets which cause hang-ups in the release of compensation. There is a need for civil society to help with bringing policy change to ensure such hang-ups are minimised.

\textsuperscript{10}The Rights of Persons with Disabilities Act 2016 S.34 (Annexure )
“There is a need to sensitise the society, such as doctors, service providers and the community. At the SLSA to engage with the people and organise awareness programmes. We have included acid victims at Lok Adalats in posts where usually only social workers or paralegals are posted, By enabling survivors to take up positions at the DLSA\(^{11}\), paralegal volunteers etc we ensure that survivors have visibility and we make it much more acceptable for survivors to take up jobs and play an essential role in the society.” explained Mr. Chanderjit Singh.

“A compensation sum of Rupees. 1 Lakh should be given to the survivors within 15 days from the date of the incident. Secondly free treatment or at least compensation amount to cover the charges of the surgery should be given subsequently. In some of the cases I have seen that the District Legal Services Authority who decide the compensation amount have a cap on compensation of Rupees 7 lakhs. There exists a noticeable pattern that if the injuries are less than 50%, a compensation of Rupees 3 to 5 Lakhs is given. However, if the injuries are more than 50% a compensation of Rupees 5 to 7 Lakhs is given. This is something that goes against the principles of Lakshmi vs. Union of India and subsequent cases of the Supreme Court.

Pratibha Jyoti, Journalist and Author of “Acid Wali Ladki”

With the statement “there is no pen made today to be able to pen down the experience that a survivor has had”, author and journalist Pratibha Jyoti commenced her session on the role of the media and journalists in the context of acid attacks.

Pratibha spoke about the way media houses function and their approach towards issues such as acid attack. While working in a media house herself, she learnt of the general insensitivity surrounding many of the issues being reported in mainstream media. It was this experience of working with mainstream media that lead Pratibha to move away from this sector and

"I am extremely grateful for this opportunity given to me to work alongside the Delhi State Legal Services Authority. Even if this was initially only on a contractual basis, now I play a significant role with the DSLSA and have been given the opportunity to assist with multiple cases and programmes. This opportunity has given me the chance to show the society and my accused that I have made something of myself“

- Mohini | Survivor employed at the Delhi State Legal Services Authority.

ROLE OF JOURNALISTS AND MEDIA PERSONS

Pratibha Jyoti, Journalist and Author of “Acid Wali Ladki”

In the recent writs filed in High Courts around the country the focus has been not only to push the maximum limits of compensation amount but also to ensure a priority-based treatment for acid attack victims due to their very extreme nature.“

- Adv. Sija Nair
do something of her own. During this time she also came across the story of an acid attack survivor. Through this survivor she entered the universe of many such survivors. Within months of this encounter she was penning down her experiences and was prepared with the first draft of her book, “Acid Wali Ladki”.

“The media is very powerful. When it focuses on societal wrongs, no matter how briefly, it brings about a change. It amplifies issues and emboldens the public to speak out against crimes. But I feel like we, as journalists, shouldn’t focus on WHY a crime happened, but to take on a more wholesome approach: how soon can a victim be taken to the hospital? How quickly can we convict the culprits?” said Pratibha.

Another role that the media and journalists could play is through reporting of events, conferences and book releases related to acid attack. This will ensure that such issues are read about and as a result spoken about too.

In answer to a question about approaching the media and requesting mainstream media to cover issues of acid survivors, it was explained that it was time that survivors do not beg or plead in front of the media. It was time for survivors and NGOs to use the much more powerful weapon and storytelling platform - Social Media.

ROLE OF THE DELHI COMMISSION FOR WOMEN

Dr. Farheen Malick, Member of Delhi Commission for Women

The next session convened by Farheen Malick of the Delhi Commission for Women was about understanding the role of the Commission in cases of Acid Attack. When the Commission first began a state level meeting with the acid survivors was organised. It was after this meeting that was the Commission able to understand the pain, struggle and the journey of an acid attack survivor.
When a survivor comes to the Commission, the focus is on whether they have received compensation or not. If the survivor asks that she wants to be treated in a private hospital the Delhi Commission for Women tries to make this happen through their partners and networks.

In one case handled by the Commission where two survivors who were being treated in a private hospital that demanded money from the family which was already struggling financially, the Commission was able to speak to the Medical Superintendent, build pressure, and manage to transfer the girls to another doctor who would help with the treatment free of cost as per the law.

One of the other areas that the Commission focuses on is the sale of acid and in this regard, it was highlighted that after the Supreme Court’s guidelines\(^\text{12}\) acid is still being sold. The Commission did an experiment where officials of the Commission were sent out to different parts of Delhi to purchase acid in order to analyse its availability. At the end, of the survey it was found that around 30 places sold acid and at one such place the shopkeeper was giving away the whole crate of acid for a menial rate. The survey results led the Commission to conduct a face-to-face meeting with the respective District Magistrates and District Commissioner of Police regarding this. The meeting resulted in the officers agreeing for a series of surprise raids to be done in different zones of Delhi in order to ensure that acid is not readily made available.

Summarising her experience working on the issue and hoping for a better future, Dr Farheen concluded by stating, “I am waiting for that day that we no longer hear of such cases - a day when we would no longer need such meetings.”

\(^{12}\)Lakshmi?
ROLE OF ACADEMICS

Prof. Shashi Rani Dev, School of Social Work, Delhi University

Professor Shashi Rani Dev of the School of Social work, Delhi University commenced the session on role of academics with regards to acid attack. Explaining the reason behind violence against women whether in the form of acid attacks or otherwise, she spoke about understanding patriarchy and the various forms it takes in our society.

With regards to academic institutions, there is a need for institutions to open up to hosting discussions, debates and as well as including gender and sexuality in their curriculums. Universities must use their many mechanisms such as campaigning, research and advocacy to address such issues.

Further, universities have a major role to play when it comes to research, where they can ensure unbiased data which can be the backbone of advocacy as well as litigation.

Another area where academics and trainings have a role to play is that of conducting trainings and capacity building. There is a need for crisis training across stakeholders, i.e. in collaboration with the commissions, police, health care providers and NGOs. This should cover, basic criminal justice training, training on health care provisions, compensation and the court procedures.

Counselling is another important focus are that every University should invest its resources in. Not only as an academic issue but also provide training for counsellors and psychologists and advocating for counselling services as a necessity under state healthcare schemes.
ACID ATTACK SURVIVOUR TESTIMONIES

Farah Khan | Delhi

“My husband was not a good man. He once abandoned me for whole year, after which I tried to get a divorce. I even succeeded, but this bruised his ego terribly. The next year, he came into my house and threw acid at me.

At the time, I had no idea what acid could do to a person. One would think people would have some sympathy for someone who has been attacked, instead, I was looked down upon and was made to be an item of curiosity. The hardships never ended. From the physical pain to the mental trauma, each day was a battle.

One of the hardest parts was the economical backlash, my family and I had to bare. Everyone had to be paid; the lawyers, the doctors, nurses and even the police! We ran out of money. My extended family did not accept me after the attack. The police and the judiciary made me feel like all this was somehow my fault! It is this victimisation of a survivor by the society that needs to change. I urge all of you present here, survivors and civil society members to work together to change this.”
Chittaranjan Tiwari | Husband of survivor Sonali Mukherjee

“As the husband of a survivor, I have seen the struggle a survivor faces after an attack upfront. I have lived moments of pain, sadness and anger along with my wife. The husbands of survivors do not need any favours or facilities from the government instead what they need is change in the society. A change in the society's behaviour towards a survivor.

If someone congratulates me for my big heart for marrying a survivor, I tell them not to congratulate me instead to do the same. I urge fathers to look for brides who are survivors for their sons instead of struggling to get their daughters married off.

For a very long time I was questioned for marrying an acid attack survivor. Each time I step out of the house with my wife people stare at us and question why I decided to marry her. I find it rather amusing that people question my decision. Instead the true struggle is that of my wife's. I am only trying to ease her pain and support her in her endeavours, just like any other life partner would.”

Rehnu | Delhi

“I was attacked in February of 2006 by someone who stayed as a paying guest in my family house. When I was attacked there was no one at home. The person who attacked me fled away in the crowd while I stood there screaming in pain.
My sister came to my immediate rescue and put a shawl on me. When I was taken to the hospital they dismissed me and my family immediately, saying they had to wait for the police. I was unattended for hours. This worsened my burns and my treatment took much longer than usual. If the hospital and people around me were better aware, my condition would not be as worse. Even when I approached the judiciary, I saw no support as my case was taken up by a state lawyer who did not do an adequate job. To get some results I had to get a private lawyer to demand my compensation from the state.”

HOW TO LITIGATE IN THE CRIMINAL COURTS


Advocate Shreeji chaired the session on acid attack litigation in criminal courts. Particularly addressing the issues faced by survivors in the criminal justice system, he spoke of the need for lawyers to be sensitive and better trained when it comes to cases of acid attack.

Firstly the need for lawyers working pro-bono or for menial fees was essential. Secondly, the training of Public Prosecutors and magistrates with regards to the procedural law was essential to ensure speedy trials. This was particularly in relation to making sure that statements under Section 164 of the Code of Criminal Procedures Act13 are taken properly. This is important to ensure that the narrative of the victim is brought under record and courts may take cognizance of this statement even if there is no witness account.

13164 of CRPC
Explaining the basic steps of a criminal case, he spoke about filing FIRs, writing a complaint to the magistrates and the time frame for a charge sheet to filed. Advocate Shreeji also explained that in case either of the steps did not happen in time or in a proper manner, this could be challenged the high court. The issue of protecting survivors, their families and witnesses during the trial was also addressed. It was highlighted that that the evidence stage of the trial is critical. One should be careful of witnesses turning hostile. This is often seen when witnesses fear for their safety and security.

Opposing bail applications and ensuring the safety of the survivor in case the accused is out on bail was also a critical part of the trial itself.

HRLN advocates [left to right] Shanno Khan, Shalini Rana, Shreeji Bhavsar
**ACIDATTACK**

**Treatment**

Section 357C Crpc - All Hospitals, public or private, whether run by the Central Government, the State Government, local bodies or any other person, shall immediately, provide the first-aid or medical treatment, free of cost, to the victims of any offence covered under section 326A, 376, 376A, 376B, 376C, 376D or section 376E of the Indian Penal Code, and shall immediately inform the police of such incident.

Provisions of the Judgement of the Supreme Court in Laxmi Vs. Union of India

Free medical treatment is not the only provision of physical treatment for the victim of acid attack, it also includes availability of medicines, bed food and reconstructive surgeries.

**Criminalproceeding**

FIR should be registered by the victim’s family, if that has not been done at the time of admitting the victim in the hospital, then it is the doctor’s responsibility to inform the police.

The FIR will be registered under the following sections:

Section 326A - voluntarily causing grievous hurt by the use of acid

Section 326B - voluntarily throwing or attempting to throw acid

The trials take place at fast track courts and are to be decided within 6 months.

**Compensation**

After District Legal Services Authority (DLSA) is informed about the incident or a representation is made to the DLSA, a minimum interim compensation of Rs.3 Lakhs is to be released to the survivor, out of which Rs. 1 Lakhs is to be given within 15 days.

The remaining 2 Lakhs are to be given to the survivor within 2 months.

After the interim compensation has been released, the DLSA decides the rest of the compensation that needs to be given considering the injuries of the survivor. For this a Criminal Injuries Compensation Committee

The victim need to have an account in their name to be able to avail the compensation
*The Supreme Court in the order dated 11.05.2018 in the matter of Nipun Saxena and Anr. Vs. Union of India Vs. Ors WP(C) No. 565/2012 approved the NALSA Victim Compensation Scheme, 2018. Additionally, they directed that a copy of the Scheme be sent by the Ministry of Women and Child Development, Government of India, to the Principal Secretaries of the state governments and Union Territory Administrations for implementation. It was also made clear in the order that the Scheme postulates only the minimum requirements and this does not preclude the state governments and Union Territory Administrations from adding to the scheme. However, nothing should be taken away from the Scheme.

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<th>S. No.</th>
<th>Particulars of loss or injury</th>
<th>Minimum limit of Compensation</th>
<th>Upper limit of Compensation</th>
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<td>1.</td>
<td>In case of disfigurement of face</td>
<td>Rs. 7 Lakhs</td>
<td>Rs. 8 Lakhs</td>
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<td>2.</td>
<td>In case of injury more than 50%</td>
<td>Rs. 5 Lakhs</td>
<td>Rs. 8 Lakhs</td>
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<tr>
<td>3.</td>
<td>In case of injury less than 50%</td>
<td>Rs. 3 Lakhs</td>
<td>Rs. 5 Lakhs</td>
</tr>
<tr>
<td>4.</td>
<td>In case of injury less than 20%</td>
<td>Rs. 3 Lakhs</td>
<td>Rs. 2 Lakhs</td>
</tr>
</tbody>
</table>

Note: If a woman victim of sexual assault/acid attack is covered under one or more category of the schedule, she shall be entitled to be considered for combined value of the compensation.

SESSION 10: SCOPE OF PUBLIC INTEREST LITIGATION (PIL)

Advocate Ali Zia Kabir

Advocate Kabir gave an insight into Public interest Litigation and using it as a tool to bring systematic change when it comes to acid attack. Asking for relief in a PIL is not for oneself, but for the larger public. He explained the
significance of PILs and the basic principles of filing such petitions. Public Interest Litigation (PILs), which are a unique type of class action cases organisations, associations and individuals to file cases on behalf of significant sections of the population who cannot go to court themselves. PIL jurisprudence puts the burden on the court to collect the evidence and study the extent of the human rights violation. Through the PIL machinery the court can make a wide range of orders from ordering for budgetary support for the enforcement of human rights to policy change.

With regards to acid attack in particular three key issues which can be potential PILs:

1. **Praying for a separate legislation encompassing the criminal offence, compensation, trial durations, victim protection, and details on treatment and rehabilitation, employment / education schemes.**
2. **Praying for legislation to ban the sale of acids across the country**
3. **Praying for all acid attack cases to be tried in fast track courts**
4. **Praying for employment in both public and private sector as well as implementation of the Rights of Persons with Disabilities, Act 2016 with regards to acid attack survivors.**
Shwetha Benz, a representative of the Pataudi Trust took a short session on the work done by the trust and the work the support. She spoke of the inception of the trust in 1970 in Haryana, created to support a wide range of human rights issues, to educate, to provide medical facilities and acid attack cases.

With regards to acid attack victims, the idea of the trust is to ensure that the survivor's dignity is restored and-to give a voice and choice to them. Survivors choose their own doctors - the best surgeons for plastic surgeries. If they want to study then where would they like to study and if they wish to work then what would they like to work, all supported by the trust. Concluding the session, Shwetha emphasised on the trust Founder Sharmila Tagore’s objective the trust; to make survivors partners in restoring their dignity and to go step by step to find a long term resolution.

- Shwetha Benz IAS, Representative of The Pataudi Trust
“Increasing the compensation isn’t the answer they need to empower us and make us independent!”

- Archana

“Our ask as members of the campaign against acid attack should not only be about compensation but for full social, political and economic empowerment.”

- Sonali

“I won’t say that we are living our lives, we are fighting, Fighting against stigma, against and prejudicial system.”

- Reshma
Constitutional Provisions

Article 14:
The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India.

Article 14 is not mere formal equality, it also encompasses substantive equality. This means that equality cannot simply exist on paper. The State has to take positive action including special measures to ensure equality. As women in India are disproportionately the victims of acid attacks, and acid attacks largely constitute gendered violence, women require special protection from acid violence under law.

Article 21:
No person shall be deprived of his life or personal liberty except according to procedure established by law.

The Supreme Court in a catena of judgments has recognised that the right to life includes the right to be free from inhuman and degrading treatment. As pronounced in Francis Coralie Mullin Vs. Union Territory of Delhi &Ors [1981 SCR (2) 516], the Supreme Court held as under: “It is implicit in Article 21 the right to protection against torture or cruel, inhuman or degrading treatment which is enunciated in Article 5 of the Universal Declaration of Human Rights and guaranteed by Article 7 of the International Covenant on Civil and Political Rights (ICCPR).” The Supreme Court has held that Article 21 includes the right to health and the right to health services.

Statutory Provisions

The Indian Penal Code was amended by the Criminal Law (Amendment) Act, 2013, to include the offence of acid attack within its ambit.

Before the amendment, the laws governing acid attack included:

Section 320 – Grievous hurt: Acid attacks are considered grievous hurt as any permanent disfigurement, disability, or destruction of a body part is included in this section.

Section 325 – The punishment for voluntarily causing grievous hurt is a maximum of seven years. No minimum punishment is prescribed.

Section 326 – Voluntarily causing grievous hurt through a dangerous weapon or another means: A "corrosive substance" is specified as being a dangerous means, hence acid attacks will be covered. The punishment under this Section is for a maximum period of life imprisonment, or a period up to ten years. There is no minimum punishment prescribed.

The Criminal Law (Amendment) Act, 2013, made the following changes:
Section 100 – When the right to private defence of the body extends to causing death: An act of throwing acid or administering acid, or an attempt to throw or administer acid which reasonably causes the apprehension that grievous hurt will the consequence of such an attack.

Thus acid attack has been included under the list of grievous crimes under which the right to private defence extends to causing death. This means that an acid attack is so grave that a survivor may be justified in killing the perpetrator to defend herself from the attack.

Section 326A – Whoever causes permanent or partial damage, deformity, burns, maims, disfigures or disables any part or parts of the body of a person with the intention or knowing that it is likely to cause such injury or hurt, shall be punished with either simple or rigorous imprisonment for a term of at least ten years, which may extend to imprisonment for life, and a fine.
The fine shall be paid to the victim, and shall be just and reasonable to meet the medical expenses of the victim.

Section 326B – Attempting to throw or administer acid with the intention of causing permanent or partial damage, deformity, burns, maim, disfigure, disable, grievous hurt shall be imprisoned with either simple or rigorous imprisonment for at least five years, up to seven years, and a fine. Acid includes any substance of acidic, corrosive or burning character that is capable of causing bodily injury which leads to scars, disfigurement, temporary or permanent disability.

For the purposes of both these sections, the damage or deformity need not have to be irreversible.

Section 166A – A public servant who refuses to record any information in relation to an offence under Section 326A and 326B (as well as some other sections), shall be imprisoned with rigorous imprisonment for a term of at least six months which may extend up to two years, and be liable to pay a fine.

Section 166B – Whoever is in charge of any hospital, whether public or private, run by the Central or State Government, a local body, or any person, and who contravenes Section 357A of the Code of Criminal Procedure, shall be imprisoned for a term which may extend to one year, or with fine, or both. Section 357A governs payment of fines to victims of crimes.

The Code of Criminal Procedure was similarly amended by the same Criminal Law (Amendment) Act, 2013:

Section 154 – When the information is given by the woman victim of a crime under Section 326A, 326B which are the sections dealing with acid attacks (and other sections of the IPC), the information will be recorded by a woman police officer or any woman officer.

Section 154(a) provides for special provisions for survivors of offences under Sections 354, 354A, 354B, 354C, 354D, 376, 376A, 376B, 376C, 376D, 376E, or Section 509 of the IPC (sexual harassment, criminal force to a woman with intent to disrobe, watching a woman in a private act, stalking, rape, and aggravated rape). When an offence under the Sections has been committed and the victim has been permanently or temporarily mentally or physically disabled, then the police officer shall, in the presence of a special educator or interpreter record information from the victim at the victim’s residence of any place of the victim’s choosing. The recording of such information may be videographed if needed.

Section 154(a) seems to have overlooked acid attack victims as Section 326A and 326B has not been included. This might be particularly problematic as in most cases acid attack victims suffer from significant physical disability following the attack.
Section 164 (5A)(a) makes similar provisions as Section 154(a), for a Judicial Magistrate to record the statement taking the assistance of a special educator or interpreter in cases wherein the victim is temporarily or permanently mentally or physically disabled, and for the statement to be videographed. This statement shall be considered in lieu of examination in chief under the Indian Evidence Act. Again, acid attacks under Section 326A and 326B have not been included within this section.

LANDMARK CASES

**Campaign and Struggle Against Acid Attacks on Women (CSAAAW) vs. State of Karnataka and ors. WP (C) 11523/2006**

**Synopsis**

To support acid attack survivors, CSAAAW followed dozens of acid attack trial court cases and worked closely with survivors in Karnataka. As a part of its advocacy strategy, CSAAAW organized a public hearing to solicit suggestions for acid attack treatment, compensation, and judicial procedures. Their research and networking culminated in a Public Interest Litigation at the High Court of Karnataka. The PIL demanded access to speedy justice, medical treatment, and compensation for acid attack survivors. In 2006 the High Court issued orders guaranteeing compensation, funds for medical care, treatment at specified private facilities, alternate employment opportunities, and education and housing assistance for survivors.
Facts

The petition includes a systematic review of acid violence in the state and outlines major barriers to justice, medical treatment, and rehabilitation.

The petition argues that acid attack cases languish for years in lower courts and the final judgments fail to acknowledge the full range of medical, economic, social, and financial issues acid attack survivors face. At the same time, the police and judiciary often make moral judgments about survivors and use language that perpetuates discriminatory and patriarchal gender norms. Haseena waited five years for justice. She had to appear in court several times despite her medical condition and threats to her life.

The petition also underscores the gendered nature of acid violence:

Acid was used specifically as a weapon against women to silence their voices of dissent and erase their independence. It was a way for the perpetrators (i.e., men) to exercise their control over women. When women chose to exercise their freedom of choice, they were punished by acid attacks. This was, in effect, a manner of negating the women’s rights to refuse sexual advances. In this, acid attacks were no different from existing crimes on women such as rape, dowry deaths, sexual harassment at work place, domestic violence, etc. (para 7)

Furthermore, the petition demonstrates how acid violence crosses income, caste, and religious barriers.

At CSAAAW’s 4 January 2004 public hearing the Police Commissioner stated that all acid attack cases will be booked under IPC sections 307 (attempted murder), 320 (grievous hurt), or 326 (voluntarily causing grievous hurt by dangerous weapons or means) and that investigations should be carried out by someone at the Inspector rank. The public hearing also generated suggestions for improvements in medical treatment and services for survivors. Those outcomes provide the backdrop for the prayers in this PIL.

Relevant Law Cited

- Constitution of India Articles 14 (Equal protection of the law), 15(3) (special provisions for women and children), 19 (freedom of movement), 51, 51A(e), 253 (provisions regarding the application of international law), and 21 (especially the Right to a speedy trial, Right to Health and the Right to Life)
- Vishaka & Ors. vs. State of Rajasthan &Ors.: Judiciary can direct and give guidelines to the state and other agencies of the state for the preservation and enforcement of the right to gender equality and to curb violence against women.
- Bodhisathva Goutham vs. Shubhra Chakraborthy: “Women gave the right to livery they also have right to be respected and treated as equal citizens.”
- Delhi Domestic Working Women’s Forum vs. Union of India &Ors.: Establishing a Criminal Injuries Compensation Board for rape victims.
• Convention on the Elimination of all forms of Discrimination Against Women (CEDAW), Articles 3 (states shall ensure the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men), 12(eliminate discrimination in the field of health care), 14 (end discrimination against rural women), General Recommendation 19 (gender-based violence is discrimination that seriously inhibits women's ability to enjoy rights and freedoms on the basis of equality with men), and General Recommendation 24 (women's health is an issue that is central to promoting the well-being of women).

Prayers

1. Issue a writ of mandamus or any other appropriate writ or order directing the chief secretaries and the director general of police to:
   a. Ensure that no police officer less than the post of sub inspector of police to investigate into the crime. That the SP of the Police Station will be answerable to any kind of lapse in the investigation.
   b. Issue instructions to the effect that the SP should go to the spot immediately and personally collect evidence and that the place should be cordoned off from public accession.
   c. Issue directions to all police stations that in instances of acid attack on women, cases should be primarily booked under IPC section 320, 236 and other relevant provisions under the Indian Penal Code.
   d. Make arrangements for deploying mobile forensic service to be pressed by the state to gauge and collect the details of the crime especially in rural areas where services are difficult to access.
   e. Appoint Special Police sensitive to gender to be deployed for investigating acid attack cases on women.

2. Issue a writ, order or direction directing the Respondent to provide
   a. Immediate and emergent medical facilities to be made available to victims irrespective of religion, caste or financial status of the victim.
   b. If facilities are not available in public health institutions, the same should be made available through private medical institutions.
   c. Public hospitals should be equipped with all the facilities required to treat acid attack cases. Doctors and medical staff should also be trained to deal with these cases adequately.
   d. Awareness programmes to be arranged widely through various mediums on the methods and modes of first aid and medical treatments for acid victims.
   e. Medical reimbursement of expenses incurred to be given to the victims by the State, retrospectively keeping in view the seriousness and intensity of the injury. The reimbursement
should be given irrespective of whether treatment takes place in public or private health facilities.

f. Directions to private hospitals to compulsorily provide treatment for acid attack cases irrespective of the victims’ financial condition.

g. Rehabilitation schemes to be envisaged for the victims keeping in mind their livelihood and employment.

h. Arrangements for the care and protection Compensation to be awarded similar to the motor vehicles act or as per accident claims.

3. Issue a Writ, Order or Direction to the Respondent State

a. To form a consortium of chemical manufacturers who will take up the compensation of the injured (like insurance)

b. Control over production, distribution and storage of toxic acids and regulation of the concentration level must be strictly taken up by the state.

4. Issue a Writ of Mandamus or any other appropriate Writ or Order Directing

a. The judiciary for speedy trials

b. To issue directions to process compensation for the victims

c. Punishment to be proportionate to the injury caused

d. A minimum punishment to be awarded irrespective of the injury in similar lines to SC-ST atrocities act.

Outcome

In 2006, the High Court ordered a comprehensive compensation package for acid attack survivors. The Department of Women and Child Welfare and State Women's Commission have to pay acid attack survivors Rs. 30,000 and the Disabled and Senior Citizen’s Department will sanction Rs. 15,000 for those who have become disabled due to an acid attack. One crore rupees has been released to assist with medical treatment up to two lakhs per victim. The state must ensure medical treatment and free ambulance services to survivors. The state is also obligated to identify private hospitals that can provide treatment to survivors.

The Court also included orders regarding employment and rehabilitation including alternate employment to the victims in case of inability to continue with previous employment due to injuries, loans under existing schemes for self employment ventures, and education and other facilities to dependents and children of survivors.

The language we use to describe acid attacks and acid attack survivors has important implications on survivors’ lives. By labeling all survivors “victims” and by over emphasizing survivors’ facial injuries and lost beauty, media coverage, court documents, and research on acid violence bolsters the patriarchal norms that perpetuate gender-based discrimination.
Laxmi vs. Union Of India and Ors. (WP (CRIM) 129/2006)

Synopsis

Laxmi, an acid attack survivor from New Delhi, filed this Supreme Court PIL to control the sale of acid, to ensure compensation for survivors, and to guarantee access to medical care for survivors. The PIL has resulted in several ground-breaking orders regulating acid and setting minimum compensation for survivors. The petition also inspired a comprehensive Law Commission of India report, The Inclusion of Acid Attacks as Specific Offences in the Indian Penal Code and a law for Compensation for Victims of Crime. All activists working on acid violence should study this report and the proceedings in this ground-breaking case.

Facts

A young girl with big dreams, chirpy, confident, beautiful is walking to her workplace from her home which is a mile away. As she reaches halfway, she hears her name being called out, and turns to see who the caller was. She looks at two people on a motorbike and walks towards them. The girl on the pillion is familiar and the man riding the bike is known to her. He wanted to marry her and she had declined. As she reaches them, the girl hurls some liquid on her. She experiences excruciating pain, a burning sensation and falls on the street. She experienced a gruesome acid attack. Her face, her chest and arms were burnt beyond recognition and she was in tremendous pain. It has taken many painful corrective surgeries for her to partially heal and she would never look the same again. This is Laxmi.

A criminal case of attempt to murder was registered and those two persons on the bike have been convicted by a Court in Delhi. When the man went in appeal in the Delhi High Court, the High Court ordered that she should be ordered a compensation of Rs.3 lakhs which has now been paid to her.

The battle with the law was anything but smooth. While Laxmi had the support both legally and financially through her battle, the way the case panned out drew one’s attention to the glaring deficiencies in the law. The first shock came when Naheem Khan, who was one of the main persons in the attack easily got bail from the Court. It was then that it became clear that as long as acid attack is not classified as a separate offence, persons attacking with acid would easily make bail as the judge who is hearing the application for bail would not be aware of the gruesome nature of the crime. The easy availability of acid and the huge costs associated with the corrective surgeries that become necessary are other huge problems that a victim faces. In
2006, Laxmi with the help of her parents, her father’s employer Shireen Jeejeebhoy (who has fully paid for the treatment) and her lawyer filed a petition in the Supreme Court of India.

**Relevant Law Cited**

- Constitution of India, Articles 21 (Right to Life); 14 (Equality); 38(1) The State shall strive to promote the welfare of the people by securing and protecting as effectively as it may a social order in which justice, social, economic and political, shall inform all the institutions of the national life)


- High Court at Andhra Pradesh, 1997 (1) ALT 547: Awarding an acid attack survivor 5 lakhs compensation and ensuring speedy access to compensation.

- Juvenile Justice (Care and Protection of Children) Act, Section 31: Laying out the obligations of Child Welfare Committees as follows:

  1. The Committee shall have the final authority to dispose of cases for the care, protection, treatment, development and rehabilitation of the children as well as to provide for their basic needs and protection of human rights.

  2. Where a Committee has been constituted for any area, such Committee shall, notwithstanding anything contained in any other law for the time being in force but save as otherwise expressly provided in this Act, have the power to deal exclusively with all proceedings under this Act relating to children in need of care and protection.

- Bangladesh’s Acid Crime Control Act (2002): Preventing the sale of acid and establishing a framework for compensation and punishment (See Chapter on International Law)

- Declaration on the Elimination of All Forms of Violence Against Women, Provisions:

  d) Develop penal, civil, labour and administrative sanctions in legislation to punish and redress the wrongs caused to women who are subjected to violence; women who are subjected to violence be provided with access to the mechanisms of justice and, as provided for by national legislation, to just and effective remedies for harm that they have suffered; States should also inform women of rights in seeking redress through such mechanisms;

  f) Develop, in a comprehensive way, preventive approaches and all those measures of a legal, political, administrative and cultural that promote the protection of women against any form of violence, and ensure that the revictimization of women does not occur because of laws insensitive to gender considerations, enforcement practices or other interventions;

  h) Include in government budgets adequate resources for their activities related to the elimination of violence against women;

  i) Take measures to ensure that law enforcement officers and public officials responsible for implementing policies to prevent, investigate and punish violence against women receive training to them to the needs of women;
(j) Adopt all appropriate measures, especially in the field of education, to modify the social and cultural patterns of conduct of men and women and to eliminate prejudices, customary practices and all other practices based on the idea of the inferiority or superiority of either of the sexes and on stereotyped roles for men and women;

**Prayers**

The Petition asked for:

a. An amendment to the Penal Code wherein a section is introduced which would specifically deal with acid attacks;

b. A complete ban on sale of acid;

c. A rehabilitation scheme for victims of acid;

d. Free medical treatment for survivors.

**Outcome**

The court battle in a case of this nature ought to have been simple since cases of acid attack are gruesome, and the easy availability of acid is a known fact. It was also accepted that corrective surgeries are extremely expensive. The first material order came only in 2011 when the Supreme Court passed an order directing all the State Governments to indicate what steps they had taken to allocate resources for providing compensation to victims of acid attack under the amendment made to the Criminal Procedure Code by way of insertion of section 357A in 2009. The same order also asked the State Governments to file their responses about banning of sale of acid. Even though this order was passed in 2011, as it would be seen below, it took over three years for the governments to finally come up with a proposal on the manner in which acid sale could be banned.

In the meantime, in early 2012, the government of India filed in the Supreme Court an amendment to the Penal Code that was proposed but could not be passed in the Parliament since the opposition parties were not allowing the parliament to function. This proposed amendment which had been approved by the Cabinet but to be passed by the Parliament, had introduced two sections 326A and 326B to the Penal Code specifically dealing with acid attack. This was the first success in the case. This section eventually came to be passed in 2013 in the Criminal Law Amendment Act 2013, following the gruesome sexual assault in Delhi on December 16, 2012.

The tougher battle was the fight on ensuring that acid is not available so easily. The biggest hurdle in this battle, surprisingly, was the Government of India. The Government first sought an opinion from the Ministry of Chemicals and Fertilizers which opined that it was not possible for acid to be banned as it would affect the industries. The Ministry of Home Affairs, which is responsible for the law and order, was asked by the Supreme Court repeatedly to come out with a proposal for banning - or at least regulating - sale of acid, but this was to no avail. There was a
request made by the Court to the Home Secretary to take this matter seriously. However, this was not done when the Court granted a last opportunity to the Government of India to either come up with a proposal or the Court would pass an appropriate order. Around this time, there was another brutal acid attack in a busy railway station in Mumbai which resulted in the young girl’s death. This incident and the Government’s apathy compelled the Supreme Court to pass an order directing the Government to take immediate action.

While the Central Government seemed extremely casual on this subject, certain State Governments had passed notifications/legislations in their own States banning sale of acid. These are the States of Sikkim, Karnataka and Punjab. When the lawyer for Laxmi drew the attention of the Court to the action taken by these States, the Supreme Court directed the Government of India to take these instances and come out with their own proposal. The Government of India found the action taken by the State of Punjab most suitable and accordingly suggested that “acid” would be declared as a “poison” under the Poisons Act and regulate the stocking and sale of acid. These guidelines, which the Supreme Court would pass pending formal amendments in the law, were drafted in the office of then Solicitor General Mohan Parasaran by the officers of the Ministry of Home Affairs, Joint Secretary Suresh Kumar, Director Dr. Praveen Kumari and Laxmi’s lawyer, Aparna Bhat. These directions became an order of the Supreme Court and have to be followed in the entire Country as if it is the law. The same order also directed that all victims of acid attack should be given cash compensation of Rs. 3 lakhs out of which one lakh would be released within 15 days of passing the order. This was a milestone in the case. The State Governments in the meanwhile have carried out the necessary amendments in their States in the Poisons Act and have declared “acid” a poison that would not be easily available.

The last part of the case relates to medical treatment. The State of Haryana had filed an affidavit in 2009 that the Government of Haryana was considering a proposal to provide for 100% costs for treatment of acid victims. This proposal eventually became a scheme of the State of Haryana. The Supreme Court directed all the State governments to look into the scheme of the State of Haryana and take a decision on taking the responsibility of providing for the complete treatment costs of the acid attack victims. At the time of writing this, more than 10 State Governments have responded favourably. The Government of India is yet to respond.

SELECTED ORDERS

28 April 2008 (Court orders an investigation and action on the issue):

ITEM NO.43 COURT NO.1 SECTION PIL
SUPREME COURT OF INDIA
RECORD OF PROCEEDINGS
WRIT PETITION (CRL.) NO(s). 129 OF 2006
LAXMI (MINOR) THR. HER FATHER Petitioner(s)
VERSUS
UNION OF INDIA & ORS. Respondent(s)

(With office report )

Date: 28/04/2008 This Petition was called on for hearing today.

CORAM:

HON’BLE THE CHIEF JUSTICE
HON’BLE MR. JUSTICE R.V. RAVEENDRAN
HON’BLE DR. JUSTICE MUKUNDAKAM SHARMA

For Petitioner(s) Ms. Aparna Bhat, Adv.
Mr. P. Ramesh Kumar, Adv.

For Respondent(s) Mr. Mohan Parasaran, ASG.
Mr. D.L. Chidananda, Adv.
Mr. P. Parmeswaran, Adv.
Mr. B.K. Prasad, Adv.

For R.No.3 Mr. Ajay Sharma, Adv.

UPON hearing counsel the Court made the following

ORDER

The petitioner’s counsel submitted that to combat acid attacks the Government of Bangladesh has introduced a specific provision in the IPC (sec.326A) relating to acid attacks apart from framing an Acid (Control) Order to regulate and restrict the sale of acid. She stated that it has also formulated a scheme for treatment and rehabilitation. She may make available the said material to the Learned Additional Solicitor General appearing for Union of India. We are informed that the National Commission of Women and Law Commission of India are in the process of preparing proposals schemes/drafts legislation to save innocents from acid attacks.

Learned Additional Solicitor General submitted that the Government of India will look into several aspects of the problem, consider the suggestion and formulate procedures to curtail and regulate sale of acid/corrosive substances across the country. He also submitted that feasibility of making appropriate amendments to existing laws will be considered.

List in the third week of July, 2008.

11 February 2011 (Ordering the Union of India to develop schemes for survivors, to limit the sale of acid, and to give effect to Section 357 of the IPC):

ITEM NO.201 COURT NO.3 SECTION PIL
SUPREME COURT OF INDIA
RECORD OF PROCEEDINGS
WRIT PETITION (CRL.) NO(s). 129 OF 2006
LAXMI Petitioner(s)
VERSUS
UNION OF INDIA & ORS. Respondent(s)

Date: 11/02/2011 This Petition was called on for hearing today.

CORAM:
HON’BLE MR. JUSTICE R.V. RAVEENDRAN
HON’BLE MR. JUSTICE A.K. PATNAIK

UPON hearing counsel the Court made the following
ORDER

One of the prayers in this writ petition is to issue a direction to the respondents to make appropriate amendment in the Indian Penal Code and Criminal Procedure Code for dealing with acid attacks. A direction to frame in regard to prosecutions of acid throwers and rehabilitation of acid attack victims (by providing proper treatment, after care and rehabilitation of victims of acid attacks).

Union of India, Law commission of India and National Commission for Women were the three respondents in the writ petition. On 30.10.2009, notices were issued to six States namely, Maharashtra, Karnataka, Tamil Nadu, Andhra Pradesh, Haryana and NCT of Delhi where there are considerable number of acid attacks.

During the pendency of this writ petition, the code of Criminal Procedure, 1973 has been amended and Section 357A has been inserted by Act 5 of 2009 which requires every State Government, in coordination with the Central government, to prepare a scheme for providing funds for the purpose of compensation to the victims or their dependants who have suffered loss or injury as a result of acid attacks.

Though the said section has come into effect on 31.12.2009 and more than a year has elapsed, we are informed that no schemes have been formulated by any of the State Governments.

In these circumstances, we issue the following directions:

(i) Let notice be issued to other remaining States and Union Territories.

(ii) The State Governments, in co-ordination with the Central Government shall prepare schemes as provided in Section 357A for the purpose of providing compensation to victims of crimes, in particular, acid attack victims.

(iii) The Home Ministry, Government of India shall coordinate with the States/U.Ts to give effect to Section 357A, in particular, with reference to acid attack victims.
(iv) As one of the matters of concern in regard to acid attacks is the free availability of acids, the Central Government and State Governments may also consider making appropriate provision for regulation of sale of acids so that it is not easily or readily available to offenders.

31 August 2012 (Order to the Secretary of Home Affairs to meet with Chief Secretaries of States to regulate the sale of acid):

ITEM NO.202 COURT NO.7 SECTION PIL
SUPREME COURT OF INDIA
RECORD OF PROCEEDINGS
WRIT PETITION (CRL.) NO(s). 129 OF 2006
LAXMI Petitioner(s)
VERSUS
UNION OF INDIA & ORS. Respondent(s)

Date: 31/08/2012 This Petition was called on for hearing today.

CORAM:
HON’BLE MR. JUSTICE R.M. LODHA
HON’BLE MR. JUSTICE ANIL R. DAVE

UPON hearing counsel the Court made the following

ORDER

On behalf of Union of India, an affidavit has been filed by Shri J.L. Chugh, Joint Secretary (Judicial) in the Ministry of Home Affairs.

1. In the above affidavit, it is stated that Criminal Law Amendment Bill, 2012 has been approved by the Cabinet on July 19, 2012 which has the proposal for insertion of Sections 326A and 326B in the Indian Penal Code for making the acid attack a specific offence.

2. Mr. Mohan Parasaran, learned Additional Solicitor General appearing for the Union of India submits that since the present Parliament Session shall expire on September 7, 2012, it is unlikely that the above bill is introduced in the Parliament in this Session. However, he submits that the above bill will be introduced in the Parliament in the ensuing Winter Session.

3. Ms. Aparna Bhat, learned counsel for the petitioner is satisfied with the above statement of the learned Additional Solicitor General

4. In the order dated February 11, 2011, this Court, inter alia, observed that as one of the matters of concern in regard to acid attacks is the free availability of acids, the Central Government and State Governments may also consider making appropriate provision for regulation of sale of acid so that it is not easily or readily available to offenders.

5. Mr. Mohan Parasaran submits that regulation of sale of acid is the State subject and the appropriate provision for regulation of sale of acid has to be made by the State Governments. He,
however, submits that the Ministry of Home Affairs shall convene a meeting of the Chief Secretaries/concerned Secretaries of the State Governments and the Administrators of the Union Territories for evolving a consensus in regard to the regulation of sale of acid in the States/Union Territories.

7. Learned counsel for the petitioner invited our attention to the Notification issued by the State of Sikkim amending Sikkim Trade Licence and Miscellaneous Provision Rules, 2011 by inserting sub-rule 17A in the said Rules.

8. In our view, the suggestion of Mr. Mohan Parasaran, learned Additional Solicitor General appears to be proper.

9. Let the Home Secretary, Ministry of Home Affairs, Government of India convene a meeting of the Chief Secretaries/concerned Secretaries of the State Governments and the Administrators of the Union Territories to discuss the enactment of appropriate provision for effective regulation of sale of acid in the States/Union Territories.

10. Let the matter come up for consideration on November 9, 2012.

11. In the meanwhile, the Chief Secretaries of the States of Maharashtra, Karnataka, Andhra Pradesh, Himachal Pradesh, Uttarakhand, Arunachal Pradesh, Meghalaya, Nagaland, Goa, Punjab, Gujarat, Jammu & Kashmir, Madhya Pradesh, Chhattisgarh, Kerala, West Bengal, Tamil Nadu, Jharkhand and Administrators of Union Territories of Dadra, Nagar Haveli, Andaman & Nicobar and Chandigarh shall ensure that the responses/affidavits of compliance are filed on behalf of the respective State Governments/Union Territories within eight weeks from today.

9 July 2013 (Admonishing the states and Union of India for failure to act):

SUPREME COURT OF INDIA

RECORD OF PROCEEDINGS

WRIT PETITION (CRL.) NO(s). 129 OF 2006

LAXMI Petitioner(s)

VERSUS

UNION OF INDIA & ORS. Respondent(s)

Date: 09/07/2013 This Petition was called on for hearing today.

CORAM:

HON’BLE MR. JUSTICE R.M. LODHA
HON’BLE MR. JUSTICE SUDHANSU JYOTI MUKHOPADHYA

UPON hearing counsel the Court made the following

ORDER

In the order dated April 16, 2013, the Court expressed its concern as tragic incidents of acid attacks continue to happen. One of the main reasons for these incidents is easy availability of acid in retail across the counter. The Court further expressed its concern as neither the Central
Government nor the State Governments/Union Territories have been able to address this grave issue.

2. In that order the Court indicated that the suggestion of the learned counsel for the petitioner to ban retail sale of acid may be considered on the next date if the State Governments/Union Territories were not able to come out with some adequate scheme that restricted the sale of acid in retails.

3. Having regard to the concern of the Court on that day, Mr. Mohan Parasaran, learned Solicitor General, assured the Court that the Central Government would take up the matter with the State Governments/Union Territories and come out with a draft scheme acceptable to all the State Governments/Union Territories or for consideration of such scheme by this Court.

4. More than two months and three weeks have passed since then but the Court has not been informed of the progress made with regard to the above. No report of the compliance of the order dated April 16, 2013 has been placed by the Central Government nor any draft scheme is available before the Court.

5. Ms. Aparna Bhat, learned counsel for the petitioner, submits that after April 16, 2013 more incidents of acid attacks have taken place and in one of such incidents, which happened in Mumbai, the victim girl has died.

6. In various orders passed by this Court from time to time, this Court has indicated the seriousness of the issue. But we find that no effective steps have been taken to address this serious issue either by the Central Government or by the State Governments/Union Territories. Time has been sought by the Central Government on various dates on one ground or the other, but the solution to this grave problem is not forth-coming.

7. List this matter on July 16, 2013. If on that date the Central Government is not able to come out with the draft scheme acceptable to all the State Governments/Union Territories or for consideration of appropriate scheme by this Court, the Court will pass appropriate order concerning easy availability of acid in retail.

16 July 2013 (Progress on regulating sale of acid; ):

ITEM NO.6 COURT NO.4 SECTION PIL
S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS
WRIT PETITION (CRL.) NO(s). 129 OF 2006
LAXMI Petitioner(s)
VERSUS
UNION OF INDIA & ORS. Respondent(s)
Date: 16/07/2013 This Petition was called on for hearing today.
CORAM :
HON’BLE MR. JUSTICE R.M. LODHA
Pursuant to our orders dated April 16, 2013 and July 9, 2013, an affidavit has been filed by the Union of India through Mr. S.Suresh Kumar, Joint Secretary, Ministry of Home Affairs, Government of India. In the affidavit it is stated that after the order was passed by this Court on April 16, 2013 a meeting was convened on April 18, 2013 by the Union Home Secretary with the representatives from the Ministry of Health and Family Welfare, Department of Chemicals and Department of Legislative Affairs. In the meeting, inter alia, the options for regulation of retail sale of acid were discussed and it was felt that due to the recurrence of acid attacks, regulation of retail sale was necessary. It was further felt that a new set of Rules under the Poisons Act, 1919 be drafted by Ministry of Home Affairs in consultation with the Ministry of Chemicals and Fertilizers, Department of Chemicals and Petrochemical as well as the Department of Legislative Affairs to ensure that major acids such as hydrochloric acid, sulphuric acid, nitric acid etc. are sold in retail of strength that it would not cause damage to humans. The meeting of April 18, 2013 was followed by another meeting on April 22, 2013 with representatives of various State Governments and Union Territories wherein it was pointed out by States of Maharashtra, Punjab, Haryana, Karnataka and Kerala that they have already framed statutory rules to regulate sale of acids and other corrosive substances under the Poisons Act, 1919 by classifying acids and other corrosive substances as ‘poison’.

Following our order dated July 9, 2013, another meeting was held on July 10, 2013 to pursue the issue with States/Union Territories. Along with the affidavit, draft model Rules entitled ‘The Poisons Possession and Sale Rules, 2013’ have been placed on record. Before draft model Rules take the shape of law in consultation with the States/Union Territories, we are of the considered view that, as the frequency of acid attacks has increased, it is necessary to issue certain interim directions, particularly with regard to retail sale of acid and the persons to whom acid may be sold. Mr. Mohan Parasaran, learned Solicitor General, and Mr. AparnaBhat, learned counsel for the petitioner, submit that a couple of days may be given to them to discuss the matter amongst themselves and come out with draft directions.

List the matter on July 18, 2013.

18 July 2013 (Guaranteeing a minimum compensation of Rs. 3 lakh, and establishing minimum controls for the sale of acid):

IN THE SUPREME COURT OF INDIA CRIMINAL ORIGINAL
JURISDICTION WRIT PETITION (CRL.) NO. 129 OF 2006

LAXMI ...PETITIONER(s)

Versus

UNION OF INDIA AND OTHERS ...RESPONDENT(s)

ORDER

On 6.2.2013, a direction was given to the Home Secretary, Ministry of Home Affairs associating the Secretary, Ministry of Chemical & Fertilizers to convene a meeting of the Chief
Secretaries/concerned Secretaries of the State Governments and the Administrators of the Union Territories, inter alia, to discuss the following aspects:

i) Enactment of appropriate provision for effective regulation of sale of acid in the States/Union Territories.

(ii) Measures for the proper treatment, after care and rehabilitation of the victims of acid attack and needs of acid attack victims.

(iii) Compensation payable to acid victims by the State/or creation of some separate fund for payment of compensation to the acid attack victims.

2. Following the order of 6.2.2013, three subsequent orders on 16.4.2013, 9.7.2013 and 16.7.2013 were passed by this Court.

3. Various State Governments/Union Territories have filed their affidavits. The Union of India filed its last affidavit on 17.7.2013. Along with that affidavit, draft Model Rules entitled “The Poisons Possession and Sale Rules, 2013” (for short “Model Rules”) have been placed on record. Mr. Mohan Parasaran, learned Solicitor General states that the Central Government will circulate the Model Rules to regulate sale of acid and other corrosive substances framed under the Poisons Act, 1919 to all the State Governments and Union Territories within a week from today. He also states that Model Rules will include, inter alia, the form of acids (liquids or crystalline and its concentration) that can be stored and sold, issue of licenses, procurement by individuals, educational and research institutions, hospitals, industries, Government Departments and departments of Public Sector Undertakings. We accept the statement made by the learned Solicitor General as noted above.

4. Insofar as the States and Union Territories are concerned, we are informed that the States of Maharashtra, Karnataka, Kerala, Haryana, Punjab, Madhya Pradesh, Sikkim and Arunachal Pradesh have framed rules to regulate sale of acid and other corrosive substances. As regards state of Meghalaya, we find from the available record that draft rules have been prepared, a copy of which has been made available to the Court.

5. Learned counsel for the State of Tamil Nadu has stated before us that within two months from today, appropriate rules to regularise sale of acid and other corrosive substances shall be framed.

6. In our opinion, all the States and Union Territories which have not yet framed rules will do well to make rules to regulate sale of acid and other corrosive substances in line with the Model Rules framed by the Central Government. The States, which have framed rules but these rules are not as stringent as the Model Rules framed by the Central Government will make necessary amendments in their rules to bring them in line with the Model Rules. The Chief Secretaries of the respective States and the Administrators of the Union Territories shall ensure compliance of the above expeditiously and in no case later than three months from the receipt of the draft Model Rules from the Central Government.

7. The Centre and States/Union Territories shall work towards making the offences under the Poison Act, 1919 cognizable and non-bailable.

8. In the States/Union Territories, where rules to regulate sale of acid and other corrosive substances are not operational, until such rules are framed and made operational, the Chief Secretaries of the concerned States/Administrators of the Union Territories shall ensure the compliance of the following directions with immediate effect:
i) Over the counter, sale of acid is completely prohibited unless the seller maintains a log/register recording the sale of acid which will contain the details of the person(s) to whom acid(s) is/are sold and the quantity sold. The log/register shall contain the address of the person to whom it is sold.

(ii) All sellers shall sell acid only after the buyer has shown:

a) a photo ID issued by the Government which also has the address of the person:
b) specifies the reason/purpose for procuring acid.

(iii) All stocks of acid must be declared by the seller with the concerned Sub-Divisional Magistrate (SDM) within 15 days.

(iv) No acid shall be sold to any person who is below 18 years of age.

(v) In case of undeclared stock of acid, it will be open to the concerned SDM to confiscate the stock and suitably impose fine on such seller up to Rs. 50,000/-

(vi) The concerned SDM may impose fine up to Rs. 50,000/- on any person who commits breach of any of the above directions.

9. The educational institutions, research laboratories, hospitals, Government Departments and the departments of Public Sector Undertakings, who are required to keep and store acid, shall follow the following guidelines:

(i) A register of usage of acid shall be maintained and the same shall be filed with the concerned SDM.

(ii) A person shall be made accountable for possession and safe keeping of acid in their premises.

(iii) The acid shall be stored under the supervision of this person and there shall be compulsory checking of the students/personnel leaving the laboratories/place of storage where acid is used.

10. The concerned SDM shall be vested with the responsibility of taking appropriate action for the breach/default/violation of the above directions.

11. Section 357A came to inserted in the Code of Criminal Procedure, 1973 by Act 5 of 2009 w.e.f. 31.12.2009. Inter alia, this Section provides for preparation of a scheme for providing 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.

12. We are informed that pursuant to this provision, 17 States and 7 Union Territories have prepared ‘Victim Compensation Scheme’ (for short “Scheme”). As regards the victims of acid attacks the compensation mentioned in the Scheme framed by these States and Union Territories is un-uniform. While the State of Bihar has provided for compensation of Rs. 25,000/- in such scheme, the State of Rajasthan has provided for Rs. 2 lakhs of compensation. In our view, the compensation provided in the Scheme by most of the States/Union Territories is inadequate. It cannot be overlooked that acid attack victims need to undergo a series of plastic surgeries and other corrective treatments. Having regard to this problem, learned Solicitor General suggested to
us that the compensation by the States/Union Territories for acid attack victims must be enhanced to at least Rs. 3 lakhs as the after care and rehabilitation cost. The suggestion of learned Solicitor General is very fair.

13. We, accordingly, direct that the acid attack victims shall be paid compensation of at least Rs. 3 lakhs by the concerned State Government/Union Territory as the after care and rehabilitation cost. Of this amount, a sum of Rs 1 lakh shall be paid to such victim within 15 days of occurrence of such incident (or being brought to the notice of the State Government/Union Territory) to facilitate immediate medical attention and expenses in this regard. The balance sum of Rs. 2 lakhs shall be paid as expeditiously as may be possible and positively within two months thereafter. The Chief Secretaries of the States and the Administrators of the Union Territories shall ensure compliance of the above direction.

14. The Chief Secretaries of the States and Administrators of the Union Territories shall take necessary steps in getting this order translated into vernacular and publicise the same appropriately for the information of public at large.

15. List the matter on December 3, 2013.

3 December 2013 (directing the states to enact the rules on the sale of acid, and ordering the states to file affidavits on medical care, and ordering states to ensure police action on acid attacks):

ITEM NO.3 COURT NO.2 SECTION PIL
S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS
WRIT PETITION (CRL.) NO(s). 129 OF 2006
LAXMI Petitioner(s)
VERSUS
UNION OF INDIA & ORS. Respondent(s)
Date: 03/12/2013 This Petition was called on for hearing today.

UPON hearing counsel the Court made the following

O R D E R

It was observed in the order dated 18.07.2013 that the States and Union Territories which have not yet framed rules to regulate sale of acid and other corrosive substances in line with the Model Rules framed by the Central Government shall do the same within three months from the receipt of the draft Model Rules from the Central Government.

2. The three or four States have sought response from the public with regard to the proposed rules to regulate sale of acid and other corrosive substances, but the progress made by other States in this regard is not yet known.
3. The framing of rules to regulate sale of acid and other corrosive substances is one of the necessary steps for minimising the acid attacks which, of late, is on the rise. It was after series of hearing and orders passed by this Court that finally the Central Government came out with the Model Rules in consultation with the State Governments/Union Territories. The Court hoped, when it passed the order on 18.07.2013, that within three months therefrom, all the States and Union Territories shall comply with the directions and put in place the rules to regulate sale of acid and other corrosive substances. It appears that in none of the States and Union Territories such rules are operational. In the circumstances, we direct the Chief Secretaries of the States and the Administrators of the Union Territories to comply with the directions given in the order dated 18.07.2013 and put in place the rules in line with the Model Rules framed by the Central Government to regulate sale of acid and other corrosive substances at the earliest and positively before March 31, 2014.

4. In the order dated 18.07.2013, the Court has given certain directions, by way of interim arrangement, with regard to payment of compensation to the acid victims by the States/Union Territories. The Court has to finally take a call on the measures for the proper treatment, after care and rehabilitation of the acid attack victims and the States’ responsibility in making payment of compensation to them.

5. Ms. Aparna Bhat, learned counsel for the petitioner, has brought to our notice an affidavit filed on behalf of the State of Haryana through Smt. Sarita Malik, Under Secretary, Women & Child Development Department wherein it is stated that the Government of Haryana is in the process of framing a scheme for the medical treatment, short term as well as long term for specialised plastic surgery, corrective surgeries, providing specialised psychological treatment to the acid victims to help them to come out of the horror and trauma of the acid attack and their rehabilitation. It further transpires from that affidavit that a decision has been taken by the State Government to bear 100% cost of treatment on the above account. The Government resolution/order which incorporates the decision of the Government of Haryana to bear 100% cost of treatment of the acid victims is not available on record nor the entire scheme for the medical treatment of the acid victims by the Government of Haryana has been placed. We direct the advocate-on-record for the State of Haryana to place on record within four weeks the State Government’s decision to bear 100% cost of treatment of acid victims and also the scheme for medical treatment for the acid victims. The copy of such decision and the scheme shall be also given to the advocate-on-record for the Union of India.

6. The advocate-on-record for the Union of India shall then circulate to all the Chief Secretaries of the States (other than Haryana) and the Administrators of the Union Territories, the copy of the scheme framed by the Government of Haryana for medical treatment of acid victims and the copy of the Government resolution/order issued by the Government of Haryana with regard to the State Government bearing 100% cost of treatment of the acid victims.

7. We direct the Chief Secretaries of the States (other than Haryana) and the administrators of the Union Territories to file affidavit and indicate to this Court, the State’s view in bearing 100% cost of treatment of the acid victims in line with the decision taken by the Government of Haryana and also with regard to framing of scheme on the lines of Haryana Government for the medical treatment at specialised hospitals having facility for plastic surgery, corrective surgery and psychological as well as other treatment to the acid victims.

8. If any other State or Union Territory has taken a decision to provide free medical treatment to acid attack victims, the advocate-on-record for such State/Union Territory shall also supply copy thereof to the advocate-on-record for the Union of India. The advocate-on-record for the Union of...
India shall forward the decision of such State/Union Territory to the Chief Secretaries of other States and Administrators of Union Territories as well.

9. In addition to the directions already issued on 18.07.2013 and the above directions, the Chief Secretaries of the States and Administrators of the Union Territories are directed to issue necessary instructions to the Police Stations within their respective State/Union Territory that as and when an FIR is lodged with the police relating to acid attack, the concerned Police Station will send a communication to the jurisdictional S.D.M. about receipt of such information. Upon receipt of such information, the jurisdictional S.D.M. shall then make inquiry into the procurement of acid by the wrong doer and take appropriate action in the matter.

10. List the matter on April 15, 2014.

ITEM NO.46 COURT NO.8 SECTION PIL
SUPREME COURT OF INDIA
RECORD OF PROCEEDINGS
Writ Petition(Criminal) No.129/2006
LAXMI Petitioner(s)
VERSUS
UNION OF INDIA & ORS. Respondent(s)
(With appln.(s) for permission to file additional documents,
exemption from filing O.T., brining on record, directions,
impleadment, permission to file counter affidavit, C/delay in
filing affidavit and office report)
(For final disposal)
WITH
W.P.(C) No. 867/2013
(With appln.(s) for exemption from filing O.T. and impleadment and
Office Report)
Date : 06/02/2015 These petitions were called on for hearing
today.
CORAM :
HON'BLE MR. JUSTICE MADAN B. LOKUR
HON'BLE MR. JUSTICE UDAY UMESH LALIT
UPON hearing the counsel the Court made the following

O R D E R

We have heard learned counsel for the parties for quite some time.

This petition pertains to acid attack victims.

The first prayer in the petition is with regard to amending the Indian Penal Code (IPC) for dealing with acid attacks as a special offence. The necessary amendment has been made in the IPC and, therefore, nothing survives in this prayer.

The second prayer is for framing guidelines in respect of the need of the acid attack victims and the third prayer is for adopting measures for the proper treatment, aftercare and rehabilitation of the victims of acid attack. Finally, it is prayed that acid in all forms should be notified as a scheduled banned chemical not available across the counter.

Insofar as the second and third prayers are concerned, we find that the issue of cost of treatment of acid attack victims has been adverted to in Section 357C of the Code of Criminal Procedure, which was inserted by an Amendment Act in 2013 with effect from 03.02.2013. How the Section will be implemented, particularly with regard to the payment of the hospitalization, medical treatment, etc. is not very clear from the Section.

We are told that some of the States have framed Model Rules for compensation, but as pointed out in Laxmi Vs. Union of India [(2014) 4 SCC 427] the rate of compensation is not uniform in all the States. In fact, this Court had pointed out that the compensation should be enhanced to at least Rs.3,00,000/- (Rupees three lakhs only) as aftercare and rehabilitation cost. We have been informed that not all the States have framed adequate Rules in this regard keeping the directions issued by this Court in mind.

Under these circumstances, we direct the Secretary in the Ministry of Home Affairs, Government of India and the Secretary in the Ministry of Health, Government of India to jointly convene a meeting of the Chief Secretaries/ their counterparts in the States and Union Territories within a period of six weeks to work out the details with regard to treatment of acid attack victims keeping in mind not only the provisions of Section 357C of the Code of Criminal Procedure, but also the 226th Report of the Law Commission. The concerned officers should also discuss and prepare some Model Rules for compensation to be paid to the acid attack victims keeping in mind the directions issued by this Court in Laxmi (supra).

A consolidated affidavit in the form of a chart should be filed by the Secretary in the Ministry of Home Affairs within seven weeks from today.

List the matters on 10th April, 2015.

(SANJAY KUMAR-I) (JASWINDER KAUR)

COURT MASTER COURT MASTER

REPORTABLE

IN THE SUPREME COURT OF INDIA
CRIMINAL ORIGINAL JURISDICTION
WRIT PETITION (CRL.) NO. 129 OF 2006
LAXMI ...PETITIONER
VERSUS
UNION OF INDIA & ORS. ...RESPONDENTS
ORDER

Pursuant to our order dated 06.02.2015, the
Ministry of Home Affairs has filed an affidavit dated 8th April, 2015.
We have heard learned counsel for the parties in considerable detail.
A meeting was convened by the Secretary in the Ministry of Home Affairs, Government of India and the
Secretary in the Ministry of Health and Family Welfare, Government of India with all the Chief
Secretaries/their counterparts in the States/Union Territories on 14.03.2015.
From the affidavit, the provisional figures for 2014 indicate that there were 282 acid attacks in all
the States. The majority of acid attacks were in the States of Uttar Pradesh (185), Madhya Pradesh
(53) and Gujarat (11). As far as the Union Territories are concerned, Delhi is the only Union
Territory where acid attacks have taken place and the total number of such attacks in the year
2014 provisionally is 27. In all, therefore, 309 acid attacks are said to have taken place provisionally in the year 2014. As mentioned in our order dated 06.02.2015, with the amendment
to the Indian Penal Code, nothing survives in the first prayer made by the petitioner.
The second and third prayers relate to the cost of treatment of the acid attack victims and
application of Section 357C of the Code of Criminal Procedure, 1973, which was inserted by an
Amendment Act in 2013 with effect from 03.02.2013. In the meeting convened by the Secretary
in the Ministry of Home Affairs and the Secretary in the Ministry of Health and Family Welfare
on 14.03.2015, it has been noted that a Victim Compensation Scheme has already been notified in
almost all the States and Union Territories. However, we are told today that the Victim
Compensation Scheme has been notified in all States and Union Territories. We have gone
through the chart annexed along with the affidavit filed by the Ministry of Home Affairs and we
find that despite the directions given by this Court in Laxmi Vs. Union of India [(2014) 4 SCC
427], the minimum compensation of Rs.3,00,000/- (Rupees three lakhs only) per acid attack
victim has not been fixed in some of the States/Union Territories. In our opinion, it will be
appropriate if the Member Secretary of the State Legal Services Authority takes up the issue with
the State Government so that the orders passed by this Court are complied with and a minimum of
Rs.3,00,000/- (Rupees three lakhs only) is made available to each victim of acid attack.
From the figures given above, we find that the amount will not be burdensome so far as the State
Governments/Union Territories are concerned and, therefore, we do not see any reason why the
directions given by this Court should not be accepted by the State Governments/Union Territories
since they do not involve any serious financial implication. We also direct the Member Secretary
of the State Legal Services Authority to obtain a copy of the Victim Compensation Scheme from
the concerned State/Union Territory and to give it wide and adequate publicity in the State/Union Territory so that each acid attack victim in the States/Union Territories can take the benefit of the Victim Compensation Scheme.

Insofar as the proper treatment, aftercare and rehabilitation of the victims of acid attack is concerned, the meeting convened on 14.03.2015 notes unanimously that full medical assistance should be provided to the victims of acid attack and that private hospitals should also provide free medical treatment to such victims. It is noted that there may perhaps be some reluctance on the part of some private hospitals to provide free medical treatment and, therefore, the concerned officers in the State Governments should take up the matter with the private hospitals so that they are also required to provide free medical treatment to the victims of acid attack.

The decisions taken in the meeting read as follows: The States/UTs will take a serious note of the directions of the Supreme Court with regard to treatment and payment of compensation to acid attack victims and to implement these directions through the issue of requisite orders/notifications. The private hospitals will also be brought on board for compliance and the States/UTs will use necessary means in this regard. No hospital/clinic should refuse treatment citing lack of specialized facilities. First-aid must be administered to the victim and after stabilization, the victim/patient could be shifted to a specialized facility for further treatment, wherever required. Action may be taken against hospital/clinic for refusal to treat victims of acid attacks and other crimes in contravention of the provisions of Section 357C of the Code of Criminal Procedure, 1973.

We expect the authorities to comply with these decisions. Although it is not made clear in the meeting held on 14.03.2015, what we understand by free medical treatment is not only provision of physical treatment to the victim of acid attack but also availability of medicines, bed and food in the concerned hospital. We, therefore, issue a direction that the State Governments/Union Territories should seriously discuss and take up the matter with all the private hospitals in their respective State/Union Territory to the effect that the private hospitals should not refuse treatment to victims of acid attack and that full treatment should be provided to such victims including medicines, food, bedding and reconstructive surgeries. We also issue a direction that the hospital, where the victim of an acid attack is first treated, should give a certificate that the individual is a victim of an acid attack. This certificate may be utilized by the victim for treatment and reconstructive surgeries or any other scheme that the victim may be entitled to with the State Government or the Union Territory, as the case may be.

In the event of any specific complaint against any private hospital or government hospital, the acid attack victim will, of course, be at liberty to take further action.

With regard to the banning of sale of acid across the counter, we direct the Secretary in the Ministry of Home Affairs and Secretary in the Ministry of Health and Family Welfare to take up the matter with the State Governments/Union Territories to ensure that an appropriate notification to this effect is issued within a period of three months from today. It appears that some States/Union Territories have already issued such a notification, but, in our opinion, all States and Union Territories must issue such a notification at the earliest. The final issue is with regard to the setting up of a Criminal Injuries Compensation Board. In the meeting held on 14.03.2015, the unanimous view was that since the District Legal Services Authority is already constituted in every district and is involved in providing appropriate assistance relating to acid attack victims, perhaps it may not be necessary to set up a separate Criminal Injuries Compensation Board. In other words, a multiplicity of authorities need not be created. In our opinion, this view is quite reasonable. Therefore, in case of any compensation claim made by any acid attack victim, the
matter will be taken up by the District Legal Services Authority, which will include the District Judge and such other co-opted persons who the District Judge feels will be of assistance, particularly the District Magistrate, the Superintendent of Police and the Civil Surgeon or the Chief Medical Officer of that District or their nominee. This body will function as the Criminal Injuries Compensation Board for all purposes.

A copy of this order be sent to learned counsel appearing for the Secretary in the Ministry of Home Affairs and the Secretary in the Ministry of Health and Family Welfare for onward transmission and compliance to the Chief Secretary or their counterparts in all the States and Union Territories.

The Chief Secretary will ensure that the order is sent to all the District Magistrates and due publicity is given to the order of this Court. A copy of this order should also be sent to the Member Secretary of NALSA for onward transmission and compliance to the Member Secretary of the State Legal Services Authority in all the States and Union Territories. The Member Secretary of the State Legal Services Authority will ensure that it is forwarded to the Member Secretary of each District Legal Services Authority who will ensure that due publicity is given to the order of this Court.

The writ petition is disposed of in the above terms.

...............................J.
(MADAN B. LOKUR)
...............................J.
(UDAY UMESH LALIT)

NEW DELHI
APRIL 10, 2015

Parivartan Kendra vs. Union of India & Ors.(WP (C) 867/2013)

Synopsis

After working closely with acid attack survivor Chanchal Paswan, Parivartan Kendra, an NGO working with people from marginalized communities in Bihar, filed this petition in the Supreme Court to ensure complete rehabilitative services and compensation for acid attack survivors.

Facts
Chanchal Paswan, a young Dalit woman from Bihar wanted to become a computer engineer. She attended college and helped support her family as a daily wageworker. Men from her village constantly harassed both Chanchal and her sister taunting them and frequently telling Chanchal, “you are Dalits, you are powerless. Whatever we do, we will be able to get away with it.” They told Chanchal that if she did not give into their demands for sexual favors, they would retaliate by destroying her face.

On 21 October 2012, four men from the village climbed on to the roof of Chanchal’s home where she and her sister slept. They held her down and poured a litre of sulphuric acid on her face and body. Acid also spilled onto Chanchal’s sister’s arm. Upon hearing their daughters’ screams, Chanchal’s parents rushed both girls to the Patna Medical College Hospital. Chanchal waited for hours before receiving treatment. The staff at the hospital forced Chanchal’s family to purchase their own medicines and told them that Dalits did not belong in the hospital. Chanchal’s parents borrowed Rs. 5 lakh for treatment. Even with this massive expenditure, Chanchal waited six months before receiving proper treatment at Safdarjung Hospital in Delhi at the family’s expense.

As a result of the attack, Chanchal has burns on 90% of her face and 28% of her body. She has no lips, no eyelids, very little vision, and the skin on her neck fused with her chest. Acid burnt off her left breast. Doctors at Safdarjung report that Chanchal will require at least 15 operations to function and that she will need lifelong treatment to recover.

The government of Bihar gave Chanchal and her sister just Rs. 2 lakh 42 thousand in compensation. The police arrested the perpetrators a month after the attack and have failed to record a statement from Chanchal and the criminal case has not progressed despite promises by the authorities.

The petition argues that states in India do not have adequate Victim Compensation Schemes, acid attack medical treatment guidelines, procedures for fast-tracking acid attack cases, rehabilitation schemes or guarantees for free medical care.

Prayers

1. Free medical care for Chanchal and her sister for life.
2. Reimburse the family for medical expenses incurred.
3. Pay Rs. 10 lakh to Chanchal for pain and suffering at Patna Medical College Hospital.
4. Fast track the criminal case.
5. Develop standard treatment and management guidelines with a panel of qualified doctors for all facility levels.
6. Direct all private hospitals to provide emergency care for acid attack survivors regardless of the survivor’s financial condition.
7. Issue a directive to appoint the district civil surgeon as the principal responsible in acid attack survivor cases. The district civil surgeon will coordinate with the District Collector and Superintendent of Police on the case.

8. Increase the Victim Compensation Scheme payment to Rs. 10 lakh.

9. Create a comprehensive rehabilitation scheme including housing, education, and employment.

10. Include programs on violence against women as a component of the national curriculum.


**Relevant Law Cited**

- Constitution of India Articles 21, (Right to Life, Right to Movement, Right to Health, Right to be free from Inhuman and Degrading Treatment); 15, 15(a) (Discrimination based on sex, caste); 14 (Equality before the law)
- Laxmi vs. Union of India &Ors. (WP (C) 129/2006) guaranteeing minimum 3 lakh compensation to acid attack survivors.
- Francis Coralie Mullin vs. Administrator, Union Territory of Delhi & Ors. (1981 SCR (2) 516), holding that Article 21 also includes the right to be free from inhuman or degrading treatment.
- Bangladesh’s Acid Crime Control Act (2002)
- Convention on the Elimination of all forms of Discrimination Against Women (CEDAW) Articles 2 (State obligation to take appropriate legislative actions or sanctions to prohibit discrimination against women, 5 (States must take action to modify social and cultural patterns that perpetuate discrimination against women), and 24 (Commitment of State Parties to adopt necessary measures to achieve the rights recognized in the Convention).
- International Covenant on Civil and Political Rights (ICCPR) Articles 3 (equal protection), 7 (Right to be free from inhuman or degrading treatment), and 12 (Freedom of Movement).

**Outcome**

The Supreme Court issued notices to the Respondents in July 2013. In summer 2014 the Court asked the States and Union Territories for information on victim compensation and CSAAAW became a co-petitioner. This case is pending in the Supreme Court as of September 2014.

**Orders**

- **25 July 2014: (CSAAAW becomes a Petitioner)**
  
  ITEM NO.10 COURT NO.1 SECTION PIL
SUPREME COURT OF INDIA
RECORD OF PROCEEDINGS
Writ Petition(s)(Civil) No(s). 867/2013
PARIVARTAN KENDRA Petitioner(s)
VERSUS
U.O.I & ORS Respondent(s)
(withappln. (s) for exemption from filing O.T. and impleadment and office report)
Date : 25/07/2014 This petition was called on for hearing today.
CORAM:
HON’BLE THE CHIEF JUSTICE
HON’BLE MR. JUSTICE KURIAN JOSEPH
HON’BLE MR. JUSTICE ROHINTON FALI NARIMAN
For Petitioner(s) Mr. Colin Gonsalves, Sr. Adv.
Ms. JyotiMendiratta, Adv.
For Respondent(s) Mr. MukulRohatgi, AG
Ms. Pinky Anand, ASG
Mr. D.L. Chidanand, Adv.
Mr. DevanshiPopat, Adv.
Mr. Rohitash Nagar, Adv.
Ms. Natasha Sahrawat, Adv. for
Ms. SushmaSuri, Adv.
State of Bihar Mr. GopalSingh, Adv.
UPON hearing counsel the Court made the following
ORDER
In view of no objection by the petitioner,
Signature Not Verified I.A. No.1 of 2014 is allowed and applicant in I.A.
Digitally signed by
Pardeep Kumar
Date: 2014.07.25
09:08:38 IST
Reason: No. 1 of 2014 is permitted to be impleaded as petitioner No. 2 in the Writ Petition. Amended cause-title shall be filed by the advocate-on-record for the petitioners within two weeks from today. Notice be also issued to all the States and Union Territories, returnable in six weeks. Dasti, in addition to the ordinary process.

(PARDEEP KUMAR) (RENU DIWAN)

AR-cum-PS COURT MASTER

• 11 August 2014:

SUPREME COURT OF RECORD OF PROCEEDINGS

Writ Petition(s)(Civil) No(s). 867/2013 PARIVARTAN KENDRA & ANR
VERSUS
U.O.I & ORS

Date : 11/08/2014 This petition was mentioned today. CORAM :
HON’BLE THE CHIEF JUSTICE HON’BLE MR. JUSTICE KURIAN
JOSEPH HON’BLE MR. JUSTICE ROHINTON FALI NARIMAN

For Petitioner(s) Ms. JubliMomalia, Adv. (mentioned by) Ms. JyotiMendiratta
,Adv.

For Respondent(s)
Ms. SushmaSuri, Adv. (not present) Mr. Gopal Singh, Adv. (not present)

UPON being mentioned the Court made the following

ORDER

In continuation of order dated 25.07.2014, advocate-on-record for the petitioners is permitted to serve the notice on the standing counsel of the respective States and Union Territories.

(REJESH DHAM) (RENU DIWAN) COURT MASTER COURT MASTER

REPORTABLE
IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION
WRIT PETITION (CIVIL) NO. 867 OF 2013
Parivartan Kendra ….Appellant(s)
M.Y. Eqbal, J.:

1. By way of present writ petition filed in public interest under Article 32 of the Constitution of India, the petitioner – a registered NGO seeks to highlight the plight of the acid attack victims and the inadequacy how the compensation payable to the victims as per the orders of the Apex Court in Laxmi vs. Union of India (in Writ Petition (Crl.) No.129 of 2006). Petitioner also highlights the lack of a legal guarantee to free medical care, rehabilitative services or adequate compensation under the Survivor Compensation Schemes.

2. The petitioner highlighting the plight of two dalit girls of Bihar, who were attacked around midnight of October 21, 2012 by four assailants who threw acid on the face and bodies of the girls while they were sleeping on their rooftops. It is alleged that these young assailants used to harass the elder sister on the streets, market and in the auto rickshaw while she was going to computer classes or to work. This victim wanted to be a computer engineer and used to go to college regularly and supported her family working as a daily wage worker. However, these assailants used to make sexual advances towards her, pass lewd comments, and also used to pull her dupatta. They terrorized her and her family members by roaming near her house on their motorcycles, tore the curtains of their house and told her that if she did not heed to their demands and agree to have sexual relations with them they would damage and destroy her face.

3. In the aforesaid midnight, while both sisters were sleeping, assailants Anil Rai, Ghanshyam Rai, Badal and Raja climbed upon the roof and Anil covered the elder sister’s mouth so that she could not scream and Ghanshyam and Raja held her legs so that she could not move. When Anil Rai was pouring the acid on her body and face, the acid also fell on her sister’s body and burnt her arm. After the attack, these men did not make any effort to flee as they wanted to stay and enjoy the moment. As the acid started burning the girls, the girls started screaming and crying waking up their parents, who rushed to the rooftop. Upon this, the assailants fled. The victims were rushed to the Patna Medical College and Hospital. According to the petitioner, the doctors arrived only the next morning and did not give them proper treatment and the family had to buy all the medicines on their own. Thereafter, victims’ family was given Rs.2,42,000/- from the Government of Bihar for the treatment of both. It has been contended by the petitioner that till the filing of this writ petition more than Rs. 5 lakhs had already been spent on their treatment and still the victims require more treatment.

4. It has been submitted by the petitioner that proper and adequate treatment was not given to the victim. The Patna Hospital waited for more than a month to conduct elder sister’s grafting surgeries. Three grafting surgeries were performed on the elder sister. It is claimed that all these three surgeries were not performed properly and that the Hospital staff and doctors mistreated the victim and their family as they belonged to a lower caste. With the help of the petitioner- Society, the victim was transferred to Safdarjung Hospital, Delhi on 5th April, 2013, where she finally received proper treatment. It has been further contended by the petitioner that the Police also arrested the four perpetrators a month after the attack in November, 2012 in response to intense pressure from social organizations and the media. On 8.2.2013, the IG of Police had made a statement in an that the
statement of the victim would be taken under Section 164 of the Criminal Procedure Code. However, according to the petitioner, no such statement had been taken till filing of the writ petition. The victim and her family are, therefore, appalled by the treatment they have received at the hands of the Patna Hospital, the Police and the Government of Bihar.

5. By way of present writ petition, the petitioner has sought justice, compensation and restoration of dignity of the survivors of the acid attack, and also the assurance that these horrific events are not repeated elsewhere. It is contended that despite orders and directions of the Apex Court in Laxmi’s case (supra), acid is still readily available to most of the population in India and the acid attackers are living with impunity, and the victims are not in a position to afford basic care or services. Since buying acid is simple, it is being used to settle most minor disputes. An acid attack survivor needs surgeries throughout his/her lifetime with each surgery costing around Rs.3 lakhs. It has been further pleaded by the petitioner that this crime is mainly committed in four countries of the world, namely, Bangladesh, Pakistan, Cambodia and India. All the other three countries have engaged in paving the way to an effective remedy for the survivors of the victims. Petitioner contends that Bangladesh passed a law in 2002, which is much stronger law than the Indian Law as Indian Law neither effectively address the gravity of acid attacks nor does it adequately help the acid attack survivors.

6. The petitioner submits that the failure of the States to provide compensation under Survivor Compensation Schemes have caused the survivors to be isolated from all sections of society as they are unable to leave their house because of their disfigurements. The compensation of Rs. 3 Lakh does not cover the entire expenses incurred by an acid attack victim. The petitioner further contends that the Union of India has not developed any standard treatment and management guidelines; public health facilities etc., to treat acid attack victims. The petitioner has sought development of comprehensive rehabilitation scheme for acid attack survivors i.e., housing, education and employment.

7. The petitioner has prayed for issuance of writ of mandamus to the State of Bihar to reimburse Rs. 5 lakh to the victim’s family which is the amount spent on her treatment so far and for any other expenditure incurred on the treatment of the minor sister, and to provide compensation of at least Rs.10 Lakhs to the victims’ family in lieu of their pain and suffering. The petitioner has also inter alia prayed for issuance of writ of mandamus or directions to develop a standard treatment and management guidelines for the treatment and handling of acid attack victims by constituting a panel of experts; to direct all private hospitals to provide free treatment in acid attack cases and to have pictorial displays with the first aid and primary care protocols and guidelines to neutralize the acid and stabilize the survivor in the all Public Health Centres, subcentres and government hospitals. Petitioner has also prayed for inclusion of acid attacks in the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act and to reform educational programs in primary school to understand the gravity of violence against women.

8. We have heard Mr. Colin Gonsalves, learned senior counsel appearing for the petitioner, and learned counsel appearing for the Union of India, State of Bihar and other States.

9. Before we proceed further, we would like to go through the orders passed by the Apex Court in the case of W.P. (Crl.) No. 129 of 2006 titled as Laxmi vs. Union of India, dealing with a similar case of acid attack victim. On 18.07.2013, this Court passed the following order:
6. The Centre and States/Union Territories shall work towards making the offences under the Poison Act, 1919 cognizable and non-bailable.

7. In the States/Union Territories, where rules to regulate sale of acid and other corrosive substances are not operational, until such rules are framed and made operational, the Chief Secretaries of the concerned States/Administrators of the Union Territories shall ensure the compliance of the following directions with immediate effect: (i) Over the counter, sale of acid is completely prohibited unless the seller maintains a log/register recording the sale of acid which will contain the details of the person(s) to whom acid(s) is/are sold and the quantity sold. The log/register shall contain the address of the person to whom it is sold. (ii) All sellers shall sell acid only after the buyer has shown:
   a) a photo ID issued by the Government which also has the address of the person.
   b) specifies the reason/purpose for procuring acid.
   (iii) All stocks of acid must be declared by the seller with the concerned Sub-Divisional Magistrate (SDM) within 15 days.
   (iv) No acid shall be sold to any person who is below 18 years of age.
   (v) In case of undeclared stock of acid, it will be open to the concerned SDM to confiscate the stock and suitably impose fine on such seller up to Rs. 50,000/-.
   (vi) The concerned SDM may impose fine up to Rs. 50,000/- on any person who commits breach of any of the above directions.

8. The educational institutions, research laboratories, hospitals, Government Departments and the departments of Public Sector Undertakings, who are required to keep and store acid, shall follow the following guidelines:
   (i) A register of usage of acid shall be maintained and the same shall be filed with the concerned SDM.
   (ii) A person shall be made accountable for possession and safe keeping of acid in their premises.
   (iii) The acid shall be stored under the supervision of this person and there shall be compulsory checking of the students/personnel leaving the laboratories/place of storage where acid is used.

9. The concerned SDM shall be vested with the responsibility of taking appropriate action for the breach/default/violation of the above directions.

10. Section 357A came into inserted in the Code of Criminal Procedure, 1973 by Act 5 of 2009 w.e.f. 31.12.2009. Inter alia, this Section provides for preparation of a scheme for providing 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.

11. We are informed that pursuant to this provision, 17 States and 7 Union Territories have prepared 'Victim Compensation Scheme' (for short "Scheme"). As regards the victims of acid attacks the compensation mentioned in the Scheme framed by these States And Union Territories is un-uniform. While the State of Bihar has provided for compensation of Rs. 25,000/- in such scheme, the State of Rajasthan has provided for Rs. 2 lakhs of compensation. In our view, the compensation provided in the Scheme by most of the States/Union Territories is inadequate. It cannot be overlooked that acid attack victims need to undergo a series of plastic surgeries and other corrective treatments. Having regard to this problem, learned Solicitor General suggested to us that the compensation by the States/Union Territories for acid attack victims must be enhanced to at least Rs. 3 lakhs as the after care and rehabilitation cost. The suggestion of learned Solicitor General is very fair.

12. We, accordingly, direct that the acid attack victims shall be paid compensation of at
least ` 3 lakhs by the concerned State Government/Union Territory as the after care and rehabilitation cost. Of this amount, a sum of Rs. 1 lakh shall be paid to such victim within 15 days of occurrence of such incident (or being brought to the notice of the State Government/ Union Territory) to facilitate immediate medical attention and expenses in this regard. The balance sum of ` 2 lakhs shall be paid as expeditiously as may be possible and positively within two months thereafter. The Chief Secretaries of the States and the Administrators of the Union Territories shall ensure compliance of the above direction.”

10. On 3rd December, 2013, in Laxmi’s case (supra), when the affidavit of State of Haryana was placed before the Bench, in which it stated that the Government of Haryana is in the process of framing a scheme for full medical treatment, short term as well as long term, for specialised plastic surgery, corrective surgeries, providing specialised psychological treatment to the acid victims to help them to come out of the horror and trauma of the acid attack and their rehabilitation, this Court directed the Chief Secretaries of the States (other than Haryana) and the administrators of the Union Territories to file affidavit and indicate to this Court, the State's view in bearing 100% cost of treatment of the acid victims in line with the decision taken by the Government of Haryana and also with regard to framing of scheme on the lines of Haryana Government for medical treatment at specialised hospitals having facility for plastic surgery, corrective surgery and psychological as well as other treatment to the acid victims. This Court further directed the Chief Secretaries of the States and Administrators of the Union Territories to issue necessary instructions to the Police Stations within their respective State/Union Territory that as and when an FIR is lodged with the police relating to acid attack, the concerned Police Station will send a communication to the jurisdictional S.D.M. about receipt of such information. Upon receipt of such information, the jurisdictional S.D.M. shall then make inquiry into the procurement of acid by the wrong doer and take appropriate action in the matter.

11. While disposing of the writ petition of Laxmi versus Union of India, this Court inter alia held, thus:-

“10. We have gone through the chart annexed along with the affidavit filed by the Ministry of Home Affairs and we find that despite the directions given by this Court in Laxmi v. Union of India (2014) 4 SCC 427], the minimum compensation of Rs. 3,00,000/- (Rupees three lakhs only) per acid attack victim has not been fixed in some of the States/Union Territories. In our opinion, it will be appropriate if the Member Secretary of the State Legal Services Authority takes up the issue with the State Government so that the orders passed by this Court are complied with and a minimum of Rs. 3,00,000/- (Rupees three lakhs only) is made available to each victim of acid attack.

11. From the figures given above, we find that the amount will not be burdensome so far as the State Governments/Union Territories are concerned and, therefore, we do not see any reason why the directions given by this Court should not be accepted by the State Governments/Union Territories since they do not involve any serious financial implication.

12. Insofar as the proper treatment, aftercare and rehabilitation of the victims of acid attack is concerned, the meeting convened on 14.03.2015 notes unanimously that full medical assistance should be provided to the victims of acid attack and that private hospitals should also provide free medical treatment to such victims. It is noted that there may
perhaps be some reluctance on the part of some private hospitals to provide free medical treatment and, therefore, the concerned officers in the State Governments should take up the matter with the private hospitals so that they are also required to provide free medical treatment to the victims of acid attack.

The decisions taken in the meeting read as follows:

- The private hospitals will also be brought on board for compliance and the States/UTs will use necessary means in this regard.
- No hospital/clinic should refuse treatment citing lack of specialized facilities.
- First-aid must be administered to the victim and after stabilization, the victim/patient could be shifted to a specialized facility for further treatment, wherever required.
- Action may be taken against hospital/clinic for refusal to treat victims of acid attacks and other crimes in contravention of the provisions of Section 357C of the Code of Criminal Procedure, 1973.

We, therefore, issue a direction that the State Governments/Union Territories should seriously discuss and take up the matter with all the private hospitals in their respective State/Union Territory to the effect that the private hospitals should not refuse treatment to victims of acid attack and that full treatment should be provided to such victims including medicines, food, bedding and reconstructive surgeries.

13. We also issue a direction that the hospital, where the victim of an acid attack is first treated, should give a certificate that the individual is a victim of an acid attack. This certificate may be utilized by the victim for treatment and reconstructive surgeries or any other scheme that the victim may be entitled to with the State Government or the Union Territory, as the case may be.

12. In the event of any specific complaint against any private hospital or government hospital, the acid attack victim will, of course, be at liberty to take further action.

With regard to the banning of sale of acid across the counter, we direct the Secretary in the Ministry of Home Affairs and Secretary in the Ministry of Health and Family Welfare to take up the matter with the State Governments/Union Territories to ensure that an appropriate notification to this effect is issued within a period of three months from today. It appears that some States/Union Territories have already issued such a notification, but, in our opinion, all States and Union Territories must issue such a notification at the earliest.

21. The final issue is with regard to the setting up of a Criminal Injuries Compensation Board. In the meeting held on 14.03.2015, the unanimous view was that since the District Legal Services Authority is already constituted in every district and is involved in providing appropriate assistance relating to acid attack victims, perhaps it may not be necessary to set up a separate Criminal Injuries Compensation Board. In other words, a multiplicity of authorities need not be created.

22. In our opinion, this view is quite reasonable. Therefore, in case of any compensation claim made by any acid attack victim, the matter will be taken up by the District Legal Services Authority, which will include the District Judge and such other co-opted persons who the District Judge feels will be of assistance, particularly the District Magistrate, the Superintendent of Police and the Civil Surgeon or the Chief Medical Officer of that District or their nominee. This body will function as the Criminal Injuries Compensation Board for all purposes.”
13. The above mentioned direction given by this Court in Laxmi’s case (supra) is a general mandate to the State and Union Territory and is the minimum amount which the State shall make available to each victim of acid attack. The State and Union Territory concerned can give even more amount of compensation than Rs.3,00,000/- as directed by this Court. It is pertinent to mention here that the mandate given by this Court in Laxmi’s case nowhere restricts the Court from giving more compensation to the victim of acid attack, especially when the victim has suffered serious injuries on her body which is required to be taken into consideration by this court. In peculiar facts, this court can grant even more compensation to the victim than Rs. 3,00,000/-. 

14. We have come across many instances of acid attacks across the country. These attacks have been rampant for the simple reason that there has been no proper implementation of the regulations or control for the supply and distribution of acid. There have been many cases where the victims of acid attack are made to sit at home owing to their difficulty to work. These instances unveil that the State has failed to check the distribution of acid falling into the wrong hands even after giving many directions by this Court in this regard. Henceforth, a stringent action be taken against those erring persons supplying acid without proper authorization and also the concerned authorities be made responsible for failure to keep a check on the distribution of the acid.

15. When we consider the instant case of the victims, the very sight of the victim is traumatizing for us. If we could be traumatized by the mere sight of injuries caused to the victim by the inhumane acid attack on her, what would be the situation of the victim be, perhaps, we cannot judge. Nonetheless we cannot be oblivious of the fact of her trauma. From perusal of the record of the case, it is found that elder sister suffered 28 % burns on her body and 90% on her face, owing to the alleged brutal attack on her. Due to the acid attack, the victim had undergone several surgeries, and has to undergo many more corrective and curative surgeries for her treatment.

16. Admittedly, three skin grafting surgeries were conducted by the PMCH but they were all improperly conducted as testified at Sarfdarjung Hospital. The victim, was brought to Delhi by the petitioner and in Delhi some skin grafting surgeries were again conducted at the Sarfdarjung Hospital for Neck, Lips, Eyes, Nose, Arm, Forehead and Ear. Further skin grafting surgeries were also conducted at Fortis Hospital for Neck, Lips, Nose, Eye and Arm. In the opinion of victim’s doctor also, she would be required to undergo multiple corrective and curative operations and medical support for the rest of her life. Victim would be required to have corrective and curative surgeries for Neck, Lips, Eyes, Nose, Arm, Forehead, Ears, Breasts and Elbow. Apart from the above medical conditions/treatment, which she is required to undergo, there are many other consequences, which an acid attack brings out in the life of the victim.

17. Considering the plight of the victim we can sum up that: the likeliness of the victim getting a job which involves physical exertion of energy is very low the social stigma and the pain that she has to go through for not being accepted by the society cannot be neglected. Furthermore, the general reaction of loathing which she would have to encounter and the humiliation that she would have to face throughout her life cannot be compensated in terms of money. as a result of the physical injury, the victim will not be able to lead a normal life and cannot dream of marriage.
prospects. Since her skin is fragile due to the acid attack she would have to take care of it for the rest of her life. Therefore, the after care and rehabilitation cost that has to be incurred will have huge financial implications on her and her family.

18. On perusal of various contentions and evidence, we find it imperative to mention that even after this Court having passed an order dated 06.02.2013 directing the Union of India and States to implement compensation payable to acid attack victims by creation of a separate fund, only 17 States have been notified of the Victim Compensation Schemes (VSC). Out of which 7 states and 4 Union territories have not initiated the VSC. Even in those States where the Scheme has been implemented a meager compensation ranging between Rs.25,000/- to Rs. 2 lakhs is provided for medical care. And many States have not provided any compensation for rehabilitation at all. In the present case, the Govt. of Bihar has fixed a pitiable amount of Rs.25,000/- for the victims of acid Attack.

19. The Guidelines issued by orders in the Laxmi’s case are proper, except with respect to the compensation amount. We just need to ensure that these guidelines are implemented properly. Keeping in view the impact of acid attack on the victim on his social, economical and personal life, we need to enhance the amount of compensation. We cannot be oblivious of the fact that the victim of acid attack requires permanent treatment for the damaged skin. The mere amount of Rs. 3 lakhs will not be of any help to such a victim. We are conscious of the fact that enhancement of the compensation amount will be an additional burden on the State. But prevention of such a crime is the responsibility of the State and the liability to pay the enhanced compensation will be of the State. The enhancement of the Compensation will act in two ways:-
1. It will help the victim in rehabilitation;
2. It will also make the State to implement the guidelines properly as the State will try to comply with it in its true spirit so that the crime of acid attack can be prevented in future.

20. Having regard to the problems faced by the victims, this Court in the case of Laxmi v. Union of India & Ors by an order dated 18.07.2013, enhanced the compensation, stating that, “at least Rs.3 Lakhs must be paid to the victims of acid attacks by the concerned Government”. Therefore, a minimum of Rs.3 Lakhs is to be awarded by the Government to each victim of acid attack. In the present case, a minimum amount of Rs. 6 Lakhs has to be awarded to the sisters.

21. In peculiar facts of the case, we are of the view that victim Chanchal deserves to be awarded a compensation more than what has been prescribed by this Court in the Laxmi’s case (supra). Though in this case we are not issuing any guidelines different from the guidelines issued in Laxmi’s case, we should not forget that the younger sister was also injured by the acid attack. Although her degree of sufferance is not as that of the elder one, but she also requires treatment and rehabilitation. It is to be noted that this Court in Laxmi’s case (supra) doesn’t put a bar on the Govt. to award compensation limited to Rs.3 Lakhs. The State has the discretion to provide more compensation to the victim in the case of acid attack as per Laxmi’s case guidelines.

It is also to be noticed that this Court has not put any condition in Laxmi’s case as to the degree of injuries which a victim has suffered due to acid attack. In the instant case, the
victim’s father has already spent more than Rs. 5 lakhs for the treatment of the victim. In consideration of the severity of the victim’s injury, expenditure with regard to grafting and reconstruction surgery, physical and mental pain, etc., we are of the opinion that the victim (Chanchal) should be compensated to a tune of at least Rs. 10 Lakhs. Suffice it to say that the compensation must not only be awarded in terms of the physical injury, we have also to take note of victim’s inability to lead a full life and to enjoy those amenities which is being robbed of her as a result of the acid attack. Therefore, this Court deems it proper to award a compensation of Rs. 10 lakhs and accordingly, we direct the concerned Government to compensate the victim Chanchal to a tune of Rs. 10 Lakhs, and in light of the Judgment given in Laxmi’s case we direct the concerned State Government of Bihar to compensate the main victim’s sister, Sonam to a tune of Rs. 3 Lakhs. Of the Total amount of Rs. 13 Lakhs, a sum of Rs. 5 lakhs shall be paid to the victim and her family within a period of one month and the remaining sum of Rs. 8 lakhs shall be paid to the victims within a period of three months from the date of this order. Furthermore, the State shall upon itself take full responsibility for the treatment and rehabilitation of the victims of acid attack as per the Guidelines provided in Laxmi’s case, (2015) 5 SCALE 77, vide order dated 10.4.2015.

22. Disposing of the present writ petition, we additionally direct all the States and Union Territories to consider the plight of such victims and take appropriate steps with regard to inclusion of their names under the disability list.

................................J.
(M.Y. Eqbal)
................................J.
(C. Nagappan)
New Delhi
December 07, 2015
SIGNIFICANT CASES

Sapna vs. Government of NCT of Delhi (WP (C) 684/2014

Synopsis

In 2014, the Human Rights Law Network filed a petition to ensure compensation and free treatment for Sapna, an acid attack survivor in Delhi.

Facts

Sapna, age 20 worked in a manufacturing company at the time of the attack. On 7 August 2013 when she was traveling home from work, the accused perpetrators, Bharat and Mohinder threw acid on her, burning 10% of her face, neck, hand, and back. After the attack, Sapna received initial treatment at GTB Hospital where doctors cleaned her wounds. She has returned to the hospital multiple times for follow up treatment and medicine. However, to this day she has not had corrective surgery. GTB Hospital does not provide corrective surgery. Sapna has had
corrective surgeries including skin grafting at a private hospital where she had to pay Rs. 33,021 for treatment.

Although the Supreme Court directed all the State Governments and Union Territories to pay Rs. 3 lakh to acid attack survivors in Laxmi, Sapna never received compensation or financial assistance for corrective surgeries and treatment.

Prayers

1. Compensation of Rs. 10 lakhs.
2. For interim compensation of Rs. 3 lakhs immediately per the Laxmi Supreme Court directions.
3. To reimburse Sapna for medical expenses.
4. To cover future medical expenses.
5. To develop standard treatment and management guidelines by a panel of experts at all levels of care.
6. To ensure that all private and public hospitals provide care and treatment to acid attack survivors.
7. To publicize protocols for emergency acid attack treatment.
8. To ensure coordination between doctors and the police following an acid attack.
9. For a comprehensive rehabilitation scheme for survivors including housing, education, and employment.

Relevant Law Cited

- Orders in Laxmi vs. Union of India & Ors. (WP (C) 129/2006) guaranteeing minimum 3 lakh compensation to acid attack survivors.
- Article 21 of the Constitution of India guaranteeing the right to life and health.
- Article 14 of the Constitution of India guaranteeing the right to gender equality.

Outcome

On 29 January 2014 the Delhi High Court ordered the state to provide Sapna with Rs. 1 lakh within 15 days and the remaining Rs. 2 lakhs compensation within two months per the Supreme Court’s Laxmi orders. The case is pending as the Court examines the additional issues raised in the petition and prayers.
Orders

29 January 2014

IN THE HIGH COURT OF DELHI AT NEW DELHI

W.P.(C) 684/2014

SAPNA ..... Petitioner

Through: Mr. Divya Jyoti Jaipuriar, Advocate with
Ms. Jubli Momalia, Advocate.

versus

GOVT. OF NCT OF DELHI ..... Respondent

Through: Mr. V.K. Tandon, Advocate.

29.01.2014

CM Appl. 1368/2014 in W.P.(C) 684/2014

Present petition has been filed by an acid attack victim primarily claiming compensation. Keeping in view the averments in the petition, Registry is directed to mask the name and details of the petitioner/victim. In all future filings and listings, the petitioner/ victim shall be referred to as Ms. X. Even the Press is directed not to reveal the identity of the petitioner/victim. Consequently, present application stands disposed of. W.P.(C) 684/2014 and CM Appl. 1367/2014

Learned counsel for petitioner draws this Court’s attention to the order dated 18th July, 2013 passed by the Supreme Court in Laxmi vs. Union of India and Others, 2013 (9) Scale 291, wherein it has been held as under:- 12. We, accordingly, direct that the acid attack victims shall be paid compensation of at least ` 3 lakhs by the concerned State Government/Union Territory as the after care and rehabilitation cost. Of this amount, a sum of ` 1 lakh shall be paid to such victim within 15 days of occurrence of such incident (or being brought to the notice of the State Government/Union Territory) to facilitate immediate medical attention and expenses in this regard. The balance sum of ` 2 lakhs shall be paid as expeditiously as may be possible and positively within two months thereafter. The Chief Secretaries of the States and the Administrators of the Union Territories shall ensure compliance of the above direction. Learned counsel for petitioner states that petitioner has only been paid Rs.50,000/- and that too yesterday.

Issue notice.

Mr. V.K. Tandon, learned counsel, who appears for the State Government is requested to accept notice on behalf of respondent. He prays for and is granted four weeks to file a counter affidavit. Rejoinder affidavit, if any, be filed before the next date of hearing.

List the matter on 25th March, 2014.

MANMOHAN, J

JANUARY 29, 2014
Interim Relief As court has order for the immediate compensation of three lakhs as per Hon’ble Supreme Court guidelines.

March 25 2014

IN THE HIGH COURT OF DELHI AT NEW DELHI

W.P.(C) 684/2014 and CM APPL. 1367/2014

MS. X ..... Petitioner

Through: Ms. Jubli Momalia, Advocate.

versus

GOVT. OF NCT OF DELHI ..... Respondent

Through: Mr. Yogesh Saini, Advocate for

Mr. V.K. Tandon, Advocate.

CORAM:

HON’BLE MR. JUSTICE MANMOHAN

ORDER

25.03.2014

Learned counsel for petitioner states that after the last date of hearing, respondent-State Government has paid the balance amount of Rs.2.5 lacs as directed by the Supreme Court in Laxmi vs. Union of India and Others, W.P.(Crl.) 129/2006 decided on 18th July, 2013. She, however, states that some further directions are required in the present case. Consequently, respondent is directed to file its counter affidavit within a period of six weeks. Rejoinder affidavit, if any, be filed before the next date of hearing.

List the matter on 29th September, 2014.

Ayushi Dubey & Ors. vs. State of U.P.

& Ors. WP(C) No. 68901/13

Synopsis

HRLN’s Allahabad unit filed this writ petition on behalf of Madhuri Prajapati, an acid attack survivor. The team visited Machli’s home and filed the petition after interviewing Machli and her family.

Facts
HRLN filed this petition after news broke of an acid attack on 9 November 2013. Legal interns from the Allahabad HRLN office conducted a fact-finding to submit to the court. Machli Gao slept in her Kaccha house (Mud House) with her mother when the accused, Vimal Maurya threw acid on Madhuri Prajpati and her mother Champa Prajpati. Before the attack Vimal Maurya stalked Madhuri and proposed to her. The attack came as a result of her refusal to marry him. The acid attack completely destroyed the left side of Madhuri’s face. She also sustained injuries on her neck and face. Her mother has severe burn patches on the same side of the face and body. Initially, Madhuri went to the Community Health Centre (CHC) for treatment. The CHC did not have adequate facilities, so Madhuri went to the Jaunpur District Hospital for care. Again, because of inadequate facilities the District Hospital referred Madhuri to the Pragya Nursing Home Hospital at Varanasi.

Prayers

1. For the Chief Medical Officer to constitute a team of doctors and experts to examine Madhuri and to provide free treatment and plastic surgery.

2. For compensation for survivor and her mother.

3. To reimburse the survivors for medical expenses.

4. To ensure that the First Information Report is lodged under Section 326(a) and 326(b) of the Criminal Law Amendment Act, 2013.

5. To fast track the criminal trial.

Relevant Law Cited

- Orders in Laxmi vs. Union of India & Ors. (WP (C) 129/2006) guaranteeing minimum 3 lakh compensation to acid attack survivors.


- Criminal Procedure Code, Section 326-A and 326-B, Section 357-A.

- Constitution of India, Article 21 (right to life and health).

- Constitution of India, Article 226 (giving High Courts the power to hear writ petitions and issue orders).

Outcome

This petition resulted in sweeping orders. The High Court ordered the state to establish a medical team of doctors and experts to examine the condition of the survivor and her mother and to make an assessment of the necessary steps for her treatment and rehabilitation. The Court also ordered the Respondents to provide treatment for Madhuri and to provide an ambulance to transport
Madhuri and her mother to and from the hospital. At the same time, the Court ordered the Respondents to reimburse Madhuri and her mother for their medical expenses. Additionally, the Court ordered the district judge to monitor the trial court and make reports to the High Court on the progress. Finally, the Court ordered the State Government to frame a victim compensation scheme under provisions 357A of the Criminal Procedure Code.

Orders

16 December 2013

Chief Justice’s Court Case :- PUBLIC INTEREST LITIGATION (PIL)
No. - 68901 of 2013 Petitioner :- Ayushi Dubey & 9 Others Respondent :
:- Union Of India Thru’ Secy. & 5 Others Counsel for Petitioner :-
Hon’ble Dr. Dhananjaya Yeshwant Chandrachud,Chief JusticeHon’ble Sanjay Misra,J.Sri Anil Kumar Srivastava has filed his power on behalf of the first respondent, Union of India. Let the same be taken on record.

This petition, which has been filed in public interest, is by ten students who are students of law or, as the case may be, undergraduate students. The petitioners acted upon news reports in regard to an acid attack on a young girl and her mother in village Machhli Gaon under Police Station Badlapur, District Jaunpur. A fact finding team of the students was formed from various law colleges in the State of Uttar Pradesh and other States of the country. The team inquired into various aspects and has prepared a report under the aegis of the Human Rights Law Network. The subject matter of the inquiry was on the following issues:- 1. Whether the victim received proper medical care; 2. The financial status of the victims’ family; 3. Whether the police had taken any action against the accused;4. The total cost incurred in the treatment, and 5. Whether they had been assisted with any financial aid from the -2-government.

In the present case, the team of students found that the victim is a member of a family of eleven members of which nine are residing in the family home. It has been alleged that the accused used to stalk the victim for nearly 11 months and proposed that she should marry him. When the victim refused, she was stopped and attacked with acid in which she and her mother have suffered acute injuries. Bills for treatment were shown to the team of the students. The victim was first taken to the local Community Health Centre and then shifted to District Hospital, Jaunpur and due to inadequate facilities in the District Hospital, she was referred to the Pragya Nursing Home Hospital at Varanasi for treatment where she has been finally admitted for treatment. The students have, in the course of enquiry, prepared an exhaustive list of recommendations both in relation to the victim in the present case and for dealing with the issues which arise out of acid attacks on women which have become a frequent occurrence.
The students have done commendable work and their efforts need to be appreciated. At the initial stage, steps must be taken to ensure that due medical care is provided to the victim and to her mother. For this purpose, we direct the Chief Medical Officer, Jaunpur who is the sixth respondent to constitute a medical team of doctors and experts to examine the condition of the victim and her mother and to make an assessment of what steps are required to be taken to ensure their treatment and rehabilitation. We direct that all the necessary measures shall be taken forthwith at the cost and expense of the State. From the report of the students, it is clear that the family is in indigent circumstances and is unable to meet the expenses of medical care. The sixth respondent shall take necessary steps to provide due treatment and shall ensure that an ambulance is made available to transport the victim and her mother from their place of residence to the concerned hospital and for their due examination. A medical report shall be prepared and should be placed before this court on 6 January 2014. However, we direct that the sixth respondent shall not wait for further directions of the court and shall, subject to the consent of the victim and her family, take necessary steps to provide rehabilitation and other medical treatment as required in the interest of the victim and her mother.

The court has been informed by the learned Standing Counsel that an FIR was registered in the present case and a charge-sheet has been submitted to the competent court. The court should be apprised, on the next date of hearing, of the further progress in the matter. We direct the District Judge, Jaunpur to monitor the progress in the matter and to submit his report before the Court on the status of the case by the next date of hearing. A copy of this order shall be made available by the Registrar General of this court to the District Judge, Jaunpur by facsimile immediately. We also direct the State Government to inform the court as to whether it has framed any scheme in accordance with the provisions of Section 357A of the CrPC. If a scheme is not framed till date, the State Government shall ensure that a scheme is framed at an early date. We also direct that the District Magistrate, Jaunpur (respondent no.4) shall collect, through a responsible officer, copies of the medical bills in respect of the line of treatment which has been administered to the victim and her mother, by their family. Before the next date of hearing, the fourth respondent shall, after due consideration of the expenses which have been incurred, take a final decision in regard to the reimbursement of the expenses and payment shall be made immediately without waiting for further directions of the court. The matter shall stand over for further hearing to 6 January 2014.

Order Date :- 16.12.2013

Lbm/-

(Dr. D. Y. Chandrachud,C.J.)

(Sanjay Misra, J.)
Sabana Khatun vs. The State of West Bengal & Ors. (W.P. No. 34704 (W) of 2013)

Synopsis

HRLN filed this petition on behalf of acid attack survivor Sabana Khatun after her boyfriend’s family poured acid down her throat. The petition resulted in compensation for Sabana and Pious Ahuja, an HRLN legal intern started an online campaign to raise funds for Sabana’s rehabilitation and treatment.

Facts

For three years, Sabana had a relationship with Isha Rinku Mandal. On 23 June 2012, Rinku told Sabana that he wanted to marry her and asked her to come to his house to meet his family. Sabana was wary of meeting Rinku’s family members late at night without informing her own family of the engagement, but he persisted. When she reached his house, the couple told the family about their plans and Rinku’s family became furious. They pulled at her hair, held her arms and feet tightly, and forcefully opened her mouth to pour a bottle of corrosive carbolic acid down her throat. Sabana struggled to loosen the grip and eventually vomited up some acid. Rinku’s family also removed Sabana’s clothing and poured acid on her body. Rinku did nothing to help his girlfriend during this attack. At the hospital, the doctors inserted a pipe into Sabana’s throat to cleanse her stomach. For 18 days, Sabana could not speak or eat. She was artificially fed with saline water for 20 days. She requires surgery, but her family cannot afford the expensive procedure. In the aftermath of the brutal attack, Sabana and her family live in a state of perpetual fear. They cannot leave the house and Rinku’s family continues to threaten them.
Sabana had to stop attending school. Her family has spent Rs. 25,000 on legal expenses and at least Rs. 50,000 on medical care.

**Prayers**

1. For the State to take action regarding the threats to Sabana and her family.
2. To provide Rs. 3 lakh to Sabana per the Supreme Court orders in Laxmi.
3. For free medical treatment for Sabana including free testing and medicines.
4. To ensure complete rehabilitation for Sabana and her family – especially to ensure Sabana’s education.

**Relevant Law Cited**

- Francis Coralie Mullin vs. Union Territory of Delhi and Others [1981 SCR (2) 516] (guaranteeing the Right to Health);
- Supreme Court orders in Laxmi;
- Article 226 Constitution of India (Granting High Courts the power to hear writ petitions and issue orders);
- Article 21 Constitution of India (Right to Life, Right to be free from cruel, inhumane, degrading treatment);
- Article 15 Constitution of India (Equality);
- Sections 375(A), 438, and 439, Criminal Procedure Code (1973) (Regarding Victim Compensation Scheme, non-bailable offences);
- Article 7 of the International Covenant on Civil and Political rights (ICCPR) (Right to free from cruel, inhuman, degrading treatment);
- Article 2 of the Convention on Elimination of all forms of Discrimination Against Women (CEDAW) (State obligation to create policies that eliminate gender discrimination).

**Outcome**

The High Court ordered the State Government to provide Rs. 3 lakh compensation to Sabana per the Laxmi Supreme Court orders.
Orders

21 February 2014

Form No.J(2)

IN THE HIGH COURT AT CALCUTTA

CONSTITUTIONAL WRIT JURISDICTION

APPELLATE SIDE

Present: Hon’ble Justice Ashim Kumar Roy.

W.P. No. 34704 (w) of 2013

Sabana Khatun

-vs-

The State of West Bengal & Ors.

For the petitioner: Mr. Debasish Banerjee,

Mr. Debrup Bhattacharyya

For the State : Mr. Sumon Sengupta,

Heard on : 21.02.2014

Judgement on: 28.02.2014

Ashim Kumar Roy,J.:

Invoking its writ jurisdiction an acid attacked victim, approached this court against State inaction to consider her prayer for compensation in terms of the decision of the Hon’ble Supreme Court in the case of Laxmi -vs- Union of India [Writ Petition (Crl) 129 of 2006].

It is her case that in an incident took place on 23rd of June, 2012, the respondent no. 5 with whom she had a love affair and his family members, the respondent nos. 6 to 8 forcibly poured acid in her mouth, which caused severe burn injuries in her person both internally and externally and she has to remain hospitalised for about 18 days. After her release from hospital, sometime in the 1st week of August 2013 she reported the incident to the Chief Secretary, Government of West Bengal with a prayer for awarding compensation, but till date her case has not been considered and no compensation has been paid. The learned Counsel for the writ petitioner in this regard referred the decision of the Hon’ble Supreme Court in the case of Laxmi -vs- Union of India and Ors. (Writ Petition(Crl.) 129 of 2006) and contended according to the direction issued in connection therewith on 18th July, 2013, she is now entitled to a minimum of compensation of Rs. 3 lakhs from the State, that too within 15 days from the date of reporting the incident. He then added although the Chief Secretary, Government of West Bengal was informed on August 21, 2013 but still, her prayer has not been considered by him. It is further submitted that this inaction on the part of the State respondent is not only contemptuous violation of the order of the Hon’ble Apex Court but is wholly illegal. He, therefore, submitted immediate intervention of this court is necessary for ends of justice.
On the other hand, the learned Counsel for the State produced a written instruction, received from the Joint Secretary to the Government of West Bengal, Department of Home and submitted that the State Government never intended to disobey the Apex Court’s order and further submitted that in this State already a scheme being the West Bengal Victim Compensation Scheme, 2012 is existing covering compensation for Acid Attacked victim and now in terms of the decision of the Hon’ble Apex Court in the case of Laxmi -vs- Union of India & Ors. (supra), the State Government is going to amend the existing scheme so far as the quantum of compensation for acid attacked victims are concerned. In this regard, he also handed over an order issued by the State Government of West Bengal, notified in Extraordinary Kolkata Gazette on November 30, 2013. It is contended according to the Sub-Section (2) of Section 357A Cr.P.C., a victim is entitled to compensation only when her case is recommended by a Court of Compensation or Legal Services Authority and not by approaching the State Government straight way and only entitled to that much of compensation as has been prescribed in the schedule of the scheme and here in this case, the victim not being referred either by a Court of Compensation or by the Legal Services Authority her claim can not be sustained. He heavily insisted that no order be passed for payment of compensation to the writ petitioner till the existing scheme that is the West Bengal Victim Compensation Scheme, 2012 is suitably amended in terms of the order of the Hon’ble Supreme Court. He lastly, contended the direction of the Apex Court being interim in nature is not binding on the State.

This is a case, where the prayer for compensation of the writ petitioner, an acid attacked victim received no response from the State authorities for last seven months, although she approached the Chief Secretary of the State of West Bengal, in writing. The writ petitioner prayed for compensation in the light of the directions of the Apex Court in the case of Laxmi -vs- Union of India (supra). In this regard, the directions of the Apex Court delineated in Paragraph 12 and 13 of the said case are relevant and are quoted below:-

“12. We are informed that pursuant to this provision, 17 States and 7 Union Territories have prepared ‘Victim Compensation Scheme’ (for short “Scheme”). As regards the victims of acid attacks the compensation mentioned in the Scheme framed by these States and Union Territories is un-uniform. While the State of Bihar has provided for compensation of Rs.25,000/- in such scheme, the State of Rajasthan has provided for Rs.2 lakhs of compensation. In our view, the compensation provided in the Scheme by most of the States/ Union Territories is inadequate. It cannot be overlooked that acid attack victims need to undergo a series of plastic surgeries and other corrective treatments. Having regard to this problem, learned Solicitor General suggested to us that the compensation by the States/ Union Territories for acid attack victims must be enhanced to at least Rs.3 lakhs as the after care and rehabilitation cost. The suggestion of learned Solicitor General is very fair.

13. We, accordingly, direct that the acid attack victims shall be paid compensation of at least Rs. 3 lakhs by the concerned State Government/Union Territory as the after care and rehabilitation cost. Of this amount, a sum of Rs.1 lakh shall be paid to such victim within 15 days of occurrence of such incident (or being brought to the notice of the State Government/Union Territory) to facilitate immediate medical attention and expenses in this regard. The balance sum of Rs. 2 lakhs shall be paid as expeditiously, as may be possible and positively within two months thereafter. The Chief Secretaries of the States and the Administrators of the Union Territories shall ensure compliance of the above direction.”

It is manifest from the observations of the Apex Court as above that the Apex Court was grossly dissatisfied with the lack of uniformities in the “Victim Compensation Scheme” of the different States Governments and the Union Territories and inadequacy of the amount of compensation.
The Apex Court held that the minimum compensation would be at least Rs. 3 lakhs as the after care and rehabilitation cost and directed out the said amount a sum of Rs. 1 lakh to be paid to the Acid attacked victim within fifteen days of occurrence of such incident or being brought to the notice of the State Government or Union Territories and the balance Rs. 2 lakhs positively be paid within two months. The Chief Secretaries of different State Governments and the Administrator of the Union Territories were directed to ensure compliance.

On the question of binding effect of the said order of the Apex Court so far as the State Government and Union Territories are concerned, there cannot be any scope of debate that same is not only binding on them, but if there is any noncompliance that would entail serious legal consequences against the concerned authority. After 18th July, 2013, the aforesaid writ petition once again listed on 3rd December, 2013, when the Apex Court issued further direction. It is expressly clear from the face of the order, the directions issued on 3rd December, 2013 was in addition to directions which were earlier issued on 18th July, 2013. The mandate of the court was against the Chief Secretaries of the States and the Administrators of the Union Territories and they were to ensure the directions of the court given on July 18, 2013 are complied with. In this regard, observation of the Apex Court in Paragraph 3 of its order passed on 3rd of December, 2013 be referred. The relevant portions of the said order is extracted below:

“In the circumstances, we direct the Chief Secretaries of the States and the Administrators of the Union Territories to comply with the directions given in the order dated 18.07.2013 and put in place the rules in line with the Model Rules framed by the Central Government to regulate sale of acid and other corrosive substances at the earliest and positively before March 31, 2014.”

The submissions of the learned Counsel for the State that since the writ application before the Apex Court is still pending, the interim order passed therein is not binding on the State is totally unsound and without any substance. The order so passed by the Apex Court is mandatory in nature and that mandate cannot be disobeyed by the persons against whom such direction was made. Moreover, it may be noted pursuant to the order passed by the Apex Court on 18th July, 2013 in the above matter, the State of West Bengal issued a Gazette Notification on 30th November, 2013 regulating the sale of acid and corrosive substance. Therefore, a part of the order has been complied with the order. Now, in view of the order of the Apex Court, where the Apex Court fixed Rs. 3 lakhs be the compensation amount for an acid attacked victim as after care and rehabilitation cost, the amount of compensation fixed by the State Government under the West Bengal Victim Compensation Scheme, 2012 stands completely superseded and now the State Government is bound to pay each acid attack victim a sum of Rs. 3 lakhs unless the order is modified. Since the Apex Court, categorically, directed that the acid attacked victim be paid a total sum of Rs. 3 lakhs out of which a sum of Rs. 1 lakh within fifteen days from occurrence or being brought to the State Government/Union Territories, the respondent authorities cannot take a plea that the prayer for compensation cannot be processed or considered without same being forwarded to it by the Court of Compensation or by the Legal Aid Authorities. In any event, after the Apex Court directed the payment of Rs.3 lakhs to an acid attacked victim as an interim measures, it cannot be urged by the State respondent until the scheme is finally formulated, no order for compensation be made. The submissions of the learned Counsel for the State are far from satisfactory and without any merit. In the result, this writ application stands allowed.

The respondent authorities more particularly, the Chief Secretary of the State of West Bengal is directed to pay a total sum of Rs. 3 lakhs to the writ petitioner, an acid attacked victim and out of the said amount a sum of Rs. 1 lakh be paid within fifteen days from the date of communication of this order and thereafter the balance amount be paid within two months thereafter as prescribed
by the Hon’ble Apex Court in its order passed in connection with Laxmi -vs- Union of India(supra).

This order be communicated to the Chief Secretary of the State of West Bengal through the learned Registrar General of this Court at once for taking necessary steps.

At the same time, the petitioner shall have the liberty to communicate this order. Urgent photostat certified copy of this order, if applied for, be given to the learned Counsel for the parties on usual undertaking.

(Ashim Kumar Roy,J.)


Synopsis

This is a petition on behalf of Aruna Tripathi, survivor of an acid attack from April, 2006. She was not considered eligible for any kind of medical treatment and compensation by the state scheme for ‘Relief and Rehabilitation of Women Acid Victims’ to provide ad hoc relief/compensation/medical reimbursement and rehabilitation services to women acid attack victims is a social beneficial legislation under a case prior to May 2011. The Court in this case, issued an interim order directing the State to compensate Aruna towards an amount of Rs. 1,50,000 in order to facilitate further treatment.

Facts

Acid was thrown on Aruna Tripathi’s face on April 6, 2006 when she was on her way back home along with four other girls. She was admitted in Medanta Hospital, Gurgaon where she was being treated for serious injuries. Aruna had approached the HC through her advocate Veena Kumar, seeking compensation for her treatment. She was earlier denied treatment by the state on the ground that she was attacked in 2006 while the Haryana government had introduced a policy for Relief and Rehabilitation of Women Acid Victims in 2013. The eligible beneficiaries, as per this scheme, were only the victims who have faced acid attack after the launching of the scheme.

Prayers

1. To provide immediate free treatment for Aruna.
2. To reimburse Aruna’s medical expenses.
3. To modify the “Relief and Rehabilitation of Women Acid Victims” scheme to provide retroactive free treatment and rehabilitation to survivors.

Outcome

The case has been admitted for hearing and is pending hearing.

INTERIM ORDER


ARUNA TRIPATHI

VS

STATE OF HARYANA & ORS PRESENT

Ms. Veena Kumari, Advocate, for the petitioner. The petitioner is a victim of acid attack. Through the writ petition, she seeks reimbursement and compensation for the amount spent and the irreparable loss suffered by her. On asking of the Court, counsel for the petitioner submits that the petitioner has till date been granted only a sum of Rs.85,171/- in the shape of reimbursement of the amount spent by her. This misc. application has been filed for a direction to the State to make payment to Medanta Hospital, Gurgaon, directly for the treatment which is being undertaken by the petitioner. In support of claim, a document Annexure P12, indicating the treatment has been placed on record. The policy of the Government issued vide notification dated 16.1.2014 regarding laying down scheme for 'Relief and Rehabilitation of Women Acid Victims' to provide ad hoc relief/compensation/medical reimbursement and rehabilitation services to women acid attack victims is a social beneficial legislation and has to be construed liberally. Notice of the application to the Advocate General, Haryana for the date fixed i.e. 21.4.2017. On asking of the Court, notice has been accepted by Mr. Anil Kumar Yadav, Addl. A.G., Haryana, present in the Court. Copy given. Counsel for the State has opted to contest the application. In the interest of justice, taking into consideration the principles of equity, an interim direction is issued to the State of Haryana to release interim compensation of Rs.1,50,000/- to the petitioner to enable her to carry on with the treatment. The amount may be disbursed to the petitioner by 31.3.2017. The amount paid will be subject to final decision of the present writ petition.

(M.M.S. BEDI)

JUDGE

February 3, 2017.
**Anju vs. State of Haryana And others 2016(2)RCR(Criminal)794**

**Synopsis**

Anju, a young woman in her late twenties and a mother of a two year old female child was attacked with acid by her estranged husband at her parental home in the year 2010. She was not eligible to get medical help and compensation under the scheme namely, Relief and Rehabilitation of Women Acid Victims which was applicable only to the survivors that suffered after May 2011. A petition was filed seeking retroactive application of the Relief and Rehabilitation of Women Acid Victims policy along with compensation of Rs. 3,00,000/-. This petition is significant as it resulted in reimbursement of full medical expenses along with compensation above the maximum limit of 3,00,000/-.

**Facts**

Anju, a married woman in her late twenties was attacked with acid thrown on her face by her husband at her parental home in the year 2010. She is the daughter of a small vegetable vendor. Anju suffered 40% burn injuries on her face and severe injuries on other parts of her body. She was availing treatment from Sony Burn And Plastic Surgery Hospital, Hisar. This Hospital was not a government approved hospital, however, it was subsequently given approval by the Respondents. Anju’s medical bills for treatment came up to Rs. 2,16,000/-. She approached the High Court of Punjab and Haryana seeking compensation. The court in this case ordered for full reimbursement of her medical bills along with a compensation of Rs. 6,00,000/- which is above the maximum limit of Rs. 3,00,000/ of the Haryana Victim Compensation Scheme. She was also granted disability pension of Rs. 8000 per month under the Persons with Disabilities Scheme.

**Prayers**

1. For retroactive application of the Relief and Rehabilitation of women Acid Victims scheme.
2. To reimburse the victim for all her medical expenses.
3. For compensation for the survivor and her family.
4. To be provided with a monthly financial assistance of Rs. 8,000/- per month under the Persons with Disabilities Scheme.

Relevant Case Law Cited

1. Parivartan Kendra vs. Union of India (UOI) (2016 1 AWC 577 SC) having paid compensation of 10,00,000 thus not restricting the compensation amount to the maximum limit of Rs. 3,00,000/-. 

Outcome

The petition was allowed and Anuja was granted reimbursement for the medical bills and also free future treatment which amounted to a couple of Lakhs. Compensation amounting to Rs. 6 Lakhs and disability pension of Rs. 8000 per month was also granted since the Petitioner had become disabled to the extent of 49%.

Order

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 21842 of 2015


Appellants: Anju

Vs.

Respondent: State of Haryana and Ors.

Hon'ble Judges/Coram:

Rakesh Kumar Jain, J.

Counsels:

For Appellant/Petitioner/Plaintiff: Veena Kumari, Advocate

For Respondents/Defendant: Gaganpreet Kaur, AAG

Subject: Criminal

JUDGMENT

Rakesh Kumar Jain, J.

1. The petitioner, aged 28 years, daughter of a small vegetable vendor, was married to Monu S/o Bajran Dass in the year 2009. The couple was blessed with a daughter in the year 2010. On 01.12.2010, at around 6.00 p.m., husband of the petitioner threw acid on her face and other parts of the body. She suffered severe burn injuries. FIR No. 650 dated 01.12.2010 was registered under Sections 307, 452, 506, 120B IPC at Police Station Civil Lines, Hisar. Her husband has been convicted by the Additional Sessions Judge, Hisar
under Sections 506, 452 and 307 IPC vide order dated 13.06.2013 and has been sentenced for a period of 7 years vide order dated 15.06.2013.

2. The petitioner moved an application to the Additional Sessions Judge, Hisar for compensation in order to meet medical expenses and future treatment etc., which was referred to the District Legal Services Authority, Hisar. The said authority observed that the petitioner has already received ` 50,000/- from the State of Haryana and was, thus, awarded another ` 25,000/- besides ` 15,000/- towards medical expenses.

3. The petitioner, who has suffered 40%+5% burn injuries upon her body, has filed this petition for reimbursement of medical expenses, financial assistance and rehabilitation.

4. The respondents have filed reply dated 05.03.2016, in which it is categorically averred that though the petitioner is a victim of acid attack prior to the notification dated 02.05.2011 and has been availing the treatment from Sony Burn and Plastic Surgery Hospital, Hisar, which is not a government approved hospital, but relaxation has been granted by the Government by taking a sympathetic view, holding the petitioner eligible as an acid attack victim after 02.05.2011 and the hospital from where she has been taking treatment as a Government approved hospital.

5. The respondents have also averred that the District Level Committee has forwarded the bills for medical reimbursement of ` 2.16 lacs, which have been approved by the competent authority and the petitioner has been asked for the bank account number so that the said amount can be deposited in her account. It is also averred that any future medical bills, if submitted by the petitioner, would be reimbursed by the department.

6. I have heard learned counsel for the parties and examined the available record.

7. Undoubtedly, the acid attack is dated 01.12.2010 and the Government of Haryana formulated a scheme, namely, Relief and Rehabilitation of Women Acid Victims dated 02.05.2011 to provide ad-hoc relief, medical reimbursement and rehabilitation services to the women acid victims by the Women and Child Development Department. The eligible beneficiaries, as per this scheme, are only the victims who have faced acid attack after the launching of the scheme and it would cover all girls/women acid victims residing in Haryana. In this scheme of 2011, the financial assistance was provided of an amount of ` 25,000/- by the concerned Deputy Commissioner/SDM as ad-hoc relief to the victim in the hospital after lodging the FIR and 100% reimbursement of the complete medical treatment including plastic surgery, if any, provided the surgery is under taken at PGI, Rohtak/Chandigarh and AIIMS, New Delhi.

8. The scheme dated 02.05.2011 was amended/re-notified on 09.01.2013, in which the eligibility criteria remained the same but the financial assistance was provided as under:-


1. An amount of Rs. 25,000/- is to be provided by the concerned Deputy Commissioner/SDM as ad-hoc relief to the victim at the earliest after lodging the FIR which would be reimbursed from Women & Child Development Department, Haryana.

2. Where death of the victim occurs the Board shall on the facts and circumstances of the case, pay a lump sum of Rs. 5,00,000/- to the legal heir (the children of the deceased if
she has any so as to protect the interest of the child). This would be in addition to any expense incurred towards the treatment of the victim.

3. The 100% medical reimbursement of all treatment including plastic surgery if any is allowed to a victim of acid attack from amongst the hospitals approved by the Government of Haryana under the Category of "All disease" and "Artificial Appliance". The amendments and the deletion/addition of Hospitals made by the Government from time to time would also be automatically be applicable under the scheme also. Provided the surgery is undertaken at PGI, Rohtak/Chandigarh and AIIMS, New Delhi."

The scheme dated 09.01.2013 was again modified by scheme dated 16.01.2014, in which the financial assistance was provided as under:--

"9. Financial Assistance

1. The victim shall be paid compensation by the concerned DC/SDM, as after care and rehabilitation cost, under the Haryana Victim Compensation Scheme of Home Department notified dated 03.04.2013. The compensation shall be made as per the following schedule:--Out of the amount of Rs. 3.00 lacs, a sum of Rs. 1.00 Lakh shall be paid to such victim within 15 days of occurrence of such incident (or being brought to the notice of the State Government) as ad-hoc relief to facilitate immediate medical attention and expenses in this regard. The balance sum of Rs. 2 Lakhs shall be paid as expeditiously as may be possible and positively within two months thereafter.

2. Where the acid attack results in the death of the victim, the State Level Committee shall, on the facts and circumstances of the case, pay a lump sum of Rs. 5,00,000/- to the legal heir (the children of the deceased if she has any so as to protect the interest of the child). This shall be in addition to any expenses incurred towards the treatment of the victim.

3. The Acid Attack victim of Haryana shall be entitled to receive free of cost 100% medical treatment from amongst any of the Government Hospitals/Government approved Hospitals. The amount shall be reimbursed by the Women & Child Development Department. The amendments and the deletion/addition of Hospitals made by the Govt. from time to time shall also be automatically covered under the scheme. The list of the said Hospitals is posted on website of the Haryana Health Department at (http://haryanahealth.nic.in/menudesc.aspx?page=232).

4. The victim of acid attack shall be given preference in allotment of fair price shops by the Food and Supply Department, Haryana."

10. Further, the scheme dated 16.01.2014 was amended by notification dated 25.03.2016, in which besides the eligibility criteria, it is also provided that it would apply to all the victims of acid attack after 02.05.2011 "where the Acid Victim has not been finally cured and all process over such victim shall be considered due to continuing cause of action" and in the rehabilitation part, the following provisions have been made:--
8. Rehabilitation

- The severe acid victim should be treated in disabled persons category as certified from the Medical Board of the concerned District.
- Monthly financial assistance of Rs. 8,000/- to acid victims who come in the definition of disability under Section 2(i) of the Persons with Disabilities (Equal Opportunities Protection of Rights of Full Participation) Act, 1995 should be provided by the Social Justice & Empowerment Department, Haryana.
- The victim of acid attack shall be given preference in allotment of fair price shops by the Food and Supply Department, Haryana.

11. The financial assistance is provided as under:

9. Financial Assistance

1. A sum of Rs. 1.00 Lakh shall be paid to acid victim within 15 days of occurrence of such incident (Rs. 25,000/- as ad-hoc relief immediately by the concerned Deputy Commissioner to the acid victim which shall be recouped by WCD and the rest amount of Rs. 75,000/- within 15 days by the WCD) to facilitate immediate medical attention and expenses in this regard.
2. The Acid Attack victim of Haryana shall be entitled to receive free of cost 100% medical treatment including medicine, food, bedding and plastic surgery/reconstructive surgery, if any, from amongst any of the Government Hospitals/Government approved Hospitals.
3. The amount shall be reimbursed by the Women and Child Development Department. The amendments and the deletion/addition of Hospitals made by the Govt. from time to time shall also be automatically covered under the scheme. The list of the said Hospitals is posted on website of the Haryana Health Department at (http://haryanahealth.nic.in/menudesc.aspx?page=232).

12. In the said scheme dated 25.03.2016, it is also provided that what would be the duty of medical facility:

10. Duty of Medical Facility

1. No Medical hospital or speciality, government owned or privately owned shall deny specialised or any form of treatment to any victim on any ground, when such victim is brought before or approaches such facility for treatment.
2. Where such medical facility receives such a victim for treatment it shall forthwith inform the District Board/State Board and the police of the same, but shall in no manner or on any ground refuse treatment to such victim.
3. For the purpose of treatment, the police report or the FIR shall not be relevant precondition.

13. Thus, from the aforesaid schemes which have been changed/modified from time to time in regard to financial assistance/rehabilitation, it is apparent that the acid attack victim would be
entitled to ` 3.00 lacs in case of defacement, loss of limb or part of body and plastic surgery and would be entitled to 100% free of cost medical treatment including medicine, food, bedding and plastic surgery/reconstructive surgery, if any.

14. The grievance of the petitioner is that she has been given only ` 2.16 lacs towards medical reimbursement though she had spent more than that on her treatment but is not in possession of the medical bills thereof and that she has not been given the entire financial assistance of ` 3.00 lacs rather it is argued by counsel for the petitioner that she is entitled to more compensation in terms of Section 357 of the Code of Criminal Procedure, 1973 because of the peculiar facts and circumstances of this case in view of the decision of the Supreme Court in the case of Parivartan Kendra v. Union of India and others, MANU/SC/1399/2015 : 2016(1) R.C.R. (Criminal) 336.

15. There is no doubt that the petitioner had suffered acid attack before the scheme was initially notified on 02.05.2011 as per which the petitioner was not eligible and she has taken treatment from a hospital which is also not approved by the Government. However, the respondents have relaxed the eligibility criteria, considered the petitioner eligible in terms of the scheme dated 02.05.2011 which provides that the scheme would be applicable to the acid attack victims who have faced the attack after launching of the same. Besides this, the hospital from where the petitioner is taking the treatment, namely, Soni Burn and Plastic Surgery Hospital, Hisar has also been approved and the actual medical bills of ` 2.16/- lacs have been ordered to be reimbursed besides reimbursement of the future medical bills but insofar as the medical bills, which have not been submitted by the petitioner, cannot definitely be reimbursed.

16. Insofar as the financial assistance is concerned, it is recorded in the order of the Secretary, District Legal Services Authority, Hisar that ` 50,000/- have already been paid to the petitioner besides ` 25,000/-. The petitioner has, thus, received ` 75,000/- towards compensation. As per the scheme dated 16.01.2014, the persons like the petitioner would be entitled to ` 3,00,000/- as maximum compensation under the Haryana Victim Compensation Scheme of Home Department notified on 03.04.2013. Hence, in any case, the petitioner is entitled to the amount of ` 3,00,000/- because of defacement caused by the acid attack. However, in Parivartan Kendra's case (supra), there was an acid attack on two sisters, out of whom, one suffered 28% burns on her body and 90% on her face because of which she had to undergo several surgeries and many more corrective and curative surgeries for her treatment. In that case, the Supreme Court awarded ` 10 lacs to the victim and ` 3,00,000/- to her sister who received less burn injuries than her sister/victim.

17. Although there is no straight-jacket formula but keeping in view that fact that the present petitioner has suffered 40% burn injury on her face etc., as against the victim in Parivartan Kendra's case (supra) in which the victim was awarded compensation of ` 10 lacs, I am of the considered opinion that the petitioner in this case shall be entitled to compensation of ` 6,00,000/- in all, which has to be paid by the Government.

18. Lastly, in regard to rehabilitation, it is provided in the scheme dated 25.03.2016 that a monthly financial assistance of ` 8,000/- would be given to the acid attack victims who would
come within the definition of disability under Section 2(i) of the Persons with Disabilities (Equal Opportunities Protection of Rights of Full Participation) Act, 1995 which should be paid by the Social Justice & Empowerment Department, Haryana. It is, thus, ordered that in case the petitioner is also covered by the said definition of Section 2(i) of the aforesaid Act, then she should be given monthly financial assistance of ₹ 8,000/. It is also ordered that if the petitioner, after having recovered, applies for allotment of fair price shop, the Food and Supply Department, Haryana shall give preference to her in that matter, as provided in the scheme dated 25.03.2016.

19. With these observations, the present petition stands disposed of.
Nipun Saxena and And Anr. vs. Union of India (Writ Petition(s)(Civil) No(s).565/2012)

Synopsis
Advocate Nipun Saxena had filed the PIL to introduce certain measures for the safety of women in public transport and public places, in December 2012, subsequent to the Nirbhaya gang-rape incident. The PIL was clubbed with five related writ petition seeking effective steps to be taken by the Centre and the states to take steps to curb sexual assault, with senior advocate Indira Jaising acting as the amicus curiae. Following such petition, the National Legal services Authority (NALSA) drafted the “Compensation Scheme for Women Victims/Survivors of Sexual Assault/other Crimes”

Facts and Outcome
Pursuant to orders passed by the Court from time to time with respect to directions to draft a scheme for victim compensation, NALSA framed the “Compensation Scheme for Women Victims/Survivors of Sexual Assault/Other Crimes”.

The Supreme Court approved such scheme and directed the Ministry of Women and Child Development to send copies of the same to the Principal Secretaries of all the State Governments for implementation of the scheme. The Court also clarified that the scheme outlined only the minimum requirements of compensation and therefore the scheme does not preclude the State Governments and Union Territories from adding to the scheme.

Orders

SUPREME COURT OF INDIA

RECORD OF PROCEEDINGS

Writ Petition(s)(Civil) No(s).565/2012

NIPUN SAXENA & ANR. Petitioner(s)

VERSUS

UNION OF INDIA & ORS. Respondent(s)

(IA No.23394/2018-EXEMPTION FROM FILING O.T.)

WITH

W.P.(C) No. 568/2012 (PIL-W)

W.P.(Crl.) No. 1/2013 (PIL-W)
ORDER

Pursuant to orders passed by us from time to time, NALSA has framed the “Compensation Scheme for Women Victims/Survivors of Sexual Assault/other Crimes – 2018. In this context the order passed by us on 15th February, 2018 was communicated by the Ministry of Women and Child Development of the Government of India to all the Principal Secretaries/Administrators of the States/Union Territories. The order dated 15th February, 2018 reads as follows: “In spite of all talks, discussions and intents expressed about gender justice and safety of women, we find that there are 24 States / UTs that have not even bothered to file an affidavit in terms of our order dated 09.01.2018. On 09.01.2018, we had required all the State Governments / UTs to file an affidavit within a period of four weeks indicating the amount received by each State Government / UT under the Nirbhaya Fund towards victim compensation, the amount disbursed from the Nirbhaya Fund and even otherwise and to the number of victims of sexual assault.

This simple information could not be filed as mentioned above by following 24 States / UTs:

1. Andhra Pradesh
2. Arunachal Pradesh
3. Assam
4. Chhattisgarh
5. Goa
6. Haryana
7. Himachal Pradesh
8. Jammu & Kashmir
9. Kerala
10. Maharashtra
11. Manipur
12. Meghalaya
13. Mizoram
14. Rajasthan
15. Tamil Nadu
16. Telangana
17. Tripura
18. Uttar Pradesh
19. Uttarakhand
20. West Bengal
21. Dadra and Nagar Haveli
22. Daman and Diu
23. Delhi
24. Lakshadweep

The affidavits be now filed by these State Governments / UTs within four weeks from today, if they are at all interested in looking after the welfare of women in their States/UTs.

List the matters on 27.03.2018.

The Learned Amicus has finalized a draft of the Victim Compensation Scheme with the assistance of NALSA. It is stated that this will be put on the portal of NALSA for inviting suggestions and comments.” Thereafter, on 9th March, 2018, NALSA put up a notice on its website which reads as follows:

“09.03.2018
To

State Legal Services Authorities
Ministries/Government Departments
Law Universities and NGOs.

Sub: Suggestions invited on the Model
“Victim Compensation for Survivors of
Sexual Assault and Acid Attack – 2018” -
reg.

Sir/Madam,

Whereas vide order dated 12.10.2017, Hon’ble Supreme Court of India had directed NALSA to set up a Committee for preparation of Model “Victim Compensation Scheme for Survivors of Sexual offences and Acid Attack”. The Committee formed by NALSA has now come with a Draft to be added in the State Victim Compensation Scheme titled “Victim Compensation for Survivors of Sexual Assault and Acid Attack – 2018”. As per order dated 15.02.2018, NALSA is now uploading the Draft on its website so that suggestions can come from SLSAs, various Governments, NGOs and other stake holders. Suggestions, if any, can be e-mailed to NALSA on nalsa-dla@nic.in in the next two weeks on or by 25.03.2018.
We are informed that 14 responses from the State Legal Services Authorities were received to the notice of this Model Victim Compensation Scheme.

After all the objections were considered, a Committee comprising the following members was constituted for preparation of the Model Scheme.

The members of the Committee are as follows:

“Ms. Pinky Anand
Additional Solicitor General
Shri Rakesh Srivastava
Secretary, Ministry of Women and Child Development,
Government of India
Shri T.V.S.N. Prasad, Adv.
Additional Secretary, Ministry of Home Affairs Government of India
Ms. Indira Jaising
Senior Advocate, Supreme Court of India
Shri Alok Agarwal
Member Secretary, NALSA
Shri Surinder S. Rathi,
Director, NALSA
Ms. Anju Rathi Rana,
Joint Secretary,
Department of Legal Affairs,
Ministry of Law and Justice, Govt. of India
Shri K.L. Sharma,
Joint Secretary
National Commission for Women
Ms. Bharti Ali
Co-Director,

HAQ: Centre for Child Rights

We have gone through the Scheme prepared by NALSA with the assistance of learned amicus curiae and we are of the view that it contains the best practices of all similar schemes and should be implemented by all the State Governments and Union Territory Administrations. A copy of the Scheme should be sent by the Ministry of Women and Child Development, Government of India to the Principal Secretaries of the State Governments and Union Territory Administrations within two weeks from today for implementation. We make it clear that the Scheme postulates only the minimum requirements. This does not preclude the State Governments and Union Territory Administrations from adding to the Scheme. However, nothing should be taken away from the Scheme.

For other issues, list the matter on 25th July, 2018.

(SANJAY KUMAR-I) (CHANDER BALA)

AR-CUM-PS COURT MASTER
Jhuma Santra Vs State of West Bengal and others, W.P. 26192/2015; Sanchayita Jadav Vs State of West Bengal and others, W.P. 15181/2016; Janmenjoy Khan Vs State of West Bengal and others, W.P. 15179/2016; Kakoli Das Vs State of West Bengal and others, W.P. 15184/2016, at the High Court at Calcutta

Synopsis

Jhuma, Sanchayita, Janmenjoy and Kakoli are acid attack survivors. They had written to the Chief Secretary of West Bengal, seeking an interim sum of Rs 3 Lakhs each towards compensation after the attack, but received no response from the office. Finding no other alternative, they were forced to file writ petitions before the Calcutta High Court.

Facts

Jhuma Santra aged 32, was at her paternal home at Panchloki village in Hooghly's Rishra when Pintu Man, the accused, reached there at around 11am. Pintu is from Chapadanga in Tarakeswar where Jhuma's husband and in-laws live.

Pintu and Jhuma were having a discussion which soon led to an altercation. Jhuma was forced Pintu to leave the house. But, Pintu returned in a while, this time armed with an acid bottle. He threw the acid on Jhuma's face, injuring her critically. Later, Pintu went to another room in the house and consumed poison which he had apparently carried with him along with the acid bottle.

Jhuma's son Sagar Santra, a Class-VIII student, alerted neighbours and later recounted what had happened. The neighbours rushed both Jhuma and Pintu to the local primary health centre that immediately referred them to Serampore Walsh Hospital. Jhuma's mother Parul Bag later said Pintu stalked her daughter several times when she was at her in-laws' place in Chapadanga.

Jhuma along with other acid attack survivors namely Sanchayita Jadav, Janmenjoy and Kakoli through HRLN, Kolkata filed petitions at the High Court of Calcutta.

They subsequently received interim compensation to the tune of Rs 3 Lakhs. Pursuant to a direction passed by the Court, a medical board was formed to examine them and to determine the extent and percentage of their disability as a result of the acid attacks. However, till date, the disability certificates have not been issued.

Additionally, the Petitioners submitted original medical bills relating to their medical treatments to the office of Special Secretary (Home), Government of West Bengal, Nabanna for reimbursement, but their dues have not been paid till date.

When the petitions were taken up for hearing in the High Court, the State brought the 'West Bengal Victim Compensation Scheme' of 2017 to the attention of the Court, and the Advocate General stated before the Court that a bill has been presented before the State legislature very recently, containing provisions for immediate treatment of acid attack victims.
The lawyers for the Petitioners pointed out that the above-mentioned compensation scheme suffers from some crucial defects. It lays down certain criteria for a person to become eligible for the compensation, completely ignoring the view of the Supreme Court in *Laxmi versus Union of India*, which is a landmark case on compensation for acid attack survivors. The Court, appreciating the same, asked the State for the reasons for having such eligibility criteria, and the matter is pending for further hearing on the same. HRLN Kolkata continues to actively represent the Petitioners.

**Prayers**

1. For an interim sum of Rs. 3,00,000/- towards compensation.
2. For the grant of disability certificates.
3. For reimbursement of medical expenses.

**Relevant Laws Cited**

1. *Laxmi versus Union of India* (WP [CRIM] 129/2006), guaranteeing minimum Rs. 3 Lakhs as compensation to acid attack survivors.

**Outcome**

The case is pending for hearing.

**Orders**

2 March 2017

W.P. 26542 (W) of 2015
With
W.P. 26192 (W) of 2015
With
W.P. 10018 (W) of 2016
With
W.P. 17296 (W) of 2015
With
W.P. 15184 (W) of 2016
With
W.P. 15181 (W) of 2016
Mr. Datta, learned Advocate General representing the State of West Bengal has placed before this Bench the West Bengal Victim Compensation Scheme, 2017. A copy thereof shall be retained with the records. Learned advocates appearing for the respective parties shall be at liberty to peruse the scheme and advance arguments on the next date. The petitioner in W.P. 10018(W) of 2016 represented by Mr. Chatterjee, learned advocate, shall be entitled to take exception of the report of the Director General and Inspector General of Police, West Bengal submitted on the earlier occasion, within two weeks from date. Since Mr. Datta has submitted that a bill has been presented in the State legislature very recently containing provisions for immediate treatment of acid attack victims and some time is required for returning with better instructions, hearing of this batch of writ petitions stands adjourned till 7th April, 2017.

( Dipankar Datta, J. )
10 November 2016

W.P. 26542(W) of 2015

With

W.P. 26192(W) of 2015

With

W.P. 10018(W) of 2016

Put up this writ petition along with W.P. 17296(W) of 2016 on Thursday next (17th November, 2016) at 2 p.m. Since Ms. Debapriya Mukherjee, learned advocate for the petitioner and Mr. Tapan Kumar Mukherjee, learned Additional Government Pleader appearing for the State in W.P. 26542(W) of 2015 are absent, learned advocates appearing in the other two writ petitions shall inform them of the next date of hearing. Mr. Ashim Kr. Ganguly, learned advocate representing the State in W.P. 10018(W) of 2016 shall obtain instructions as to whether the principal accused has obtained any order for release on anticipatory bail or not. If no such order has been obtained and he is yet to be arrested, the reasons for not securing his arrest shall be informed to the Bench. (Dipankar Datta, J.)

17 November 2016

W. P. 26542 (W) of 2015 (Rita Paul Vs. The State of West Bengal & Ors.)

With

W. P. 26192 (W) of 2015 (Jhuma Santra Vs. The State of West Bengal & Ors.)

With

W. P. 10018 (W) of 2016 (Monisha Pailan Vs. The State of West Bengal & Ors.)

With

W. P. 17296 (W) of 2015 (Surya Sankar Barik Vs. The State of West Bengal & Ors.)

With

W. P. 15184 (W) of 2016 (Janmenjoy Khan Vs. The State of West Bengal & Ors.)

With

W. P. 15181 (W) of 2016 (Sanchayita Jadav Vs. The State of West Bengal & Ors.)

with

W. P. 15179 (W) of 2016 (Kakoli Das Vs. The State of West Bengal & Ors.)

These writ petitions are at the instance of victims of acid attack, seeking compensation and ancillary relief.

All these petitions shall be heard analogously henceforth.
In purported compliance with an order passed by the Supreme Court of India, the Government of West Bengal in the Home Department has issued a notification dated 27th April, 2015 fixing Rs.3 Lakh on account of compensation payable to victims of acid attack. It is not in dispute that barring Surya Sankar Barik, Janmenjoy Khan, Sanchayita Jadav and Kakoli Das, the other 3 (three) petitioners have received Rs.3 Lakh each.

Compensation of Rs.3 Lakh each to the said petitioners is payable to these 4 (four) petitioners also in terms of the said notification. If not already sanctioned, compensation of Rs.3 Lakh each shall be sanctioned and credited in their bank accounts within 4 (four) weeks from date of communication of this order to the relevant department.

In terms of orders passed by this Bench from time to time in W. P. 26542 (W) of 2015 [Rita Paul Vs. The State of West 3 Bengal & Ors.], the petitioner has been reimbursed Rs.21,000/- towards medical expenses out of a claimed amount of Rs.29,000/-. Reimbursement of medical expenses has, however, not been made in favour of the other petitioners possibly because no such direction, as had been passed on the writ petition of ‘Rita Paul’ was passed on their writ petitions. All the petitioners, barring Rita Paul, shall be at liberty to establish contact with Mr. Nirmalya Ghoshal, Special Secretary (Home), Government of West Bengal with original vouchers, to the extent available with them, for claiming reimbursement of medical expenses. He shall look into the original vouchers produced by the said six petitioners and upon verification, proceed to reimburse such amount(s) in their favour as is/are found to be ‘admissible’. The said petitioners may meet Mr. Ghoshal within 7 (seven) days from date with the original vouchers and on such approach being made, he shall verify their claim and take steps to release payment by 4 (four) weeks from date of such approach.

Insofar as issuance of disability certificate in favour of Rita Paul is concerned, it is evident on perusal of documents produced by Ms. Mukherjee, learned advocate representing her that the petitioner has been made to run from one 4 hospital to the other for the purpose of facilitating various medical examination. Having regard to the physical condition of the petitioner, it would have been desirable if the Government had made arrangements for her medical examination for the purpose of issuance of disability certificate at one Government hospital where all the facilities are available. Since disability certificate is yet to be issued in favour of Rita Paul despite expiry of the time fixed by the order dated 27th April, 2016 passed on her writ petition, the Government is directed to expedite the process of granting such certificate.

The process shall also be expedited in respect of the other petitioners.

Since all the medical facilities may not be available in any one of the district hospitals, the Government is directed to arrange for medical examination of all the petitioners either at the SSKM Hospital or the NRS Medical College & Hospital or the Calcutta Medical College & Hospital or the National Medical College & Hospital, Kolkata. This direction is made on the perception that all these hospitals are equipped with the facilities for conducting medical examination of the petitioners.

For the purpose of examining the petitioners, a Medical Board is required to be constituted. The Director of Health Services, West Bengal shall proceed to constitute such board as early as possible but not later than a fortnight from date of receipt of a copy of this order. Immediately upon constitution of such board, each of the petitioners shall be sent individual notices requiring their presence before the medical board on a common date and at a common venue so that the medical board may, at one go, examine all the 7 (seven) petitioners one after the other for the purpose of facilitating issuance of disability certificate in their favour. By way of abundant
caution, notices for appearance shall also be sent to each of the advocates-on-record for the respective petitioners.

It is also directed that the petitioners shall furnish their respective mobile numbers, if any, to Mr. Ganguly, learned senior Government advocate. The mobile numbers of each of the petitioners’ learned advocates-on-record shall also be furnished to him. Information, apart from being verbally given, shall be transmitted by SMS to the petitioners and their advocates-on-record.

That apart, the particulars of bank account(s) maintained by each of the petitioners shall be furnished to Mr. Ganguly by tomorrow (18th November, 2016).

Insofar as investigation of the crime committed on the petitioners in W. P. 10018 (W) of 2016 [Monisha Pailan Vs. The State of West Bengal & Ors.] is concerned, it appears that the accused has been absconding and despite issuance of warrant of arrest and he being declared as a proclaimed offender, the investigating agency is yet to trace his whereabouts and apprehend him.

This Bench finds it difficult, having regard to the high level of competence of the officers of the police force in the State, to accept that sincere endeavour has been made to trace out the said accused. The situation demands appropriate direction being issued to the superior officers of the force.

Accordingly, the Director General & Inspector General of Police, West Bengal is directed to look into the matter and ascertain whether steps have been taken in the proper direction or not for securing the arrest of the accused. A report shall be submitted on the returnable date.

Needless to observe, pendency of these writ petitions shall not debar the respective investigating agencies to complete investigation, if not already completed, and to file appropriate police reports under Section 173(2) of the Code of Criminal Procedure before the relevant jurisdictional magistrate at an early date. Any party aggrieved by such police report shall be at liberty to work out his/her remedy in accordance with law before the relevant magistrate, if so advised.

If statement of any of the victims has not been recorded under Section 164 of the Code of Criminal Procedure by causing her production before the relevant magistrate, the relevant investigating officer shall immediately do so.

List these writ petitions as ‘Part-heard Matters’ on 12th January, 2017.

( Dipankar Datta, J. )

20 January 2017

W. P. 26542 (W) of 2015
With
W. P. 26192 (W) of 2015
With
W. P. 10018 (W) of 2016
Hearing of these writ petitions stands adjourned till 17th February, 2017 to enable Mr. Ahmed and Mr. Shaikh, learned advocates representing the State in some of these writ petitions to place before this Bench the report of the medical board. Mr. Basu, learned advocate appearing on behalf of the petitioner in W. P. 17296 (W) of 2015 complains that he has not received compensation of Rs.3 Lakhs. The Secretary, Social Welfare Department shall submit a report on the next date explaining the reasons as to why compensation has not been paid to such petitioner.

( Dipankar Datta, J.)

24 February 2017

W. P. 26542 (W) of 2015

With

W. P. 26192 (W) of 2015

With

W. P. 10018 (W) of 2016

with

W. P. 17296 (W) of 2015
Mr. Mukherjee, learned Additional Government Pleader representing the State in all these writ petitions has placed a report of the Medical Board (constituted in terms of the earlier order dated 17th November, 2016), prepared upon 2 examination of all the victims of acid attack who are the petitioners before this Bench. The report shall be retained with the records.

Mr. Mukherjee shall furnish copies of the medical report to each of the learned advocates representing the several petitioners in course of Monday next (27th February, 2017).

Mr. Mukherjee has further placed before this Bench memo dated 10th January, 2017 addressed to the Government Pleader by Mr. Nirmalya Ghoshal, Special Secretary to the Government of West Bengal informing him to the effect that in terms of the Central Victim Compensation Scheme framed by the Government of India, a Victim Compensation Fund with an initial amount of Rs.50,00,000/-(Rupees fifty Lakh) has been constituted and such fund has been placed under the control of the Member Secretary, State Legal Services Authority, West Bengal through the Judicial Department. Such memo shall be retained with the records.

Finally, Mr. Mukherjee has placed the report of the Director General & Inspector General of Police, West Bengal dated 6th January, 2017 pertaining to W.P. 10018(W) of 2016. Such report shall also be retained with the records.

Mr. Jayanta Narayan Chatterjee, learned advocate for the petitioner in W.P. 10018(W) of 2016 shall be entitled to a copy of such report by Monday next.

A common grievance has been raised by the learned advocates appearing for all the petitioners that except the petitioner in W.P. 26542(W) of 2015, Rita Paul, reimbursement of medical expenses incurred by the acid attack victims has not been affected despite they having placed before Mr. Nirmalya Ghoshal all the original vouchers for the purpose of verification. It has also been submitted that by the order dated 17th November, 2016 of this Bench, steps were directed to be taken for release of payment within four weeks. Mr. Mukherjee is unable to answer as to why reimbursement has not yet been effected. In that view of matter, Mr. Mukherjee is granted time to obtain instructions on this point.

The point regarding non-issuance of disability 4 it. A report shall be filed on 2nd March, 2017 indicting therein the likely time period within which such disability certificates shall be issued.

Learned advocate for the petitioner in W.P. 15181(W) of 2016 complains that despite registration of Dum Dum Police Station F.I.R. No. 818/2014 as far back as on 23rd September, 2014, the investigating officer has not recorded the statement of the victim under Section 164 of the Code of Criminal Procedure. He also submits that no steps has yet been taken to arrest the accused.

Mr. Chatterjee, appearing in support of W.P. 10018(W) of 2016, has also submitted that the accused in Joynagar Police Station C.S. No.187/16 dated 16th February, 2016 has not been
arrested. That the principal accused in such FIR could not be arrested is also borne out from the report of the Director General of Police filed in Court today. The report, however, reveals the diverse steps taken by the police to trace out the absconding principal accused and the initiatives taken for obtaining magisterial aid. Unfortunately, it appears therefrom that despite best efforts of the police, the principal accused is still at large.

There cannot be any doubt that police shall continue with their effort to trace out the principal accused and to arrest him as early as possible. It is made clear that if the petitioner is in a position to give any clue to the police about the whereabouts of the principal accused, she shall be at liberty to do so.

Put up all the writ petitions on 2nd March, 2017 for further consideration at 4.15 P.M.

( Dipankar Datta, J. )
off date for receiving compensation was October, 2013, the incident occurred in January, 2011. However, the Court finally directed the state government to pay Rs 3 Lakhs to Aarti under the Manodhairya Scheme, and also to reimburse her for all surgeries and medical expenses she incurred, which amount to Rs 3.5 Lakhs.

Facts

Aarti Thakur, a young IT employee had acid thrown on her face at the Borivali Station, Mumbai. She suffered severe burn injuries. Four days later Feroz Ayub Memon alias Papa, 23, and his accomplice Firoz Mohammad Zuber Sheikh, 28, were arrested near Malwani. Memon allegedly told police he had been hired by Manju Sheikh, mother of Pintoo Sheikh whose advances had been rejected by Aarti in the past to carry out the attack on the woman. Pintoo and Manju were arrested by the Government Railway Police officers in Borivali.

Prayers

1. That the Manodhairya Scheme be applied retroactively to provide for compensation for the victim.

Relevant Laws Cited

1. Laxmi versus Union of India (WP [CRIM] 129/2006), guaranteeing minimum Rs. 3 Lakhs as compensation to acid attack survivors.

Outcome

The Court held that the cut-off date was arbitrary and contrary to the directions given by the Supreme Court in the case of Laxmi v. Union of India and directed the state government to pay Rs 3 Lakhs to Aarti under the Manodhairya Scheme, and also to reimburse her for all surgeries and medical expenses she incurred, which amount to Rs 3.5 Lakhs.

Order

IN THE HIGH COURT OF JUDICATURE AT BOMBAY CIVIL APPELLATE JURISDICTION WRIT PETITION NO.4267 OF 2014

Aarti Thakur … Petitioner

Vs.


CORAM : R. M. BORDE & R. G. KETKAR, JJ. DATE : JANUARY 05, 2018 P.C. :

1. The Division Bench of this Court, in order dated 17.03.2015, have recorded in paragraph 4 thus,
“4. It is apparent that the directions do not mention that the Scheme should be made applicable to the victims of acid attacks after the date of the Judgment. In fact, the perusal of the Scheme indicates that in the said case the victim was injured by acid attack which took place in 2006. In our view, prima facie, therefore, such a cut-off date would be arbitrary and contrary to the directions given by the Apex Court.”

2. It is pointed out that Manodharya Scheme framed by the State Government and operative from 21.10.2013 makes a provision in respect of payment of Rs.3,00,000/- in favour of female and child victim of the acid attack. It was contended on behalf of the State initially that since the incident in question which has resulted in injury to the petitioner is prior to the date of implementation of the Manodharya Scheme, the petitioner may not be covered and may not be entitled to claim the benefits under the Manodharya Scheme. However, the Division Bench dealing with the matter has prima facie expressed its disagreement with the contentions. It is also pointed out that in view of the directions issued by this Court while dealing with Criminal Public Interest Litigation No.35 of 2013 along with Original Side Public Interest Litigation (L) No.87 of 2017, order dated 30.11.2017, State has proposed a revised Manodharya Scheme of 2017. The revised Scheme of 2017 has not yet been published. However, the proposed Scheme makes a provision that the same would apply prospectively.

3. Without prejudice to the rights and contentions of the petitioner as well as respondents, according to us, the ends of justice would be met if the State Government is directed to pay a sum of Rs.3,00,000/- as provided under the Manodharya Scheme published on 21.10.2013 to the petitioner victim as an interim measure, and it is accordingly directed. Apart from this, by virtue of order dated 19.03.2017, the Division Bench of this Court directed the State Government to directly pay the hospital, the expenses incurred on the petitioner's operation after collecting relevant bills from the said hospital where she was required to be operated. It is pointed out by the Counsel appearing for the petitioner that before issuance of the order of the High Court, the petitioner had undergone several surgeries and has incurred expenses. The bills paid by her to the hospital as well as the bills towards the cost of medication are annexed along with the additional affidavit presented on behalf of the petitioner. The chart annexed at Exhibit-A on page 141 presented by the petitioner discloses that the surgical expenses incurred by the petitioner are to the tune of Rs.1,14,895/- plus additional sum of Rs.25,844/-, Rs.16,000/- and Rs.37,350/- for the year 2012, 2013 and 2014 respectively. The petitioner also claims to have incurred expenses towards the cost of medication referred to in column No.3 at Exhibit-A amounting to Rs.84,394.33/-, Rs.59,131.32/-, Rs. 64,221.06/- for the years 2012, 2013 and 2014 respectively.

4. Though this Court by order dated 19.03.2015 directed the State Government to make payment to the hospital directly, in the circumstances as disclosed by the petitioner in the additional affidavit, we are of the opinion that since the petitioner herself had incurred those expenses and paid the bills of the hospitals, she needs to be reimbursed. It would be obligatory for the respondent-State, after verifying the bills annexed to the additional affidavit presented by the petitioner with the original bills, to reimburse the petitioner the expenses incurred by her towards the surgeries which she has undergone and the hospitalization charges as well as out of pocket expenses towards the cost of medication. The amount under the bills those are annexed along with the additional affidavit presented by the petitioner shall be paid to her on due verification by the State as expeditiously as possible, preferably within a period of three weeks from today. The
amount of Rs.3,00,000/- which we have directed to be paid to the petitioner without prejudice to the rights and contentions of both the parties shall also be paid to her within a period of three weeks from today. The Cheque / Draft in the name of the petitioner can also be handed over to the learned Counsel representing the Petitioner in the High Court.

5. Stand over to 29.01.2018.

(R. G. KETKAR, J.)

(R. M. BORDE, J.) 3/3 Minal Parab

**Synopsis**

Asharuf and his brother both lost their mother in an acid attack perpetrated by their father. The father escaped from the hands of the police and the children are now reduced to orphans. A petition was filed seeking grant of compensation.

**Facts**

Asharuf sekh and his brother were left as orphans after their father made a fatal acid attack on their mother. The two children are both minors. A petition was filed seeking grant of compensation under the “Relief and Rehabilitation of Women Acid Victims” scheme. In spite of
repeated representations, the amount of compensation has still not been paid to the Aharful and his brother.

Prayers

1. To provide for compensation under “Relief and Rehabilitation of Women Acid Victims”

Outcome

The two children, have been granted a compensation amounting to Rs. 5 Lakh under the Relief and Rehabilitation of Women Acid Victims scheme.

Orders

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 870 of 2016 (O&M)

Date of decision: 23.2.2016

Asharaful Sekh @ Montu and another .. Petitioners

V.

State of Haryana and others .. Respondents CORAM: HON’BLE MR. JUSTICE RAJESH BINDAL

Present: Ms. Veena Kumari, Advocate for the petitioners. ... Rajesh Bindal J. The petitioners, who are sons of late Ms. Rajina, who died on account of acid attack by her husband, have filed the present petition with a grievance that though in terms of Scheme, namely, “Relief and Rehabilitation of Women Acid Victims”, notified by the Government of Haryana on 16.1.2014, they are entitled to compensation, however, despite repeated representations, the amount has still not been paid. After hearing learned counsel for the petitioners, however, without opining on the merits of the controversy, the present petition is disposed of with a direction to respondent No. 4 to take a final decision on the claim made by the petitioners for grant of compensation in terms of the aforesaid scheme. If the petitioners are held entitled to compensation, it shall be ensured that the amount goes to the rightful claimants and not misappropriated by any other person. The needful shall be done within a period of four months from the date of receipt of copy of the order.

(Rajesh Bindal)

Judge

23.2.2016

Synopsis

A petition was filed for acid attack survivors who received compensation under the Maharashtra Victim Compensation Scheme, 2014 seeking enhancement of the amount of compensation in terms of the orders passed by the Supreme Court in Laxmi v. Union of India and several other matters thereafter which laid out that the minimum amount of compensation for acid attack survivors should be Rs. 3 lacs.

Facts

The victims including Alina Baig are the survivors of a gruesome acid attack that occurred in Mumbai, Maharashtra. The victims were assaulted with acid on 04/10/2010, by their elder sister, her husband and son. As a result, Petitioners have sustained deep burns. Petitioners have undergone a series of reconstructive operations in order to return to a dignified and functional state of living. In order to receive such treatment, Petitioners were forced to alienate their
assets in one instance including their home, and raise money through loans to be able to undergo the previously mentioned treatments.

A petition was initially filed seeking compensation from the State Government. Following such Petition the victims received compensation under the Maharashtra Victim Compensation Scheme, 2014 - an amount of Rs. 3 Lakhs. The financial assistance under the Scheme is insufficient as it adds a cap on the amount which can be paid to acid attack victims. The Maximum financial assistance under the Manodhariya scheme of Rs. 3,00,000 is an inadequate and arbitrary sum of money. Rs. 50,000 which is the maximum amount available for acid attack injury is also too small a sum for assisting an acid attack victim.

The order passed in the Laxmi Case was upheld by the Supreme Court in Parivartan Kendra & Anr vs. U.O.I. & Ors. (Writ Petition No. 867 of 2013), whereby vide its Judgment dated 7th December, 2015 the Court held that it is the responsibility of the State to ensure proper treatment and rehabilitation for the victims of Acid Attacks, and that the order passed in the Laxmi Case does not provide a bar to payment of enhanced compensation to the victims. The Court held that given the effect of an acid attack on a victim's social, economical, and personal life, the enhancement of the compensation amount was necessary as victims of acid attacks often require permanent treatments to the damaged skin. The amount of 3 Lakhs as a minimum would be rather insufficient to tend to such injuries. Although the compensation may be an additional burden on the State, the prevention of such a crime is also the responsibility of the State and the liability to pay such enhanced compensation will be of the State.

Prayers

1. To enhance the compensation provided to the victims.
2. To remove the arbitrary cap on compensation in the scheme.

Relevant Laws Cited

1. Laxmi versus Union of India (WP [CRIM] 129/2006), guaranteeing minimum Rs. 3 Lakhs as compensation to acid attack survivors.
2. Parivartan Kendra & Anr vs. U.O.I. & Ors. (Writ Petition No. 867 of 2013), stating that it is the responsibility of the State to ensure proper rehabilitation of acid attack victims.
3. Article 21 of the Constitution of India there being an obligation of the state to compensate victims of acid attacks.

Outcome

The matter is pending final disposal. However a statement has been made by the Advocate appearing on behalf of the State Government that the State has proposed to increase the amount of compensation, the said proposal is awaiting final approval from the cabinet.

Order

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
1. The learned counsel for the Petitioner on instructions states that now the challenge in the Petition is confined to prayer (c) which reads thus:

“c. The Hon'ble Court be pleased to issue a writ of mandamus or any other order, writ or direction in the nature of mandamus directing Respondent State to no cap on the amount of Rs.3,00,000/ that is to be paid to the victim of acid attack.”

2. Our attention is invited to the order dated 10th April 2015 passed by the Apex Court in Writ Petition (Cri) No.129/2006. The order records the grounds on which compensation can be granted to the victims of the acid attacks. The said order in turn refers to the directions issued earlier by the Apex Court in Laxmi vs. Union of India. The Apex Court in the order dated 10th April 2015 has issued following directions.

“In our opinion, it will be appropriate if the Member Secretary of the State Legal Services Authority takes up the issue with the State Government so that the orders passed by this Court are complied with and a minimum of Rs.3,00,000/ (Rupees three Lakhs only) is made available to each victim of said attack.”

In subsequent paragraph of the same order, the Apex Court has held that an amount of Rs.3 Lakhs will not be burdensome so far as the State Governments/Union Territories are concerned.

Our attention is drawn to the recent decision in Parivartan Kendra vs. Union of India & Others, wherein the Apex Court has referred to its earlier orders. What is relevant is paragraph 21 of the said decision. In paragraph 21, the Apex Court observed that Laxmi’s case does not put any embargo on the State Government paying compensation exceeding a sum of Rs.3 Lakhs.

3. Our attention is invited to the notification dated 11th April 2014 issued by the State Government in exercise of powers conferred under section 357 of the Code of Criminal Procedure, 1973. Section 357 A mandates that every State Government in coordination with the Central Government shall prepare a scheme for providing funds to the victim or dependent who has suffered as a result of crime and who require rehabilitation. Before referring to various clauses in the said scheme, it will be necessary to go back to the order dated 10th April 2015 passed by the Apex Court. At page 6 and 7 of the order, the Apex Court has held thus:

“The final issue is with regard to the setting up of a Criminal Injuries Compensation Board. In the meeting held on 14/3/2015, the unanimous view was that since the District
Legal Services Authority is already constituted in every district and is involved in providing appropriate assistance relating to acid attack victims, perhaps it may not be necessary to set up a separate Criminal Injuries Compensation Board. In other words, a multiplicity of authorities need not be created.

In our opinion, this view is quite reasonable. Therefore, in case of any compensation claim made by any acid attack victim, the matter will be taken up by the District Legal Services Authority, which will include the District Judge and such other coopted persons who the District Judge feels will be of assistance, particularly the District Magistrate, the Superintendent of Police and the Civil Surgeon or the Chief Medical Officer of that District or their nominee. This body will function as the Criminal Injuries Compensation Board for all purposes.”

(underline added)

4. Now we turn to the relevant clauses of the Notification dated 11th April 2014. Clause (3) is in respect of victim compensation fund. The procedure for grant of compensation is under clause 5. Sub clause (a) of clause 4 states that the cause for grant of compensation will be considered whenever recommendation is made by the Court under sub sections (2) and (3) of section 357 (A) of the said Code. In the said notification, effect is not given to the directions in the order dated 10th April 2015, wherein it is stated that in case of any compensation to acid attack victim, the District Legal Services Authority shall include the District Judge and such other coopted persons who the District Judge feels will be of assistance, particularly the District Magistrate, the Superintendent of Police and the Civil Surgeon or the Chief Medical Officer of that District or their nominee. Therefore, in our view, the Notification dated 11th April 2014 is not consistent with the order dated 10th April 2015 and the same needs amendment. Sub clause 8 of clause (5) of the scheme read with the schedule of the scheme provides for a cap on compensation payable to the victim of acid attack upto Rs.3 Lakhs, though subclause (2) of clause (5) suggests that the compensation may vary from case to case depending upon the facts of each case.

5. Perhaps, the State Government has proceeded on the footing that as per the orders of the Apex Court any amount higher than a sum of Rs.3 Lakhs cannot be granted. In fact the orders of the Apex Court repeatedly clarify that an amount of Rs.3 Lakhs is the minimum amount of compensation that must be paid to a victim of acid attack. It is an obligation of the State to compensate the victims of acid attack in as much as acid attack on a woman is a gross violation of her fundamental rights guaranteed under 21 of the Constitution of India. It is an obligation of the State Government to compensate the victim of acid attack for violation of her fundamental rights. It is for this reason that the compensation cannot be restricted to Rs.3 Lakhs. In fact, as per the orders of the Apex Court, the minimum amount of Rs.3 Lakhs is prescribed for acid attack victims. Unfortunately, the State has treated the same as maximum amount as seen from the schedule to the aforesaid notification dated 11th April 2014.

6. All the aforesaid aspects and the orders of the Apex Court from time to time shall be brought to the notice of Additional Chief Secretary of the Home Department of the State
Government. The State Government shall take appropriate decision of this aspect as expeditiously as possible and in any event on or before 31st January 2017.

7. Place the petition on 7th February 2017 under the caption “Fresh Admission” Parties are put to notice that an endeavour shall be made to dispose of the Petition finally at the stage of admission.

(ANUJA PRABHUDESSAI J)

(A.S.OKA, J.)

Durjan Singh vs. Govt. Of NCT of Delhi W.P. (C) 6734 of 2016

Synopsis
Durjan Singh, a senior citizen aged 70 years, was attacked with acid when he was returning home after dropping his granddaughter to school. This case sets a landmark judgment as it is in this case wherein a male for the first time received full amount of compensation.

Facts
Durjan Singh was attacked with acid while returning home after dropping his granddaughter to school. While crossing Bhoria Thalla, around 8:15 am, an unidentified man threw some unknown substance (later ascertained as acid) on his face and ran away after that. The acid attack rendered the victim blind and despite two rounds of surgery, he has not recovered his eyesight.

Prayers
1. To provide for full compensation as per the Delhi Victim Compensation Scheme.

Relevant Law Cited
1. Laxmi versus Union of India (WP [CRIM] 129/2006), guaranteeing minimum Rs. 3 Lakhs as compensation to acid attack survivors.

Outcome
The Petition was disposed off and Durjan received full compensation.

Order

IN THE HIGH COURT OF DELHI AT NEW DELHI

W.P.(C) 6734/2016

DURJAN SINGH .... Petitioner

Through: Ms Sija Nair Pal, Advocate.

versus

GOVT OF NCT OF DELHI AND ORS .... Respondents

Through: Ms Swaty Singh Malik with Ms yaashna Thakran and Mr Himanshu Latwal, Advocates for GNCTD.

Mr S. K. Sethi and Ms Dolly Sharma, Advocates for DSLSA.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

17.08.2017

1. The petitioner, a senior citizen aged 70 years and a victim of acid attack, has filed the present petition, inter alia, praying that the respondents be directed to release the interim compensation of at least ₹3 Lakhs in view of the decision of the Supreme Court in Laxmi v Union of India & Ors.: (2014) 4 SCC 427. The petitioner also claims to have incurred expenditure of ₹1 Lakh on medical treatment and seeks reimbursement of the said amount.

2. It is stated that the petitioner was returning home after dropping his granddaughter to school on 27.08.2008. While crossing Bhoria Thalla, around 8:15 am, an unidentified man threw some unknown substance (later ascertained as acid) on his face and ran away after that. It is stated that the acid attack rendered the victim blind and despite two rounds of surgery, he has not recovered his eyesight.

3. The learned counsel for GNCTD has drawn the attention of this Court to a notification dated 23.12.2016 notifying the "Delhi Victims Compensation Scheme, 2015". In terms of the said scheme, Delhi State Legal Services Authority (DSLSA) or District Legal Services Authority (DLSA) has been charged with examining and verifying claims with regard to loss/injury caused due to crimes and decide the compensation payable to the victim or his/her dependants. The relevant extract of the schedule providing for compensation payable to victims of acid attack under the said scheme is set out below:-
<table>
<thead>
<tr>
<th>Sr. no.</th>
<th>Particulars of loss or injury</th>
<th>Minimum limit of compensation</th>
<th>Upper limit of compensation</th>
</tr>
</thead>
<tbody>
<tr>
<td>14.</td>
<td>Victims of acid attack-</td>
<td></td>
<td></td>
</tr>
<tr>
<td>a.</td>
<td>In case of disfigurement of face</td>
<td>Rs. 3 Lakhs</td>
<td>Rs. 7 Lakhs</td>
</tr>
<tr>
<td>b.</td>
<td>In case of injury more than 50%</td>
<td>Rs. 5 Lakhs</td>
<td>Rs. 7 Lakhs</td>
</tr>
<tr>
<td>c.</td>
<td>In case of injury less than 50%</td>
<td>Rs. 3 Lakhs</td>
<td>Rs. 5 Lakhs</td>
</tr>
</tbody>
</table>

4. The aforesaid compensation is to be disbursed as per the assessment by DSLSA or DLSA, as the case may be.

5. The learned counsel for GNCTD submits that the aforesaid scheme is a comprehensive scheme and the petitioner ought to approach the concerned authorities for fixing the amount of compensation. He further states that in addition to the above, Directorate of Health Services, GNCTD has issued several circulars, in terms of which free medical treatment is available to victims of acid attacks. For the purposes of ensuring proper coordination with the hospitals, GNCTD has also appointed a Nodal Officer to ensure that directions are issued to hospitals for free treatment of victims.

7. The learned counsel has also drawn the attention to a letter dated 24.03.2017 issued by the GNCTD whereby the Department of Women and Child Development, GNCTD has also been asked to initiate process for developing "new parameters and scope of assistance under the existing scheme of 'Financial Assistance to Persons with Special Needs Scheme, 2009’".

8. In view of the above, DSLSA is directed to consider the petitioner's claim for compensation under the Delhi Victims Compensation Scheme, 2015 and if the petitioner's claim is verified, DSLSA shall ascertain the compensation in terms of the said scheme.

9. The petition is disposed of with the aforesaid directions.

VIBHU BAKHRU, J
Rajesh vs. Govt. Of NCT OF Delhi and Ors W.P.(C) 8742 of 2017

Synopsis

Rajesh, an auto driver had acid thrown towards him injuring him. This case is pertinent to note as Rajesh received compensation as soon as the notice was issued to the parties.

Facts

When Rajesh was driving his auto, his customers Mohini and her father were attacked with acid. In the incident Rajesh was also rendered severely injured with splashes of acid falling on his back and head. A notice was sent to the parties following which there was expeditious compensation order in favour of Rajesh.

Prayers

1. To provide for adequate compensation for Rajesh.

Outcome

The petition was disposed off and Rajesh was granted compensation.

Orders

IN THE HIGH COURT OF DELHI AT NEW DELHI W.P.(C) 8742/2017

RAJESH ..... Petitioner
Through: Ms Sija Nair Pal, Advocate.

Versus

GOVT OF NCT OF DELHI AND ORS ..... Respondents

Through: Mr Gursharan Singh, Advocate for R1, 3 & 4.

CORAM: HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

09.10.2017 CM No.35826/2017

Allowed, subject to all just exceptions. W.P.(C) 8742/2017 Issue notice. The learned counsel for respondent nos.1, 3 & 4 accepts notice. Notice shall go to respondent no. 2 by speed post as well as an approved courier. Dasti in addition List on 01.02.2018.

VIBHU BAKHRU, J OCTOBER 09, 2017 MK

IN THE HIGH COURT OF DELHI AT NEW DELHI W.P.(C) 8742/2017

RAJESH ..... Petitioner

Through Ms. Sija Nair Pal, Adv.

versus

GOVT OF NCT OF DELHI AND ORS ..... Respondents

Through Mr. Gursharan Singh, Adv.

for R1, 3 & 4. Mr. Suraj Kumar, Adv. for R-2 CORAM: HON'BLE MR. JUSTICE RAJIV SHAKDHER

ORDER

01.02.2018

1) Mr. Gursharan Singh who appears for respondents no.1, 3 and 4 seeks and is granted two weeks” time to file a counter affidavit. 2) Mr. Suraj Kumar who appears for respondent no.2, likewise, seeks and is granted two weeks” time to file a counter affidavit. 3) It appears that notice has not been issued to respondent no.5. 4) On steps being taken, notice shall issue to respondent no.5. In addition, service be effected via private mode as well on the said respondent. 5) Renotify the matter on 6.4.2018. RAJIV SHAKDHER, J FEBRUARY 01, 2018

IN THE HIGH COURT OF DELHI AT NEW DELHI W.P.(C) 8742/2017

RAJESH ..... Petitioner


Versus

GOVT OF NCT OF DELHI AND ORS ..... Respondent
Through: Mr. B.S. Shukla, CGSC for UOI. Mr. Gursharan Singh, Adv. for R-1, 3 & 4. CORAM: HON’BLE MR. JUSTICE RAJIV SHAKDHER O R D E R 06.04.2018

1. Counsel for the petitioner says that the grievance raised in this petition has been addressed. She has instructions to convey this Court that the petitioner does not wish to press the instant petition. 2. The said statement is taken on record. 3. Writ petition is dismissed as not pressed.

RAJIV SHAKDHER, J

Yashoda Bai vs. State of Madhya Pradesh WP No.742/2017

Synopsis

Yashoda, a young woman was attacked with acid after she denied to enter into an physical relationship with Nepal Singh. This case is pioneering in the context that it is the first case of its category in Madhya Pradesh wherein compensation amounting to Rs. 4,00,000 and medical expenses amounting to Rs. 3,00,000 have been awarded by the court. Additionally, this case is ground-breaking as the counsel for the petitioner has prayed for provision of employment for acid attack victims.

Facts

On being admitted to M.Y. Hospital, the petitioner was diagnosed with approximately 20% burn injuries but was not administered requisite medical attention by the hospital staff. Due to improper medical care, the petitioner developed puss in her scalp and holes in her right ear. In addition to this, she was discharged from the hospital on 3/02/2017 i.e. even before she had completely recovered.

The court directed that she be transferred to a private hospital (Bombay Hospital) for the remainder of the treatment which included cosmetic surgery, hair implant, treatment for disfigured fingers etc. The expenses incurred by the hospital where the acid attack victim is undergoing treatment would be compensated by the state government. In Laxmi vs Union of India, it was decided that a victim of acid attack should be given a compensation of Rs. 3 Lakhs, one third of which should be paid within 15 days and the rest within 2 months. In the instant case, the requisite amount was not paid to the petitioner within this time frame.
The petitioner contended that as a result of the acid attack, she has been subjected to great mental and physical trauma due to which her confidence level was shattered and therefore, damages to the tune of Rs. 3 Lakh is not sufficient to cater to the loss. Since it is the responsibility of the State to prevent such crimes, the compensation amount must be higher.

In light of the irreversible physical and mental agony suffered, the petitioner Yashoda Bai sought from the High Court of Madhya Pradesh Rs. 30 Lacs in the form of damages, lifetime support for medical treatment and development of a comprehensive rehabilitation scheme by the respondents/state for acid attack survivors involving housing, education and employment.

By the order dated 22/11/2017, the Madhya Pradesh High Court has directed the Bombay Hospital to continue with the treatment of the petitioner (advanced surgery). In accordance with this order, submission of a compliance report is to be made within 10 days by the collector regarding the status of the payment of additional amount of Rs. 1 Lakh (Prime Minister's Relief Fund). The latest order issued by the Madhya Pradesh High Court dated 15/05/2018 grants time (4 weeks) to obtain instructions as to the decision taken by the respondent No.5 on the petitioner’s application in pursuance to the previous order.

**Prayers**

1. To provide 30 Lakhs as compensation for Yashoda for her physical and mental turmoil after the attack.
2. To provide for employment for acid attack victims in the public sector.

**Outcome**

Yashoda was granted compensation of Rs. 4,00,000 along with medical expenses worth Rs. 3,00,000. The Hospital was directed to continue with Yashoda’s treatment. The application for employment under the physically handicapped quota is still pending.

**Order**

HIGH COURT OF MADHYA PRADESH WP No.742/2017

Indore, Dated: 15/05/2018

Parties through counsel. Shri Rahul Sethi, learned counsel for State prays for time to obtain instructions as to the decision taken by the respondent No.5 on the petitioner’s application in pursuance to the previous order. List after four weeks as prayed.

W P No. 742 / 2017
INDORE, Dated : 22/11/2017

Ms. Shanno Shagufta Khan , learned counsel for the petitioner.
Mr. Aniruddha Waghmare, learned counsel for the respondent - State. Mr. Abhishek Bajpai, learned counsel for the respondent No.7.
IA No. 4314/2017 is filed by the petitioner who is an acid victim and a prayer has been made to grant a sum of Rs.1.00 lac under the Scheme i.e., Prime Minister's Relief Fund under which a sum of Rs.1.00 lac has to be granted to acid victims. Along with the application, there are letters dated 14/6/2017 and the Superintendent of Police has certainly made an attempt with quite promptitude for payment of the amount, however, the amount has not been paid so far and it has been brought to the notice of this Court that the amount has to be paid by the Collector.

Resultantly, as there is a Scheme, as informed by learned counsel for the respondent – State, an additional amount has to be paid through the Collector, let the amount be paid positively within a period of 7 days from today. It has also been stated that the petitioner is in need of advanced surgery and on account of the order passed by this Court she was initially treated at Bombay Hospital and, therefore, Bombay Hospital is directed to continue with further treatment of the girl in question, in the light of the order passed by the Hon’ble Supreme Court of India dated 10/4/2015 Laxmi Vs. Union of India. It has been brought to the notice of this Court by the learned counsel for the petitioner that the petitioner was not treated properly at M Y Hospital and in those circumstances a prayer was made for her treatment in a Private Hospital i.e., Bombay Hospital. She has also stated that Bombay Hospital is providing all kind of possible treatment to the girl, however, further direction is certainly necessary as the petitioner still requires further treatment.

Resultantly, Bombay Hospital is directed to continue with the treatment of the girl in question and a compliance report shall be submitted to this Court within 10 days by the Collector informing this Court whether the additional amount of Rs.1.00 lac has been paid to the petitioner or not.

The petitioner is also directed to implead Bombay Hospital as one of the respondents.
List on 12/12/2017.
Certified copy, as per Rules.

(S. C. SHARMA)
J U D G E

(PRAKASH SHRIVASTAVA) Judge
ANNEXURES
ANNEXURE-1

Manodhairya Scheme

Regarding upgradation of the eligibility criteria for financial assistance and rehabilitation under the “Manodhairya Scheme” for women and children affected by Rape/Child Sexual Assault and Acid Attack

GOVERNMENT OF MAHARASHTRA Women and Child Development Department
Government Resolution No.MISC-2016/C.No.35/K-2, New Administrative Building, 3rd Floor, Mantralaya, Mumbai-400032. Date: 1st August, 2017

REFERENCE TO:

3. Order passed by the Honorable Bombay High Court passed on 8th March 2017, in Writ Petition No. 2951/2016

INTRODUCTION:

1. Based on the directive from the Central Government to provide for financial compensation and rehabilitation for victims of Rape/Child Sexual Assault and Acid Attack, and following the decision of the then Cabinet, ‘The Manodhairya Scheme’ has been started in the State by the Department of Women & Child Development according to Government Resolution Understanding the challenges at the regional level for effective implementation of the Manodhairya Scheme based on the current criteria, it was proposed
to change the criteria according to the guidelines given in the semi-official letters by the Central Government dated 09/12/2010.

2. In the meanwhile based on the order by the honorable Supreme Court in the Criminal Appeal No. 884 of 2015 Tekan Alias Tekram v/s the State of Madhya Pradesh in the writ petition No. 2951/2016 filed in the Honorable High Court, Bombay as well as taking note of the fact that the State of Goa was providing a monetary compensation of Rs. 10 lakh, the Honorable High Court in Bombay in their order dated 08/03/2017 asked the State to develop a new scheme. Similarly based on two writ petitions in the High Court of Bombay writ petition No. 2165/2014 and petition No. 3123/2015 the honorable high court had ordered the State to remove the cut off date of 02/10/2013 under the Manodhairya Scheme and provide compensation in retrospect to the victim women and children in cases that fell in the eligibility criteria under the scheme. In consideration of all of the above the Government was thinking of improving certain criteria in the current Manodhairya Scheme.

GOVERNMENT RESOLUTION -

Based on the above background the amendments in the eligibility criteria under the Manodhairya scheme operational under the Women & Child Development Department since 02/10/2013 for financial assistance and rehabilitation of victims of Rape/Child Sexual Assault and Acid Attack are as given under:

1. Under the “Manodhairya” Scheme from the date of release of this order as per the Appendix A attached, victims of Rape/Child Sexual Assault and Acid Attack will be given revised compensation.

2. According to the prevailing criteria under the “Manodhairya” scheme the power to extend financial compensation has been given to the District Criminal Injuries Relief and Rehabilitation Board set up under the Chairmanship of the District Collector. However, Government Resolution observing the workload of the District collector it has not been possible to call for meetings of the district board each time in each case. Because of which it has been observed that victims have not been able to be given compensation in the prescribed time period. Thus, according to the new criteria the District Legal Services Authority (DLSA) or as per the circumstances to the State Legal Services Authority (SLSA) will extend the financial assistance to victims.

3. Based on the new criteria attached in the “Appendix A” under the “Manodhairya Scheme” while providing financial compensation to victims the procedure to be followed is as follows.

A) RAPE (THIS INCLUDES WOMEN VICTIMS WHO ARE MENTALLY CHALLENGED)

(i) In the case of Rape, as given in "APPENDIX A" along with (1) Rape (A) and (B) 75% of the financial compensation granted by the DLSA or as per the circumstances by the SLSA, should be kept as a fixed deposit in the name of the victim in a bank account, for a period of 10 years. 25% of the amount to be paid to the victim by cheque, by the
concerned District Women & Child Development officer after receiving the order of the DLSA or SLSA.

In such incidents, as soon as the District Women & Child Development officer receives the FIR, Medical Examination Report and the Victims statement recorded under Section 164 CrPC from the Police Department, the DLSA and as per the circumstances SLSA will take an immediate decision regarding the financial assistance. The concerned Officer for Women & Child Development to take action accordingly.

(ii) While approving financial assistance based on the prevailing criteria under the Manodhairya Scheme it has been observed at a regional level that there have been attempts at availing financial assistance under the scheme based on false claims. According to the current criteria under the scheme just based on the copy of the FIR and the chargesheet the District Criminal Injuries Relief and Rehabilitation Government Resolution No.MISC-2016/C.No.35/K-2, Board approve the case the grant complete financial assistance to the victims. However in the future if the victim changes her statement against the accused and the offence is not proved the accused can be released. Thus according to the current prevailing practices under the scheme, due to false claims filed by the victim in the court, the possibility of women and men consenting and taking advantage of this scheme cannot be denied. However, to prevent these tendencies, that are involved in the incidents of rape, the following procedures should be implemented for the cases of rape mentinoed in Appendix – A 1. (C), (D) and (E).

- For offences mentioned in Appendix A (1) Rape, (C) (D) and (E) as soon as the District Women & Child Development officer receives the FIR, Medical Examination Report and the Victims statement recorded under Section 164 CrPC from the Police Department, the DLSA or based on the circumstances SLSA will give the order of payment of the interim compensation of Rs. 25,000 or 25% of the sanctioned amount whichever may be less. The concerned DWCD officer should take action accordingly.

- In such cases, it will be compulsory for the police department to attach a copy of the victims testimony under Section 164 CrPC alongwith the FIR.

- Subsequently in the case, after filing of the chargesheet in the competent court, after deducting Rs. 25,000/- or 25% of the sanctioned amount whichever may be less, from the final compensation amount will be given to the concerned victims as final compensation by the DLSA or based on the circumstances SLSA.

- With respect to the above mentioned financial compensation the concerned DWCD officer will take necessary action to keep the amount as a fixed deposit in the name of the victim in a bank account, for a period of 10 years.

- If the rape has caused serious injury/illness, or an HIV infection then the concerned should be provided with free medical treatment inGovernment hospitals.

- As per to the Protection of Women from Domestic Violence Act 2005, post the court proceedings if the woman is separated/divorced from her husband and after that there is a rape/sexual assault from her husband an interim compensation of Rs. 25,000/- or 25% of the sanctioned amount whichever may be less must be provided after getting the copy of the FIR from the police, medical examination report and victims testimony under Section 164 CrPC. Subsequently after the chargesheet has
been filed in a competent court the remaining compensation amount up to a limit of up to Rs 1.00 lakh should be kept under the name of the victim as a fixed deposit in the bank.

- Additionally, in the incidence of death due to rape, the heir allowed a compensation of Rs. 1 lakh if the deceased woman is a non-earning member of the family and of Rs. 2 lakh if the deceased woman is a earning member of the family. However, this amount should be kept in the bank as a fixed deposit in the name of their minor children.

### B) CHILD SEXUAL ASSAULT AS PER POCSO Act, 2012 (THIS INCLUDES VICTIMS WHO ARE MENTALLY CHALLENGED)

(i) In cases of Child Sexual Assault as per the POCSO Act 2012, as mentioned in "APPENDIX A" along with incidences under (2) (A) and (B) 75% of the financial compensation granted by the DLSA or as per the circumstances by the SLSA, should be kept as a fixed deposit in the name of the victim in a bank account, for a period of 10 years. After completing the necessary procedures 25% of the amount to be paid to the victim by cheque, by the concerned District Women & Child Development. Before which an approval on the basis of the FIR related to the incident and medical examination report, from the DLSA or based on the circumstance SLSA will be required. If there is permanent disability then compensation upto Rs. 10 lakh to be sanctioned.

In such incidents, as soon as the District Women & Child Development officer receives the FIR, Medical Examination Report and the Victims statement recorded under Section 164 CrPC from the Police Department, the DLSA and as per the circumstances SLSA will take an immediate decision regarding the financial assistance. The concerned Officer for Women & Child Development to take action accordingly.

(ii) In cases of Child Sexual Assault as per the POCSO Act 2012, as mentioned in "APPENDIX A" along with incidences under (2) (C) the following procedures are to be followed

- As soon as the FIR, Medical Examination Report and the Victims statement recorded under Section 164 CrPC is received from the Police Department, an interim compensation of Rs. 25,000 or 25% of the sanctioned amount whichever may be less to be sanctioned by the DLSA or based on the circumstances SLSA. The concerned DWCD officer should take immediate action accordingly.

- In such cases, it will be compulsory for the police department to attach a copy of the victims testimony under Section 164 CrPC alongwith the FIR.

- Subsequently in the case, after filing of the chargesheet in the competent court, Rs. 25,000/- or 25% of the sanctioned amount whichever may be less, sanctioned by the DLSA or based on the circumstances the SLSA, to be deducted from the final compensation amount the remaining compensation amount up to a limit of up to Rs 1.00 lakh will be given to the concerned victims as final compensation by the DLSA or based on the circumstances SLSA.
With respect to the 75% of the approved compensation the concerned DWCD officer will take necessary steps to keep the amount as a fixed deposit in the name of the victim in a bank account, for a period of 10 years. This to be done once there is approval from the DLSA or based on the circumstances SLSA.

The said amount to be given to the parent of the child, the nonoffending mother, if the mother is deceased then the non-offending father, if both the parents are deceased then based on the decision taken by the honorable court the guardian of the child will remain as a heir, the said amount to be kept in the name of the child as a fixed deposit in a bank. While keeping the amount as a fixed deposit premature withdrawal of the amount before the child completes the age of 18 years will not be possible, this rule will be imposed on the bank and it would be mandatory for the bank to stamp the receipt of the fixed deposit stating the same.

If the rape leads to death of the child, then the non-offending mother, if the mother is deceased then the non-offending father, if both the parents are deceased then based on the decision taken by the honorable court the guardian of the child who is the heir, will be paid the compensation.

In this regard, the compensation amount to be paid to the nonoffending mother, if the mother is deceased then the non-offending father, if both the parents are deceased then based on the decision taken by the honorable court the guardian of the child who is the heir, will be paid in the first phase and kept as a fixed deposit for a period of 10 years. This amount cannot be withdrawn for 10 years, this restriction will be imposed on the bank and it would be mandatory for the bank to stamp the receipt of the fixed deposit stating the same. After 10 years, the deposit will roll over for another 10 years. The interest gained on this amount can be spent by the parent or the legal heir for taking care of the victims.

C) REGARDING COMPENSATION TO BE PROVIDED TO VICTIMS OF ACID ATTACKS

(i) In the case of Acid Attacks, as given in "APPENDIX A" along with (3) Acid Attacks (A) 75% of the financial compensation granted by the DLSA or as per the circumstances by the SLSA, will be kept as a fixed deposit in the name of the victim in a bank account, for a period of 10 years. The concerned District Women & Child Development officer should immediately complete procedures to hand over the 25% of the compensation amount to be paid to the victim by cheque. However, if financial assistance is provided to the victims under the the Victim Compensation Scheme of the Government's Home Department, they will not be entitled to compensation under the Manodhairya Scheme.

(ii) In the case of Acid Attacks, as given in "APPENDIX A" along with Acid Attacks (3) (B), 75% of the granted compensation by the DLSA or as per the circumstances by SLSA, will be kept as a fixed deposit in the name of the victim in a bank account, for a period of 10 years.

(iii) In cases where the face is disfigured due to the acid attack the plastic surgery to be carried out in the hospital decided by the Government and the expenses for the surgery to be sanctioned by the DLSA or as per the circumstances by SLSA.
4. In the writ petition No. 2165/2014 in the Bombay High Court and writ petition No. 3123/2015 the honorable high court had ordered the State to provide compensation under the Manodhairya scheme in retrospect. Accordingly accompanying statements in cases of Rape falling in the categories 1(A) and (B), under POCSO Act 2012 statements in the categories 2(A) and (B), and Acid attacks cases falling in the category 3(A). For cases eligible since 31/12/2009, financial compensation will be given under the Manodhairya Scheme as per the criteria of the government's resolution on the date of October 21, 2013. The financial compensation will be payable only if an FIR was lodged at the time of the Incident.

With regards to other offences since 2009, there is a possibility that victims might have been rehabilitated. Thus in the current situation respecting the privacy of the victims, it will be inappropriate to interfere now in their private lives in relation to the earlier incidents.

5. If victims are to avail of monetary compensation under the Manodhairya scheme then they will not be entitled for financial compensation under any other scheme.

6. It has been observed during the implementation of the Manodhairya scheme that while providing for financial compensation to victims the necessary paperwork needed from them is incomplete. There is a lot of time that goes by in the process. Also, when a letter is sent to the contact address of the victim, and the victim is not available at the address there are difficulties in providing financial assistance leading to a lot of delay in the proceedings. In such a case, the DLSA or as per the circumstances the SLSA, will ensure that maximum efforts are being taken for not more than a period of 3 months, in locating the address of the victim or completion of the necessary paperwork, after which they will pass an order to deposit the compensation amount in the State Treasury. Accordingly the procedures in this regard to be followed by the concerned DWCD officer.

7. To avail of the financial compensation under the Manodhairya scheme it would be necessary for the victims/children of the victims to have a Aadhar number and it will be necessary to provide the information related to their Aadhar linked bank account to the DLSA or as per the circumstances the SLSA. The responsibility of opening a Aadhar Linked bank account is with the victim and the victims parents.

8. Also, as per the above new criteria under the “Manodhairya” scheme it is mandatory to submit the medical examination as per the Public Health Departments Government circular no – miscellaneous – 2013 / C.No. 55/ Health – 3, Date 10/05/2013.

9. For the effective implementation of the “Manodhairya” Scheme no other rules, other than the modified procedures prescribed will apply.

10. Women and child victims of Rape, Child Sexual Assault under the POCSO Act, 2012 and Acid attacks will be allowed financial assistance/rehabilitation/compensation only under one scheme, either under the victim compensation scheme or the revised Manodhairya Scheme.

11. DLSA or as per the circumstances SLSA should deposit the amount of the financial compensation as a cheque in the name of the victim in their Aadhar linked bank account.

12. The non – recurring expenditure under the scheme is Rs. 111.84 crores and recurring expenditure Rs. 18.80 crores, incremental expenditure of Rs. 130.64 crores has been approved by the honorable cabinet.
13. This Government Resolution is being issued with the approval of the Public Health Department and the Department of Finance, and with the consent of the Finance Department in their informal reference no. 159/17 /Expenditure 6, Date 26/7/2017 The said Government Resolution has been made available on the Government of Maharashtra Website www.maharashtra.gov.in and the code number is 201708011134427630. This Order is being issued by authentication through Digital Signature.

In the name and under the Order of the Governor of Maharashtra.

(Smita Nivatkar)

Under Secretary,

Government of Maharashtra

<table>
<thead>
<tr>
<th>Sr. No.</th>
<th>Description</th>
<th>Financial assistance</th>
<th>Remarks</th>
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<tr>
<td>1.</td>
<td><strong>Rape:</strong></td>
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<td></td>
<td>A) In cases where on account of the incident, if woman is mentally traumatized and acquires permanent retardation / disability</td>
<td>Upto Rs.10,00,000/-</td>
<td>75% of the sanctioned amount will be placed in a fixed deposit in a bank account in the name of the victim for a period of 10 years. 25% of the amount will be released after the District Legal Service Authority or as per the circumstances the State legal Service Authority issue an order to that effect.</td>
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<td></td>
<td>B) In cases where the woman has been subjected to gang rape</td>
<td>Upto Rs.10,00,000/-</td>
<td>As mentioned above</td>
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and has suffered serious and grievous physical injury.

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<tr>
<th>C) In cases of penetrative sexual assault involving adultery, false promise of marriage</th>
<th>Upto Rs. 1,00,000/-</th>
<th>75% of the sanctioned amount will be placed as fixed deposit in an Aadhar linked bank account of the victim for a period of 10 years if the judgement is in the favour of the victim in the court. However in cases where the victim changes or retracts her statement in court, the entire sanctioned amount will be recovered from her.</th>
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<tr>
<td>D) Under The Protection of Women from Domestic Violence Act, 2005 in case if a women undergoing a period of judicial separation or is divorced, is raped by her husband</td>
<td>Upto Rs. 1,00,000/-</td>
<td>75% of the sanctioned amount will be placed as fixed deposit in an Aadhar linked bank account of the victim for a period of 10 years. However in cases where the victim changes or retracts her statement in court, the entire sanctioned amount will be recovered from her.</td>
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<tr>
<td>E) In cases, where rape leads to death of the woman.</td>
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<td>-----------------------------------------------------</td>
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<tr>
<td>1) If the deceased woman is a non-earning member of family</td>
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<tr>
<td>2) If the deceased woman is a earning member of the family</td>
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<td></td>
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<tr>
<td>Upto Rs. 1,00,000/- Upto Rs. 2,00,000/-</td>
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<tr>
<td>75% of the sanctioned amount will be placed as fixed deposit in an Aadhar linked bank account in the name of the victim’s heirs for a period of 10 years and the interest on the amount will be given to them.</td>
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<tr>
<th>2. Child Sexual Assault under POCSO : -</th>
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<tr>
<td>A) In cases where on account of the incident, the child/ minor girl is permanently mentally retarded/ disabled</td>
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<tr>
<td>Upto Rs. 10,00,000/-</td>
</tr>
<tr>
<td>75% of the sanctioned amount will be placed in a fixed deposit in a bank account in the name of the victim for a period of 10 years. 25% of the amount will be released after the District Legal Service Authority or as per the circumstances the State legal Service Authority issue an order to that effect.</td>
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<tr>
<th>B) In cases where on the account of the incident, the child/minor girl gets serious grievous physically injured</th>
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<td>Upto Rs. 10,000/-</td>
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<td>As mentioned above</td>
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<tr>
<td>C) In cases of rape of a minor involving adultery, false promise of marriage</td>
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<tr>
<td>3.</td>
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<tr>
<td>B) Injuries due to the acid attack</td>
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(Smita Nivatkar)

Deputy Secretary, Government of Maharashtra
Background

Hon’ble Supreme Court of India in W.P. (C) No. 565/2012 titled Nipun Saxena Vs. Union of India opined that “it would be appropriate if NALSA sets up a Committee of about 4 or 5 persons who can prepare Model Rules for Victim Compensation for sexual offences and acid attacks taking into account the submissions made by the learned Amicus. The learned Amicus as well as the learned Solicitor General have offered to assist the Committee as and when required. The Chairperson or the nominee of the Chairperson of the National Commission for Women should be associated with the Committee.”

In view of the above, NALSA set up a committee consisting of the following members for preparation of Model Scheme:

Ms. Pinky Anand
Additional Solicitor General
Shri Rakesh Srivastava
Secretary, Ministry of Women and Child Development,
Government of India
Shri T.V.S. N. Prasad
Additional Secretary, Ministry of Home Affairs,
Government of India
Ms. Indira Jaising,
Senior Advocate, Supreme Court of India
Shri Alok Agarwal
The Committee held rounds of meetings and it was decided to prepare a separate “Chapter” or a “Sub-Scheme” within the existing Victim Compensation Scheme for victims of sexual assault.

The Committee drafted Part – II of the Victims Compensation Scheme and invited suggestions/comments from various stakeholders on the draft. Taking into consideration the suggestions/comments, the Committee has finalized the Compensation Scheme for women Victims/Survivors of Sexual Assault/other Crimes and submitted the same before the Hon’ble Supreme Court of India on 24.04.2018.

Submissions were made before the Hon’ble Bench and other stakeholders were also heard on 10.05.2018. Additional suggestions received during the hearing were also incorporated and final Scheme was filed before the Hon’ble Supreme Court of India on 11.05.2018. On this day, after hearing NALSA and Ld. Amicus Curiae, Hon’ble Bench was pleased to accept this Scheme and directed all the State Governments/UT Administrations to implement the same in their respective States/UTs.

Hon’ble Supreme Court of India further observed that while nothing should be taken away from this Scheme, but it does not preclude the State Governments/UT Administrations from adding to the Scheme.

(Surinder S. Rathi)
Director, NALSA

NALSA’s “Compensation Scheme for women Victims/Survivors of Sexual Assault/other Crimes”
PART-II

The Chapter contained in this part shall be called “Compensation Scheme for Women Victims/Survivors of Sexual Assault/other Crimes”

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1. SHORT TITLE AND COMMENCEMENT

(1) This Chapter may be called the Compensation Scheme for Women Victims/Survivors of Sexual Assault/other Crimes, 2018.

(2) It shall come into force on the date as and when ordered by Hon’ble Supreme Court of India.
(3) It shall apply to the victims and their dependent(s) who have suffered loss, injury, as the case may be, as a result of the offence committed and who require rehabilitation.

2. DEFINITIONS

1) In this Chapter, unless the context otherwise requires:—

(a) “Code” means the Code of Criminal Procedure, 1973 (2 of 1974);

(b) ‘Dependent’ includes husband, father, mother, grandparents, unmarried daughter and minor children of the victim as determined by the State Legal Services Authority or District Legal Services Authority on the basis of the report of the Sub- Divisional Magistrate of the concerned area/Station House Officer/Investigating Officer or on the basis of material placed on record by the dependents by way of affidavit or on its own enquiry.

(c) “District Legal Services Authority” means the District Legal Services Authority (DLSA) constituted under section 9 of the Legal Services Authorities Act, 1987 (Act 39 of 1987) for a District of the National Capital Territory of Delhi;

(d) ‘Form’ means form appended to the Scheme as applicable to this Chapter.

(e) ‘Fund’ means State fund i.e. victim compensation fund constituted under the State Victim Compensation Scheme.

(f) ‘Central Fund’ means funds received from CVCF Scheme, 2015.

(g) ‘Women Victim Compensation Fund’ – means a fund segregated for disbursement for women victim, out of State Victim Compensation Fund and Central Fund.

[Within the State Victim Compensation Fund, a separate Bank Account shall be maintained as a portion of that larger fund which shall contain the funds contributed under CVCF Scheme by MHA, GOI contributed from Nirbhaya Fund apart from funds received from the State Victim Compensation Fund which shall be utilised only for victims covered under this Chapter]

(h) ‘Government’ means ‘State Government’ wherever the State Victim Compensation Scheme or the State Victim Compensation Fund is in context and ‘Central Government’ wherever Central Government Victim Compensation Fund Scheme is in context and includes UTs.

(i) ‘Injury’ means any harm caused to body or mind of a female.

(j) ‘Minor’ means a girl child who has not completed the age of 18 years.

(k) ‘Offence’ means offence committed against women punishable under IPC or any other law.

(l) ‘Penal Code’ means Indian Penal Code, 1860 (45 of 1860);

(m) ‘Schedule’ means schedule applicable to this Chapter/Part of the scheme.

(n) “State Legal Services Authority” means the State Legal Services Authority (SLSA), as defined in Section 6 of the Legal Services Authorities Act, 1987 (39 of 1987)
(o) ‘Sexual Assault Victims’ means female who has suffered mental or physical injury or both as a result of sexual offence including Sections 376 (A) to (E), Section 354 (A) to (D), Section 509 IPC.

(p) ‘Woman Victim/ survivor of other crime’ means a woman who has suffered physical or mental injury as a result of any offence mentioned in the attached Schedule including Sections 304 B, Section 326A, Section 498A IPC (in case of physical injury of the nature specified in the schedule) including the attempts and abetment.

(2) Words and expressions used in this Chapter and not defined here, shall have the same meaning as assigned to them in the Code of Criminal Procedure, 1973 or/and the Indian Penal Code, 1860.

3. WOMEN VICTIMS COMPENSATION FUND—

(1) There shall be a Fund, namely, the Women Victims Compensation Fund from which the amount of compensation, as decided by the State Legal Services Authority or District Legal Services Authority, shall be paid to the women victim or her dependent(s) who have suffered loss or injury as a result of an offence and who require rehabilitation.

(2) The ‘Women Victims Compensation Fund’ shall comprise the following:-

(a) Contribution received from CVCF Scheme, 2015.

(b) Budgetary allocation in the shape of Grants-in-aid to SLSA for which necessary provision shall be made in the Annual Budget by the Government;

(c) Any cost amount ordered by Civil/Criminal Tribunal to be deposited in this Fund.

(d) Amount of compensation recovered from the wrong doer/accused under clause 14 of the Scheme;

(e) Donations/contributions from International/ National/ Philanthropist/ Charitable Institutions/ Organizations and individuals permitted by State or Central Government.

(f) Contributions from companies under CSR (Corporate Social Responsibility)

(3) The said Fund shall be operated by the State Legal Services Authority (SLSA).

4. ELIGIBILITY FOR COMPENSATION –

A woman victim or her dependent(s) as the case may be, shall be eligible for grant of compensation from multiple schemes applicable to her. However, the compensation received by her in the other schemes with regard to Section 357-B Cr.P.C., shall be taken into account while deciding the quantum in the such subsequent application

5. PROCEDURE FOR MAKING APPLICATION BEFORE THE SLSA OR DLSA—

Mandatory Reporting of FIRs: - SHO/SP/DCP shall mandatorily share soft/hard copy of FIR immediately after its registration with State Legal Services Authority/District Legal Services Authority qua commission of offences covered in this Scheme which include Sections 326A, 354A to 354D, 376A to 376E, 304B, 498A (in case of physical injury covered in this Schedule),
so that the SLSA/DLSA can, in deserving cases, may suo-moto initiate preliminary verification of facts for the purpose of grant of interim compensation.

An application for the award of interim/ final compensation can be filed by the Victim and/or her Dependents or the SHO of the area before concerned SLSA or DLSA. It shall be submitted in Form ‘I’ along with a copy of the First Information Report (FIR) or criminal complaint of which cognizance is taken by the Court and if available Medical Report, Death Certificate, wherever applicable, copy of judgment/ recommendation of court if the trial is over.

6. PLACE OF FILING OF APPLICATION—

The application/recommendation for compensation can be moved either before the State Legal Services Authority or the concerned District Legal Services Authority or it can be filed online on a portal which shall be created by all State Legal Services Authorities. The Secretary of the respective DLSA shall decide the application/ recommendation moved before him/her as per the Scheme.

Explanation: In case of acid attack victim the deciding authority shall be Criminal Injury Compensation Board as directed by Hon’ble Supreme Court in Laxmi vs. Union of India W.P.CRML 129/2006 order dated 10.04.2015 which includes Ld. District & Sessions Judge, DM, SP, Civil Surgeon/CMO of the district.

7. RELIEFS THAT MAY BE AWARDED BY THE STATE OR DISTRICT LEGAL SERVICES AUTHORITY.—

The SLSA or DLSA may award compensation to the victim or her dependents to the extent as specified in the scheduled attached hereto.

8. FACTORS TO BE CONSIDERED WHILE AWARDING COMPENSATION—

While deciding a matter, the State Legal Services Authority/District Legal Services Authority may take into consideration the following factors relating to the loss or injury suffered by the victim:

(1) Gravity of the offence and severity of mental or physical harm or injury suffered by the victim;

(2) Expenditure incurred or likely to be incurred on the medical treatment for physical and/or mental health including counselling of the victim, funeral, travelling during investigation/ inquiry/ trial (other than diet money);

(3) Loss of educational opportunity as a consequence of the offence, including absence from school/college due to mental trauma, bodily injury, medical treatment, investigation and trial of the offence, or any other reason;

(4) Loss of employment as a result of the offence, including absence from place of employment due to mental trauma, bodily injury, medical treatment, investigation and trial of the offence, or any other reason;

(5) The relationship of the victim to the offender, if any;
(6) Whether the abuse was a single isolated incidence or whether the abuse took place over a period of time;

(7) Whether victim became pregnant as a result of the offence, whether she had to undergo Medical Termination of Pregnancy (MTP)/give birth to a child, including rehabilitation needs of such child;

(8) Whether the victim contracted a sexually transmitted disease (STD) as a result of the offence;

(9) Whether the victim contracted human immunodeficiency virus (HIV) as a result of the offence;

(10) Any disability suffered by the victim as a result of the offence;

(11) Financial condition of the victim against whom the offence has been committed so as to determine her need for rehabilitation and re-integration needs of the victim.

(12) In case of death, the age of deceased, her monthly income, number of dependents, life expectancy, future promotional/growth prospects etc.

(13) Or any other factor which the SLSA/DLSA may consider just and sufficient.

9. PROCEDURE FOR GRANT OF COMPENSATION—

(1) Wherever, a recommendation is made by the court for compensation under sub-sections (2) and/or (3) of Section 357A of the Code, or an application is made by any victim or her dependent(s), under sub-section (4) of Section 357A of the Code, to the State Legal Services Authority or District Legal Services Authority, for interim compensation it shall prima-facie satisfy itself qua compensation needs and identity of the victim. As regards the final compensation, it shall examine the case and verify the contents of the claim with respect to the loss/injury and rehabilitation needs as a result of the crime and may also call for any other relevant information necessary for deciding the claim.

Provided that in deserving cases and in all acid attack cases, at any time after commission of the offence, Secretary, SLSA or Secretary, DLSA may suo moto or after preliminary verification of the facts proceed to grant interim relief as may be required in the circumstances of each case.

(2) The inquiry as contemplated under sub-section (5) of Section 357A of the Code, shall be completed expeditiously and the period in no case shall exceed beyond sixty days from the receipt of the claim/petition or recommendation:

Provided that in cases of acid attack an amount of Rs. One lakh shall be paid to the victim within 15 days of the matter being brought to the notice of DLSA. The order granting interim compensation shall be passed by DLSA within 7 days of the matter being brought to its notice and the SLSA shall pay the compensation within 8 days of passing of the order. Thereafter, an amount of Rs. 2 lakhs shall be paid to the victim as expeditiously as possible and positively within two months of the first payment*

Provided further that the victim may also be paid such further amount as is admissible under this Scheme.

(3) After consideration of the matter, the SLSA or DLSA, as the case may be, upon its satisfaction, shall decide the quantum of compensation to be awarded to the victim or her
dependent(s) taking into account the factors enumerated in Clause 8 of the Scheme, as per schedule appended to this chapter. However, in deserving cases, for reasons to be recorded, the upper limit may be exceeded.

Moreover, in case the victim is minor, the limit of compensation shall be deemed to be 50% higher than the amount mentioned in the Schedule appended to this chapter.

* Victims of Acid attack are also entitled to additional compensation of Rs. 1 lac under Prime Minister’s National Relief Fund vide memorandum no. 24013/94/Misc./2014-CSR-III/GoI/MHA dated 09.11.2016 (copy attached)

Victims of Acid Attack are also entitled to additional special financial assistance up to Rs. 5 lacs who need treatment expenses over and above the compensation paid by the respective State/UTs in terms of Central Victim Compensation Fund Guidelines-2016, no. 24013/94/Misc/2014-CSR.III, MHA/GoI

4) The SLSA/DLSA may call from any record or take assistance from any Authority/Establishment/Individual/ Police/Court concerned or expert for smooth implementation of the Scheme.

5) In case trial/appellate court gives findings that the criminal complaint and the allegation were false, then Legal Services Authority may initiate proceedings for recovery of compensation, if any, granted in part or full under this Scheme, before the Trial Court for its recovery as if it were a fine.

10. **THE ORDER TO BE PLACED ON RECORD**—

Copy of the order of interim or final compensation passed under this Scheme shall be placed on record of the trial Court so as to enable the trial Court to pass an appropriate order of compensation under Section 357 of the Code. A true copy of the order shall be provided to the IO in case the matter is pending investigation and also to the victim/dependent as the case may be.

11. **METHOD OF DISBURSEMENT OF COMPENSATION**—

(1) The amount of compensation so awarded shall be disbursed by the SLSA by depositing the same in a Bank in the joint or single name of the victim/dependent(s). In case the victim does not have any bank account, the DLSA concern would facilitate opening of a bank account in the name of the victim and in case the victim is a minor along with a guardian or in case, minor is in a child care institution, the bank account shall be opened with the Superintendent of the Institution as Guardian. However, in case the victim is a foreign national or a refugee, the compensation can be disbursed by way of cash cards.

Interim amount shall be disbursed in full. However, as far as the final compensation amount is concerned, 75% (seventy five percent) of the same shall be put in a fixed deposit for a minimum period of three years and the remaining 25% (twenty five percent) shall be available for utilization and initial expenses by the victim/dependent(s), as the case may be.

(2) In the case of a minor, 80% of the amount of compensation so awarded, shall be deposited in the fixed deposit account and shall be drawn only on attainment of the age of majority, but not before three years of the deposit.
Provided that in exceptional cases, amounts may be withdrawn for educational or medical or other pressing and urgent needs of the beneficiary at the discretion of the SLSA/ DLSA.

(3) The interest on the sum, if lying in FDR form, shall be credited directly by the bank in the savings account of the victim/dependent(s), on monthly basis which can be withdrawn by the beneficiary

12. INTERIM RELIEF TO THE VICTIM—

The State Legal Services Authority or District Legal Services Authority, as the case may be, may order for immediate first-aid facility or medical benefits to be made available free of cost or any other interim relief (including interim monetary compensation) as deemed appropriate, to alleviate the suffering of the victim on the certificate of a police officer, not below the rank of the officer-in-charge of the police station, or a Magistrate of the area concerned or on the application of the victim/dependents or suo moto.

Provided that as soon as the application for compensation is received by the SLSA/DLSA, a sum of Rs.5000/- or as the case warrants up to Rs. 10,000/- shall be immediately disbursed to the victim through preloaded cash card from a Nationalised Bank by the Secretary, DLSA or Member Secretary, SLSA.

Provided that the, interim relief so granted shall not be less than 25 per cent of the maximum compensation awardable as per schedule applicable to this Chapter, which shall be paid to the victim in totality.

Provided further that in cases of acid attack a sum of Rs. One lakh shall be paid to the victim within 15 days of the matter being brought to the notice of SLSA/DLSA. The order granting interim compensation shall be passed by the SLSA/DLSA within 7 days of the matter being brought to its notice and the SLSA shall pay the compensation within 8 days of passing of order. Thereafter an additional sum of Rs.2 lakhs shall be awarded and paid to the victim as expeditiously as possible and positively within two months.

13. RECOVERY OF COMPENSATION AWARDED TO THE VICTIM OR HER DEPENDENT(S)—

Subject to the provisions of sub-section (3) of Section 357A of the Code, the State Legal Services Authority, in proper cases, may institute proceedings before the competent court of law for recovery of the compensation granted to the victim or her dependent(s) from person(s) responsible for causing loss or injury as a result of the crime committed by him/her.

The amount, so recovered, shall be deposited in Woman Victim Compensation Fund.

14. DEPENDENCY CERTIFICATE—

The authority empowered to issue the dependency certificate shall issue the same within a period of fifteen days and, in no case, this period shall be extended:

Provided that the SLSA/DLSA, in case of non-issuance of Dependency Certificate, after expiry

15. MINOR VICTIMS -
That in case the victim is an orphaned minor without any parent or legal guardian the immediate relief or the interim compensation shall be disbursed to the Bank Account of the child, opened under the guardianship of the Superintendent, Child Care Institutions where the child is lodged or in absence thereof, DDO/SDM, as the case may be.

16. LIMITATION-

Under the Scheme, no claim made by the victim or her dependent(s), under sub-section (4) of Section 357A of the Code, shall be entertained after a period of 3 years from the date of occurrence of the offence or conclusion of the trial.

However, in deserving cases, on an application made in this regard, for reasons to be recorded, the delay beyond three years can be condoned by the SLSAs/DLSAs.

17. APPEAL:

In case the victim or her dependents are not satisfied with the quantum of compensation awarded by the Secretary, DLSA, they can file appeal within 30 days from the date of receipt of order before the Chairperson, DLSA.

Provided that, delay in filing appeal may be condoned by the Appellate Authority, for reasons to be recorded, in deserving cases, on an application made in this regard.

18. REPEAL & SAVINGS–

(1) In case this Chapter is silent on any issue pertaining to Victim Compensation to Women, the provisions of Victim Compensation Scheme of the State would be applicable.

(2) Nothing in this Scheme shall prevent Victims or their dependents from instituting any Civil Suit or Claim against the perpetrator of offence or any other person indirectly responsible for the same.

Explanation: It is clarified that this Chapter does not apply to minor victims under POCSO Act, 2012 in so far as their compensation issues are to be dealt with only by the Ld. Special Courts under Section 33 (8) of POCSO Act, 2012 and Rules (7) of the POCSO Rules, 2012.

SCHEDULE APPLICABLE TO WOMEN VICTIM OF CRIMES

<table>
<thead>
<tr>
<th>Sr. No.</th>
<th>Particulars of loss or injury</th>
<th>Minimum limit of compensation</th>
<th>Upper limit of compensation</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Loss of Life</td>
<td>Rs. 5 Lakh</td>
<td>Rs. 10 Lakh</td>
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<tr>
<td></td>
<td>Description</td>
<td>Compensation Range</td>
<td></td>
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<td>---</td>
<td>-----------------------------------------------------------------------------</td>
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<tr>
<td>2.</td>
<td>Gang Rape</td>
<td>Rs. 5 Lakh</td>
<td></td>
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<tr>
<td></td>
<td></td>
<td>Rs. 10 Lakh</td>
<td></td>
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<tr>
<td>3.</td>
<td>Rape</td>
<td>Rs. 4 Lakh</td>
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<td></td>
<td></td>
<td>Rs. 7 Lakh</td>
<td></td>
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<tr>
<td>4.</td>
<td>Unnatural Sexual Assault</td>
<td>Rs. 4 Lakh</td>
<td></td>
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<td></td>
<td></td>
<td>Rs. 7 Lakh</td>
<td></td>
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<tr>
<td>5.</td>
<td>Loss of any Limb or part of body resulting in 80% permanent disability or above</td>
<td>Rs. 2 Lakh</td>
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<td></td>
<td></td>
<td>Rs. 5 Lakh</td>
<td></td>
</tr>
<tr>
<td>6.</td>
<td>Loss of any Limb or part of body resulting in 40% and below 80% permanent</td>
<td>Rs. 2 Lakh</td>
<td></td>
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<tr>
<td></td>
<td>disability</td>
<td>Rs. 4 Lakh</td>
<td></td>
</tr>
<tr>
<td>7.</td>
<td>Loss of any limb or part of body resulting in above 20% and below 40%</td>
<td>Rs. 1 Lakh</td>
<td></td>
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<tr>
<td></td>
<td>permanent disability</td>
<td>Rs. 3 Lakh</td>
<td></td>
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<tr>
<td>8.</td>
<td>Loss of any limb or part of body resulting in below 20% permanent disability</td>
<td>Rs. 1 Lakh</td>
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<td></td>
<td></td>
<td>Rs. 2 Lakh</td>
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<tr>
<td>9.</td>
<td>Grievous physical injury or any mental injury requiring rehabilitation</td>
<td>Rs. 1 Lakh</td>
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<td></td>
<td></td>
<td>Rs. 2 Lakh</td>
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<tr>
<td>10.</td>
<td>Loss of Foetus i.e. Miscarrage as a result of Assault or loss of fertility.</td>
<td>Rs. 2 Lakh</td>
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<td></td>
<td></td>
<td>Rs. 3 Lakh</td>
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<td>11.</td>
<td>In case of pregnancy on account of rape.</td>
<td>Rs.3 Lakh</td>
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<tr>
<td></td>
<td></td>
<td>Rs.4 Lakh</td>
<td></td>
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<td>12.</td>
<td>Victims of Burning:</td>
<td></td>
<td></td>
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<tr>
<td>a</td>
<td>In case of disfigurement of case</td>
<td>Rs. 7 Lakh</td>
<td></td>
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<tr>
<td></td>
<td></td>
<td>Rs. 8 Lakh</td>
<td></td>
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<tr>
<td>b</td>
<td>In case of more than 50%</td>
<td>Rs. 5 Lakh</td>
<td></td>
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<td></td>
<td></td>
<td>Rs. 8 Lakh</td>
<td></td>
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<tr>
<td>c</td>
<td>In case of injury less than 50%</td>
<td>Rs. 3 Lakh</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Rs. 7 Lakh</td>
<td></td>
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<tr>
<td>d</td>
<td>In case of less than 20%</td>
<td>Rs. 2 Lakh</td>
<td></td>
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<tr>
<td></td>
<td></td>
<td>Rs. 3 Lakh</td>
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<tr>
<td>13.</td>
<td>Victims of Acid Attack-</td>
<td></td>
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<tr>
<td>a</td>
<td>In case of disfigurement of face.</td>
<td>Rs. 7 Lakh</td>
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<tr>
<td></td>
<td></td>
<td>Rs. 8 Lakh</td>
<td></td>
</tr>
<tr>
<td></td>
<td>In case of injury more than 50%.</td>
<td>Rs. 5 Lakh</td>
<td>Rs. 8 Lakh</td>
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<tr>
<td>---</td>
<td>---------------------------------</td>
<td>------------</td>
<td>------------</td>
</tr>
<tr>
<td>b</td>
<td>In case of injury less than 50%.</td>
<td>Rs. 3 Lakh</td>
<td>Rs. 5 Lakh</td>
</tr>
<tr>
<td>c</td>
<td>In case of injury less than 20%</td>
<td>Rs. 3 Lakh</td>
<td>Rs. 4 Lakh</td>
</tr>
<tr>
<td>d</td>
<td></td>
<td></td>
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</tbody>
</table>

Note: If a woman victim of sexual assault/acid attack is covered under one or more category of the schedule, she shall be entitled to be considered for combined value of the compensation.

**FORM – I**

**APPLICATION FOR THE AWARD OF COMPENSATION UNDER COMPENSATION SCHEME FOR WOMEN VICTIMS/SURVIVORS OF SEXUAL ASSAULT/OTHER CRIMES, 2018 FOR INTERIM/FINAL RELIEF FOR WOMEN**

<table>
<thead>
<tr>
<th></th>
<th>Name of the Applicant Victim(s) or her Dependent(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>Age of the Victim(s) or her Dependent(s)</td>
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<tr>
<td></td>
<td></td>
</tr>
<tr>
<td>3</td>
<td>(a) Father’s Name</td>
</tr>
<tr>
<td></td>
<td>(b) Mother’s Name</td>
</tr>
<tr>
<td></td>
<td>(c) Spouse’s Name</td>
</tr>
<tr>
<td>4</td>
<td>Address of the Victim(s) or her/their Dependent(s)</td>
</tr>
<tr>
<td>5</td>
<td>Date and time of the Incident</td>
</tr>
<tr>
<td>6</td>
<td>Whether FIR has been lodged?</td>
</tr>
<tr>
<td>7</td>
<td>Whether medical examination has been done? If yes, enclose Medical Report/ Death Certificate /P.M. Report.</td>
</tr>
<tr>
<td>8</td>
<td>Status of trial, if pending. If over, enclose copy of judgment and order on sentence.</td>
</tr>
<tr>
<td>9</td>
<td>Has the applicant been awarded any compensation by the trial court or any other Govt. agency. If, yes give details.</td>
</tr>
<tr>
<td>10</td>
<td>Give details of financial expenditure/ loss incurred</td>
</tr>
</tbody>
</table>
Have you instituted any civil suit/claim against the perpetrator of offence. If yes give details. Signature of the Victim/Dependent.

ANNEXURE-3

The Criminal Law (Amendment) Act, 2013

REGISTERED NO. DL - (N) 04/0007/2003-13

The Gazette of India
Extraordinary
Part II - Section I
Published by Authority

(SAKA)

Separate Paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 2nd April, 2013/Chaitra 12, 1935 (Saka)
The following Act of Parliament received the assent of the
President on the 2nd April, 2013, and is hereby published for general
information:-

THE CRIMINAL LAW (AMENDMENT) ACT, 2013
No. 13 or 2013
[2nd April, 2013]

An Act further to amend the Indian Penal Code, the Code of Criminal
Procedure, 1973, the Indian Evidence Act, 1872 and the Protection of
Be it enacted by Parliament in the Sixty-fourth year of the Republic of
India as follows:-
CHAPTER I
PRELIMINARY

1. (1) This Act may be called the Criminal Law (Amendment) Act, 2013.
   (2) It shall be deemed to have come into force on the 3rd day of February, 2013.

CHAPTER II
AMENDMENTS TO THE INDIAN PENAL CODE

2. In the Indian Penal Code (hereafter in this Chapter referred to as the Penal Code), in section 100, after clause Sixthly, the following clause shall be inserted, namely:—

   “Seventhly.— An act of throwing or administering acid or an attempt to throw or administer acid which may reasonably cause the apprehension that grievous hurt will otherwise be the consequence of such act.”.

3. After section 166 of the Penal Code, the following sections shall be inserted, namely:

   “166A. Whoever, being a public servant,—
   (a) knowingly disobeys any direction of the law which prohibits him from requiring the attendance at any place of any person for the purpose of investigation into an offence or any other matter, or
   (b) knowingly disobeys, to the prejudice of any person, any other direction of the law regulating the manner in which he shall conduct such investigation, or
   (c) fails to record any information given to him under sub-section (1) of section 154 of the Code of Criminal Procedure, 1973, in relation to cognizable offence punishable under section 326A, section 326B, section 354, section 354B, section 370, section 370A, section 376, section 376A, section 376B, section 376C, section 376D, section 376E or section 509, shall be punished with rigorous imprisonment for a term which shall not be less than six months but which may extend to two years, and shall also be liable to fine.

   166B. Whoever, being in charge of a hospital, public or private, whether run by the Central Government, the State Government, local bodies or any other person, contravenes the
provisions of section 357C of the Code of Criminal Procedure, 1973, shall be punished with imprisonment for a term which may extend to one year or with fine or with both.

4. In section 228A of the Penal Code, in sub-section (1), for the words, figures and letters "offence under section 376, section 376A, section 376B, section 376C or section 376D", the words, figures and letters "offence under section 376, section 376A, section 376B, section 376C, section 376D or section 376E" shall be substituted.

5. After section 326 of the Penal Code, the following sections shall be inserted, namely:

'326A. Whoever causes permanent or partial damage or deformity to, or burns or maims or disfigures or disables, any part or parts of the body of a person or causes grievous hurt by throwing acid on or by administering acid to that person, or by using any other means with the intention of causing or with the knowledge that he is likely to cause such injury or hurt, shall be punished with imprisonment of either description for a term which shall not be less than ten years but which may extend to imprisonment for life, and with fine:

Provided that such fine shall be just and reasonable to meet the medical expenses of the treatment of the victim:

Provided further that any fine imposed under this section shall be paid to the victim.

326B. Whoever throws or attempts to throw acid on any person or attempts to administer acid to any person, or attempts to use any other means, with the intention of causing permanent or partial damage or deformity or burns or maiming or disfigurement or disability or grievous hurt to that person, shall be punished with imprisonment of either description for a term which shall not be less than five years but which may extend to seven years, and shall also be liable to fine.

Explanation 1.—For the purposes of section 326A and this section, "acid" includes any substance which has acidic or corrosive character or burning nature, that is capable of causing bodily injury leading to scars or disfigurement or temporary or permanent disability.

Explanation 2.—For the purposes of section 326A and this section, permanent or partial damage or deformity shall not be required to be irreversible.'

6. In section 354 of the Penal Code, for the words "shall be
punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both"; the words "shall be punished with imprisonment of either description for a term which shall not be less than one year but which may extend to five years, and shall also be liable to fine" shall be substituted.

7. After section 354 of the Penal Code, the following sections shall be inserted, namely:

'354A. (1) A man committing any of the following acts—

(i) physical contact and advances involving unwelcome and explicit sexual overtures; or

(ii) a demand or request for sexual favours; or

(iii) showing pornography against the will of a woman; or

(iv) making sexually coloured remarks, shall be guilty of the offence of sexual harassment.

(2) Any man who commits the offence specified in clause (i) or clause (ii) or clause (iii) of sub-section (1) shall be punished with rigorous imprisonment for a term which may extend to three years, or with fine, or with both.

(3) Any man who commits the offence specified in clause (iv) of sub-section (1) shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

354B. Any man who assaults or uses criminal force to any woman or abets such act with the intention of disrobing or compelling her to be naked shall be punished with imprisonment of either description for a term which shall not be less than three years but which may extend to seven years, and shall also be liable to fine.

354C. Any man who watches, or captures the image of a woman engaging in a private act in circumstances where she would usually have the expectation of not being observed either by the perpetrator or by any other person at the behest of the perpetrator or disseminates such image shall be punished on first conviction with imprisonment of either description for a term which shall not be less than one year, but which may extend to three years, and shall also be liable to fine, and be punished on a second or subsequent conviction, with imprisonment of either description for a term which shall not be
Substitution of new sections 370 and 370A for section 370.

less than three years, but which may extend to seven years, and shall also be liable to fine.

Explanations 1.—For the purpose of this section, “private act“ includes an act of watching carried out in a place which, in the circumstances, would reasonably be expected to provide privacy and where the victim's genitals, posterior or breasts are exposed or covered only in underwear; or the victim is using a lavatory; or the victim is doing a sexual act that is not of a kind ordinarily done in public.

Explanations 2.—Where the victim consents to the capture of the images or any act, but not to their dissemination to third persons and where such image or act is disseminated, such dissemination shall be considered an offence under this section.

354D. (1) Any man who—

(i) follows a woman and contacts, or attempts to contact such woman to foster personal interaction repeatedly despite a clear indication of disinterest by such woman; or

(ii) monitors the use by a woman of the internet, email or any other form of electronic communication,

commits the offence of stalking:

Provided that such conduct shall not amount to stalking if the man who pursued it proves that—

(i) it was pursued for the purpose of preventing or detecting crime and the man accused of stalking had been entrusted with the responsibility of prevention and detection of crime by the State; or

(ii) it was pursued under any law or to comply with any condition or requirement imposed by any person under any law; or

(iii) in the particular circumstances such conduct was reasonable and justified.

(2) Whoever commits the offence of stalking shall be punished on first conviction with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine; and be punished on a second or subsequent conviction, with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine.

8. For section 370 of the Penal Code, the following sections shall be substituted, namely:—

'370. (a) Whoever, for the purpose of exploitation, (a)
recruits, (b) transports, (c) harbours, (d) transfers, or (e) receives, a person or persons, by—

First.— using threats, or
Secondly.— using force, or any other form of coercion, or
Thirdly.— by abduction, or
Fourthly.— by practising fraud, or deception, or
Fifthly.— by abuse of power, or
Sixthly.— by inducement, including the giving or receiving of payments or benefits, in order to achieve the consent of any person having control over the person recruited, transported, harboured, transferred or received,

commits the offence of trafficking.

Explanation 1.— The expression “exploitation” shall include any act of physical exploitation or any form of sexual exploitation, slavery or practices similar to slavery, servitude, or the forced removal of organs.

Explanation 2.— The consent of the victim is immaterial in determination of the offence of trafficking.

Whoever commits the offence of trafficking shall be punished with rigorous imprisonment for a term which shall not be less than seven years, but which may extend to ten years, and shall also be liable to fine.

Where the offence involves the trafficking of more than one person, it shall be punishable with rigorous imprisonment for a term which shall not be less than ten years but which may extend to imprisonment for life, and shall also be liable to fine.

Where the offence involves the trafficking of a minor, it shall be punishable with rigorous imprisonment for a term which shall not be less than ten years, but which may extend to imprisonment for life, and shall also be liable to fine.

Where the offence involves the trafficking of more than one minor, it shall be punishable with rigorous imprisonment for a term which shall not be less than fourteen years, but which may extend to imprisonment for life, and shall also be liable to fine.

If a person is convicted of the offence of trafficking of minor on more than one occasion, then such person shall be punished with imprisonment for life, which shall mean imprisonment for the remainder of that person's natural life, and shall also be liable to fine.

When a public servant or a police officer is involved in the trafficking of any person then, such public servant or police officer shall be punished with imprisonment for life, which shall mean imprisonment
for the remainder of that person's natural life, and shall also be liable to fine.

370A. (1) Whoever, knowingly or having reason to believe that a minor has been trafficked, engages such minor for sexual exploitation in any manner, shall be punished with rigorous imprisonment for a term which shall not be less than five years, but which may extend to seven years, and shall also be liable to fine.

(2) Whoever, knowingly by or having reason to believe that a person has been trafficked, engages such person for sexual exploitation in any manner, shall be punished with rigorous imprisonment for a term which shall not be less than three years, but which may extend to five years, and shall also be liable to fine.‘.

9. For sections 375, 376, 376A, 376B, 376C and 376D of the Penal Code, the following sections shall be substituted, namely:—

375. A man is said to commit "rape" if he—

(a) penetrates his penis, to any extent, into the vagina, mouth, urethra or anus of a woman or makes her to do so with him or any other person; or

(b) inserts, to any extent, any object or a part of the body, not being the penis, into the vagina, the urethra or anus of a woman or makes her to do so with him or any other person; or

(c) manipulates any part of the body of a woman so as to cause penetration into the vagina, urethra, anus or any part of body of such woman or makes her to do so with him or any other person; or

(d) applies his mouth to the vagina, anus, urethra of a woman or makes her to do so with him or any other person, under the circumstances falling under any of the following seven descriptions:—

First.—Against her will.

Secondly.—Without her consent.

Thirdly.—With her consent, when her consent has been obtained by putting her or any person in whom she is interested, in fear of death or of hurt.
Fourthly.—With her consent, when the man knows that he is not her husband and that her consent is given because she believes that he is another man to whom she is or believes herself to be lawfully married.

Fifthly.—With her consent when, at the time of giving such consent, by reason of unsoundness of mind or intoxication or the administration by him personally or through another of any stupefying or unwholesome substance, she is unable to understand the nature and consequences of that to which she gives consent.

Sixthly.—With or without her consent, when she is under eighteen years of age.

Seventhly.—When she is unable to communicate consent.

Explanation 1.—For the purposes of this section, "vagina" shall also include labia majora.

Explanation 2.—Consent means an unequivocal voluntary agreement when the woman by words, gestures or any form of verbal or non-verbal communication, communicates willingness to participate in the specific sexual act:

Provided that a woman who does not physically resist to the act of penetration shall not by the reason only of that fact, be regarded as consenting to the sexual activity.

Exception 1.—A medical procedure or intervention shall not constitute rape.

Exception 2.—Sexual intercourse or sexual acts by a man with his own wife, the wife not being under fifteen years of age, is not rape.

376. (1) Whoever, except in the cases provided for in sub-section (2), commits rape, shall be punished with rigorous imprisonment of either description for a term which shall not be less than seven years, but which may extend to imprisonment for life, and shall also be liable to fine.

(2) Whoever,—

a. being a police officer, commits rape—

(i) within the limits of the police station to which such police officer is appointed; or
(ii) in the premises of any station house; or

(iii) on a woman in such police officer’s custody or in the custody of a police officer subordinate to such police officer; or

(b) being a public servant, commits rape on a woman in such public servant’s custody or in the custody of a public servant subordinate to such public servant; or

(c) being a member of the armed forces deployed in an area by the Central or a State Government commits rape in such area; or

(d) being on the management or on the staff of a jail, remand home or other place of custody established by or under any law for the time being in force or of a women's or children's institution, commits rape on any inmate of such jail, remand home, place or institution; or

(e) being on the management or on the staff of a hospital, commits rape on a woman in that hospital; or

(f) being a relative, guardian or teacher of, or a person in a position of trust or authority towards the woman, commits rape on such woman; or

(g) commits rape during communal or sectarian violence; or

(h) commits rape on a woman knowing her to be pregnant; or

(i) commits rape on a woman when she is under sixteen years of age; or

(j) commits rape, on a woman incapable of giving consent; or

(k) being in a position of control or dominance over a woman, commits rape on such woman; or

(l) commits rape on a woman suffering from mental or physical disability; or

(m) while committing rape causes grievous bodily harm or maims or disfigures or endangers the life of a woman; or

(n) commits rape repeatedly on the same woman, shall be punished with rigorous imprisonment for a term which shall not be less than ten years, but which may extend to imprisonment for life, which shall mean imprisonment for the remainder of that person's natural life, and shall also be liable to fine.
Explanation.—For the purposes of this sub-section,—

(a) "armed forces" means the naval, military and air forces and includes any member of the Armed Forces constituted under any law for the time being in force, including the paramilitary forces and any auxiliary forces that are under the control of the Central Government or the State Government;

(b) "hospital" means the precincts of the hospital and includes the precincts of any institution for the reception and treatment of persons during convalescence or of persons requiring medical attention or rehabilitation;

(c) "police officer" shall have the same meaning as assigned to the expression "police" under the Police Act, 1861;

(d) "women's or children's institution" means an institution, whether called an orphanage or a home for neglected women or children or a widow's home or an institution called by any other name, which is established and maintained for the reception and care of women or children.

376A. Whoever, commits an offence punishable under sub-section (1) or sub-section (2) of section 376 and in the course of such commission inflicts an injury which causes the death of the woman or causes the woman to be in a persistent vegetative state, shall be punished with rigorous imprisonment for a term which shall not be less than twenty years, but which may extend to imprisonment for life, which shall mean imprisonment for the remainder of that person's natural life, or with death.

376B. Whoever has sexual intercourse with his own wife, who is living separately, whether under a decree of separation or otherwise, without her consent, shall be punished with imprisonment of either description for a term which shall not be less than two years but which may extend to seven years, and shall also be liable to fine.

Explanation.—In this section, "sexual intercourse" shall mean any of the acts mentioned in clauses (a) to (d) of section 375.

376C. Whoever, being—

(a) in a position of authority or in a fiduciary relationship; or

(b) a public servant; or

(c) superintendent or manager of a jail, remand home or other
place of custody established by or under any law for the
time being in force, or a women's or children's institution;
or

(d) on the management of a hospital or being on the staff of a
hospital, abuses such position or fiduciary relationship to
induce or seduce any woman either in his custody or under
his charge or present in the premises to have sexual
intercourse with him, such sexual intercourse not
amounting to the offence of rape, shall be punished with
rigorous imprisonment of either description for a term
which shall not be less than five years, but which may
extend to ten years, and shall also be liable to fine.

Explanation 1.—In this section, "sexual intercourse" shall
mean any of the acts mentioned in clauses (a) to (d) of
section 375.

Explanation 2.—For the purposes of this section,
Explanation 1 to section 375 shall also be applicable.

Explanation 3.—“Superintendent”, in relation to a jail,
remand home or other place of custody or a women's or
children's institution, includes a person holding any other
office in such jail, remand home, place or institution by virtue
of which such person can exercise any authority or control
over its inmates.

Explanation 4.—The expressions "hospital" and "women's
or children's institution" shall respectively have the same
meaning as in Explanation to sub-section (2) of section 376.

376D. Where a woman is raped by one or more persons
constituting a group or acting in furtherance of a common
intention, each of those persons shall be deemed to have
committed the offence of rape and shall be punished with
rigorous imprisonment for a term which shall not be less
than twenty years, but which may extend to life which shall
mean imprisonment for the remainder of that person's
natural life, and with fine:

Provided that such fine shall be just and reasonable to meet
the medical expenses and rehabilitation of the victim:

Provided further that any fine imposed under this section shall
be paid to the victim.

376E. Whoever has been previously convicted of an
offence punishable under section 376 or section 376A or
section 376D and is subsequently convicted of an offence
punishable under any of the said sections shall be punished
with imprisonment for life which shall mean imprisonment for the remainder of that person's natural life, or with death.'.

10. In section 509 of the Penal Code, for the words "shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or with both", the words "shall be punished with simple imprisonment for a term which may extend to three years, and also with fine" shall be substituted.

CHAPTER III

AMENDMENTS TO THE CODE OF CRIMINAL PROCEDURE, 1973

11. In the Code of Criminal Procedure, 1973 (hereafter in this Chapter referred to as the Code of Criminal Procedure), in section 26, in the proviso to clause (a), for the words, figures and letters "offence under section 376 and sections 376A to 376D of the Indian Penal Code", the words, figures and letters "offence under section 376, section 376A, section 376B, section 376C, section 376D or section 376E of the Indian Penal Code" shall be substituted.

12. In section 54A of the Code of Criminal Procedure, the following provisos shall be inserted, namely:

"Provided that, if the person identifying the person arrested is mentally or physically disabled, such process of identification shall take place under the supervision of a Judicial Magistrate who shall take appropriate steps to ensure that such person identifies the person arrested using methods that person is comfortable with:

Provided further that if the person identifying the person arrested is mentally or physically disabled, the identification process shall be videographed."

13. In section 154 of the Code of Criminal Procedure, in sub-section (1), the following provisos shall be inserted, namely:

"Provided that if the information is given by the woman against whom an offence under section 326A, section 326B, section 354, section 354A, section 354B, section 354C, section 354D, section 376, section 376A, section 376B, section 376C, section 376D, section 376E or section 509 of the Indian Penal Code is alleged to have been committed or attempted, then such information shall be recorded, by a woman police officer or any woman officer:
Provided further that—

(a) In the event that the person against whom an offence under section 354, section 354A, section 354B, section 354C, section 354D, section 376, section 376A, section 376B, section 376C, section 376D, section 376E or section 509 of the Indian Penal Code is alleged to have been committed or attempted, is temporarily or permanently mentally or physically disabled, then such information shall be recorded by a police officer, at the residence of the person seeking to report such offence or at a convenient place of such person’s choice, in the presence of an interpreter or a special educator, as the case may be;

(b) the recording of such information shall be videographed;

(c) the police officer shall get the statement of the person recorded by a Judicial Magistrate under clause (a) of sub-section (5A) of section 164 as soon as possible.

14. In section 160 of the Code of Criminal Procedure, in sub-section (a), in the proviso, for the words “under the age of fifteen years or woman”, the words “under the age of fifteen years or above the age of sixty-five years or a woman or a mentally or physically disabled person” shall be substituted.

15. In section 161 of the Code of Criminal Procedure, in sub-section (3), after the proviso, the following proviso shall be inserted, namely:

("Provided further that the statement of a woman against whom an offence under section 354, section 354A, section 354B, section 354C, section 354D, section 376, section 376A, section 376B, section 376C, section 376D, section 376E or section 509 of the Indian Penal Code is alleged to have been committed or attempted shall be recorded, by a woman police officer or any woman officer.

16. In section 164 of the Code of Criminal Procedure, after sub-section (5), the following sub-section shall be inserted, namely:

("(5A) (a) In cases punishable under section 354, section 354A, section 354B, section 354C, section 354D, sub-section (1) or sub-section (2) of section 376, section 376A, section 376B, section 376C, section 376D, section 376E or section 509 of the Indian Penal Code, the Judicial Magistrate shall record the statement of the person against whom such offence has been committed in the manner prescribed in sub-section (5), as soon as the commission of the offence is brought to the notice of the police:

Amendment of section 160.
Amendment of section 161.
Amendment of section 164.
Provided that if the person making the statement is temporarily or permanently mentally or physically disabled, the Magistrate shall take the assistance of an interpreter or a special educator in recording the statement:

Provided further that if the person making the statement is temporarily or permanently mentally or physically disabled, the statement made by the person, with the assistance of an interpreter or a special educator, shall be videographed. 

(b) A statement recorded under clause (a) of a person, who is temporarily or permanently mentally or physically disabled, shall be considered a statement in lieu of examination-in-chief, as specified in section 137 of the Indian Evidence Act, 1872 such that the maker of the statement can be cross-examined on such statement, without the need for recording the same at the time of trial."

17. In section 173 of the Code of Criminal Procedure, in sub-section (2), in sub-clause (h) of clause (i), for the words, figures and letter "or 376D of the Indian Penal Code", the words, figures and letters " 376D or section 376E of the Indian Penal Code" shall be substituted.

18. In section 197 of the Code of Criminal Procedure, after sub-section (1), the following Explanation shall be inserted, namely:—

"Explanation.—For the removal of doubts it is hereby declared that no sanction shall be required in case of a public servant accused of any offence alleged to have been committed under section 166A, section 166B, section 354, section 354A, section 354B, section 354C, section 354D, section 370, section 375, section 376, section 376A, section 376C, section 376D or section 509 of the Indian Penal Code.".

19. After section 198A of the Code of Criminal Procedure, the following section shall be inserted, namely:—

"198B. No Court shall take cognizance of an offence punishable under section 376B of the Indian Penal Code where the persons are in a marital relationship, except upon prima facie satisfaction of the facts which constitute the offence upon a complaint having been filed or made by the wife against the husband.".

20. In section 273 of the Code of Criminal Procedure, before the Explanation, the following proviso shall be inserted, namely:—

"Provided that where the evidence of a woman below the age of eighteen years who is alleged to have been subjected to
21. In section 309 of the Code of Criminal Procedure, for sub-section (2), the following sub-section shall be substituted, namely:

"(2) In every inquiry or trial the proceedings shall be continued from day-to-day until all the witnesses in attendance have been examined, unless the Court finds the adjournment of the same beyond the following day to be necessary for reasons to be recorded:

Provided that when the inquiry or trial relates to an offence under section 376, section 376A, section 376B, section 376C or section 376D of the Indian Penal Code, the inquiry or trial shall, as far as possible be completed within a period of two months from the date of filing of the charge sheet.".

22. In section 327 of the Code of Criminal Procedure, in sub-section (2), for the words, figures and letter "or section 376D of the Indian Penal Code", the words, figures and letters "section 376D or section 376E of the Indian Penal Code" shall be substituted.

23. After section 357A of the Code of Criminal Procedure, the following sections shall be inserted, namely:

"357B. The compensation payable by the State Government under section 357A shall be in addition to the payment of fine to the victim under section 326A or section 376D of the Indian Penal Code.

357C. All hospitals, public or private, whether run by the Central Government, the State Government, local bodies or any other person, shall immediately, provide the first-aid or medical treatment, free of cost, to the victims of any offence covered under section 326A, 376, 376A, 376B, 376C, 376D or section 376E of the Indian Penal Code, and shall immediately inform the police of such incident."

24. In the First Schedule to the Code of Criminal Procedure, under the heading "I.-OFFENCES UNDER THE INDIAN PENAL CODE",

(a) after the entries relating to section 166, the following entries shall be inserted, namely:
<table>
<thead>
<tr>
<th></th>
<th>2</th>
<th>3</th>
<th>4</th>
<th>5</th>
<th>6</th>
</tr>
</thead>
<tbody>
<tr>
<td>166A</td>
<td>Public Servant disobeying direction under law</td>
<td>Imprisonment for minimum 6 months which may extend to 2 years and fine.</td>
<td>Cognizable</td>
<td>Bailable</td>
<td>Magistrate of the first class</td>
</tr>
<tr>
<td>166B</td>
<td>Non-treatment of victim by Hospital</td>
<td>Imprisonment for 1 year or fine or both</td>
<td>Non-cognizable</td>
<td>Bailable</td>
<td>Magistrate of the first class</td>
</tr>
</tbody>
</table>

(b) after the entries relating to section 326, the following entries shall be inserted, namely:-

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</thead>
<tbody>
<tr>
<td>&quot;326A&quot;</td>
<td>Voluntarily causing grievous hurt by use of acid etc.</td>
<td>Imprisonment for not less than 10 years but which may extend to imprisonment for life and fine to be paid to the victim</td>
<td>Cognizable</td>
<td>Non-bailable</td>
<td>Court of session</td>
</tr>
<tr>
<td>326B</td>
<td>Voluntarily throwing or attempting to throw acid.</td>
<td>Imprisonment for 5 years but which may extend to imprisonment for life and fine.</td>
<td>Cognizable</td>
<td>Non-bailable</td>
<td>Court of Session</td>
</tr>
</tbody>
</table>

(c) for the entries relating to section 354, the following entries shall be substituted, namely:-

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<th>3</th>
<th>4</th>
<th>5</th>
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</tr>
</thead>
<tbody>
<tr>
<td>&quot;354&quot;</td>
<td>Assault or use of criminal force to women with intent to outrage her modesty</td>
<td>Imprisonment of 1 year which may extend up to 5 years and with fine.</td>
<td>Cognizable</td>
<td>Non-bailable</td>
<td>Any Magistrate</td>
</tr>
<tr>
<td>354A</td>
<td>Sexual Harassment of the nature of unwelcome physical contact and advances or demand or request for sexual favours, showing pornography</td>
<td>Imprisonment which may extend to 3 years or with fine or with both</td>
<td>Cognizable</td>
<td>Bailable</td>
<td>Any Magistrate</td>
</tr>
</tbody>
</table>

<table>
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<th>4</th>
<th>5</th>
<th>6</th>
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</thead>
<tbody>
<tr>
<td>Sexual Harassment of</td>
<td>Imprisonment which</td>
<td>Cognizable</td>
<td>Bailable</td>
<td>Any</td>
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<tr>
<td>354B</td>
<td>Assault or use of criminal force to women with intent to disrobe</td>
<td>Imprisonment of not less than 3 years but which may extend to 7 years and with fine</td>
<td>Cognizable</td>
<td>Non-bailable</td>
<td></td>
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<tr>
<td></td>
<td></td>
<td></td>
<td>Any Magistrate</td>
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<td></td>
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<tr>
<td>354C</td>
<td>Voyeurism</td>
<td>Imprisonment of not less than 1 year but which may extend to 3 years and with fine for first conviction.</td>
<td>Cognizable</td>
<td>Bailable</td>
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<td>Any Magistrate</td>
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<td></td>
<td></td>
<td>Imprisonment of not less than 3 years but which may extend to 7 years and with fine for second or subsequent conviction</td>
<td>Cognizable</td>
<td>Non-bailable</td>
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<td></td>
<td></td>
<td></td>
<td>Any Magistrate</td>
<td></td>
<td></td>
</tr>
<tr>
<td>354D</td>
<td>Stalking</td>
<td>Imprisonment upto 3 years and with fine for first conviction</td>
<td>Cognizable</td>
<td>Bailable</td>
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<td></td>
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<td></td>
<td>Any Magistrate</td>
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<tr>
<td></td>
<td></td>
<td>Imprisonment upto 5 years and with fine for second or subsequent conviction</td>
<td>Cognizable</td>
<td>Non-bailable</td>
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<tr>
<td></td>
<td></td>
<td></td>
<td>Any Magistrate “</td>
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</tbody>
</table>

(d) for the entries relating to section 370, the following entries shall be substituted, namely:

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<td>1</td>
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<td>3</td>
<td>4</td>
<td>5</td>
</tr>
<tr>
<td>“370”</td>
<td>Trafficking of person</td>
<td>Imprisonment of not less than 7 years but which may extend to 10 years and with fine</td>
<td>Cognizable</td>
<td>Non-bailable</td>
</tr>
<tr>
<td></td>
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<td></td>
<td>Court of Session</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Trafficking of more than one person</td>
<td>Imprisonment of not less than 10 years but which may extend to imprisonment for life</td>
<td>Cognizable</td>
<td>Non-bailable</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Court of Session</td>
<td></td>
</tr>
<tr>
<td>Section</td>
<td>Offence Description</td>
<td>Imprisonment</td>
<td>Cognizable</td>
<td>Bailable</td>
</tr>
<tr>
<td>---------</td>
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</tr>
<tr>
<td>370A</td>
<td>Exploitation of a trafficked child</td>
<td>Imprisonment of not less than 5 years but which may extend to 7 years and with fine</td>
<td>Cognizable</td>
<td>Non-bailable</td>
</tr>
<tr>
<td>370A</td>
<td>Exploitation of a trafficked person</td>
<td>Imprisonment of not less than 3 years but which may extend to 5 years and with fine</td>
<td>Cognizable</td>
<td>Non-bailable</td>
</tr>
<tr>
<td>376</td>
<td>Rape</td>
<td>Rigorous imprisonment of not less than 7 years but which may extend to imprisonment for life</td>
<td>Cognizable</td>
<td>Non-bailable</td>
</tr>
</tbody>
</table>

(e) entries relating to sections 376, 376A, 376B, 376C and 376D, the following entries shall be substituted, namely:-
<table>
<thead>
<tr>
<th>Section</th>
<th>Description</th>
<th>Punishment</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>376A</strong></td>
<td>Person committing an offence of rape and inflicting injury which causes death or causes the woman to be in a persistent vegetative state</td>
<td>Rigorous imprisonment of not less than 20 years but which may extend to imprisonment for life which shall mean imprisonment for the remainder of the person's natural life or with death</td>
</tr>
<tr>
<td><strong>376B</strong></td>
<td>Sexual intercourse by husband upon his wife during separation</td>
<td>Imprisonment for not less than 2 years but which may extend to 7 years and with fine</td>
</tr>
<tr>
<td><strong>376C</strong></td>
<td>Sexual intercourse by a person in authority</td>
<td>Rigorous imprisonment for not less than 5 years but which may extend to 10 years and with fine</td>
</tr>
</tbody>
</table>

Rape by a police officer or a public servant or member of armed forces or person being on the management or on the staff of a jail, remand home or other place of custody or women's or children's institution or by a person on the management or on the staff of a hospital and rape committed by a person in a position of trust or authority towards the person raped or by a near relative of the person raped

Rigorous imprisonment of not less than 10 years but which may extend to imprisonment for life which shall mean the remainder of that person's natural life and with fine
376D  Gang rape  Rigorous imprisonment for not less than 20 years but which may extend to imprisonment for life which shall mean imprisonment for the remainder of the person’s natural life and with fine to be paid to the victim  Cognizable  Non-bailable  Court of Session

376E  Repeat offenders  Imprisonment for life which shall mean imprisonment for the remainder of the person’s natural life or with death  Cognizable  Non-bailable  Court of Session

(f) in entry relating to section 509, in column 3, for the words "Simple imprisonment for one year, or fine, or both,"; the words and figure "Simple imprisonment for 3 years and with fine" shall be substituted.

CHAPTER IV

AMENDMENTS TO THE INDIAN EVIDENCE ACT, 1872

25. After section 53 of the Indian Evidence Act, 1872 (hereafter in this Chapter referred to as the Evidence Act), the following section shall be inserted, namely:—

"53A. In a prosecution for an offence under section 354, section 354A, section 354B, section 354C, section 354D, section 376, section 376A, section 376B, section 376C, section 376D or section 376E of the Indian Penal Code or for attempt to commit any such offence, where the question of consent is in issue, evidence of the character of the victim or of such person’s previous sexual experience with any person shall not be relevant on the issue of such consent or the quality of consent."

26. For section 114A of the Evidence Act, the following section shall be substituted, namely:—
114A. In a prosecution for rape under clause (a), clause (b), clause (c), clause (d), clause (e), clause (f), clause (g), clause (h), clause (i), clause (j), clause (k), clause (l), clause (m) or clause (n) of sub-section (2) of section 376 of the Indian Penal Code, where sexual intercourse by the accused is proved and the question is whether it was without the consent of the woman alleged to have been raped and such woman states in her evidence before the court that she did not consent, the court shall presume that she did not consent.

Explanation.— In this section, "sexual intercourse" shall mean any of the acts mentioned in clauses (a) to (d) of section 375 of the Indian Penal Code.

27. For section 119 of the Evidence Act, the following section shall be substituted, namely:

"119. A witness who is unable to speak may give his evidence in any other manner in which he can make it intelligible, as by writing or by signs; but such writing must be written and the signs made in open Court, evidence so given shall be deemed to be oral evidence:

Provided that if the witness is unable to communicate verbally, the Court shall take the assistance of an interpreter or a special educator in recording the statement, and such statement shall be videographed."

28. In section 146 of the Evidence Act, for the proviso, the following proviso shall be substituted, namely:

"Provided that in a prosecution for an offence under section 376, section 376A, section 376B, section 376C, section 376D or section 376E of the Indian Penal Code or for attempt to commit any such offence, where the question of consent is an issue, it shall not be permissible to adduce evidence or to put questions in the cross-examination of the victim as to the general immoral character, or previous sexual
For section 42 of the Protection of Children from Sexual Offences Act, 2012, the following sections shall be substituted, namely:—

“42. Where an act or omission constitutes an offence punishable under this Act and also under sections 166A, 354A, 354B, 354C, 354D, 370, 370A, 375, 376, 376A, 376C, 376D, 376E or section 509 of the Indian Penal Code, then, notwithstanding anything contained in any law for the time being in force, the offender found guilty of such offence shall be liable to punishment under this Act or under the Indian Penal Code as provides for punishment which is greater in degree.

42A. The provisions of this Act shall be in addition to and not in derogation of the provisions of any other law for the time being in force and, in case of any inconsistency, the provisions of this Act shall have overriding effect on the provisions of any such law to the extent of the inconsistency.”.

CHAPTER VI
MISCELLANEOUS

30. (1) The Criminal Law (Amendment) Ordinance, 2013 is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the Indian Penal Code, the Code of Criminal Procedure, 1973 and the Indian Evidence Act, 1872, as amended by the said Ordinance, shall be deemed to have been done or taken under the corresponding provisions of those Acts, as amended by this Act.

P.K.MALHOTRA,
CORRIGENDA
In the Readjustment of Representation of Scheduled Castes and Scheduled Tribes in Parliamentary and Assembly Constituencies Ordinance, 2013 (Ord. 2 of 2013) as published in Gazette of India, Extraordinary, Part II, Section 1, dated the 30th January, 2013 (Issue No. 7):

1. At page 1, in the long title, for “the inclusion”, read “inclusion”.
2. At page 2, in line 9, for “Sheduled”, read “Scheduled”.
3. At page 3, -
   i. In line 31, for “dissolution”, read “dissolution”;
   ii. In line 37, for “omission”, read “omission”;
   iii. In line 40, for “expedient”, read “expedient”

CORRIGENDA
The Criminal Law (Amendment) Ordinance, 2013 (Ord. 3 of 2013) as published in the Gazette of India, Extraordinary, Part II, Section 1, dated the 3rd February, 2013 (Issue No. 8):

1. At page 11, in line 30, for “proviso”, read “provisos”.
2. At page 15, in column 3 against section 354C, in line 38, for “year”, read “years”.
3. At page 16, in line 1, for “sections”, read “section”.

ANNEXURE-4
Haryana Victim Compensation Scheme

HARYANA GAZ (EXTRA) APR, 3, 2013
(CHTR 13 1935 SAKA)

HARYANA GOVERNMENT
HOME DEPARTMENT

Notification

The 3rd April, 2013

the purpose of compensation to the victim or his/her dependents who have suffered loss or injury as a result of the crime and who require rehabilitation, namely:-

1. This scheme shall be called Haryana Victim Compensation Scheme, 2013.

2. In this scheme, unless the context otherwise requires:-
   b. “Crime” means illegal act of omission or commission or on offence committed against the human body of the victim;
   c. “Dependents” means wife/husband, father, mother, unmarried daughter, minor children and includes other legal heir of the victim who, on providing sufficient proof, is found fully dependent on the victim by the District Legal Services Authority;
   d. “Family” means parents, children and includes all blood relations living in the same household;
   e. “Schedule” means Schedule appended to this scheme;
   f. “State” means the State of Haryana.

3. (1) There shall be constituted a fund namely Victim Compensation Fund.
   (2) The Victim Compensation Fund shall consist of:-
      a. Budgetary allocation for which necessary provision shall be made in the annual budget by the State;
      b. Receipt of amount of fines imposed under section 357 of the Act and ordered to be deposited by the courts in the Fund;
      c. Amount of compensation recovered from the wrongdoer/accused under clause 7 of the scheme.
      d. donation/contributions from international Nation Philanthropist/charitable institution/organization and individuals.
   (3) The Administration of Justice Department shall be Nodal Department for regulating, administering and monitoring this scheme.
   (4) The State Legal Services Authority shall be accountable its functions under the scheme and for furnishing periodical returns of the sums distributed to them by the State Government through the Nodal Department.
   (5) The Fund shall be operated by the Member Secretary, State Legal Services Authority.
4.  (1) A victim shall be eligible for the grant of compensation where-

a. A recommendation is made by the Court under the sub section (2) and (3) of section 357-A of the Act or the offender is not traced or identified, but the victim is identified and where no trial takes place, such victim may also apply grant of compensation under sub-section (4) of section 257 of the Act;

b. The victim claimant report the crime to the officer-in-charge of the police station or any senior police officer or Executive Magistrate of the area within 48 hours of the occurrence. Provided that the District Legal Services Authority, if satisfied for the reasons to be recorded in writing, may condone the delay in reporting;

c. The offender is traced or identified and where trial has taken place, the victim/claimant with the police and prosecution during the investigation and trial of the case;

d. The income of the family should not exceed Rs. 4.5 Lac per annum;

e. The Crime on account of which the compensation which to be paid under this scheme should have been occurred within the jurisdiction of Haryana State

(2) The employees of Central/State Government, Boards, Corporations and Public undertakings and income tax payees shall not be eligible under this scheme.

5.  (1) Whenever a recommendation is made by the Court under sub-section (2) of section 357-A of the Act or an application is made by any victim or his dependent under sub-section (4) of section 357-A of the Act to the District Legal Services Authority, the District Legal Services Authority shall examine the case and verify the contents of the claim with regard to the loss or injury caused to victim and arising out of the reported criminal activity and may call for any other relevant information necessary in order to determine genuineness of the claim. After verifying the claim and by conducting due enquiry, the District Legal Service Authority shall award compensation within two months, in accordance with provisions of this scheme.

(2) Compensation under this scheme shall be paid subject to the condition that if the trial court while passing judgement at later date, orders the accused persons to pay any amount by way of compensation under sub-section (3) of section 357 of the Act,
the victim-claimant shall remit an amount equal to the amount of compensation or the amount ordered to be paid under the said sub-section (3) of Section 357 of the Act, whichever is less. An undertaking to this effect shall be given by the victim-claimant before the disbursal of the compensation amount.

(3) The District Legal Service Authority shall decide the quantum of compensation to be awarded to the victim, medical expenses to be incurred on treatment, minimum sustenance amount required for rehabilitation including such incidental charges as funeral expenses etc. The compensation may vary from case to case depending on fact of each case.

(4) The quantum of compensation to be awarded to the victim or his dependents shall be as per Schedule I.

(5) The amount of compensation decided under the scheme shall be disbursed to the victim or his dependents as the case may be, from the Fund. While making payment of amount of compensation, the District Legal Services Authority shall ensure that all the provisions of this scheme are strictly complied with.

(6) Compensation received by the victim from the State in relation to the crime in question namely, insurance, ex gratia and/or payment received under any other Act or Rajiv Gandhi Pariwar Bima Yojana or any other State run scheme shall be considered as part of the compensation amount under this scheme. The victim/claimant who has received compensation amount from collateral sources mentioned above shall be deemed to be compensated under this scheme and shall not be entitled to separate compensation under this scheme. If the eligible compensation amount exceeds the payments received by the victim from collateral sources mentioned above, the balance amount shall be paid out of Fund.

(7) The cases covered under Motor Vehicle Act, 1988 (59 of 1988) wherein compensation is to be awarded by the Motor Accident Claims Tribunal, shall not be covered under the Scheme.

(8) The District Legal Services 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 the police officer not below the rank of the officer-in-charge of the police station or Magistrate of the area concerned, or any other interim relief, as it may deem fit.

6. Copy of the order of compensation passed under this Scheme shall
be mandatorily placed on record of the trial Court to enable the court to pass order of compensation under sub-section (3) of section 357 of the Act.

7. The District Legal Services Authority, if deem it proper, may institute proceedings before the competent court of law for recovery of the compensation granted to the victim of his/her dependent(s) from the person responsible for causing loss or injury as a result of the crime committed by him.

8. No claim by the victim or his dependents under sub-section (4) of section 357-A of the Act shall be entertained after a period of six months of the crime:
Provided that the District Legal Authority, if satisfied, for the reasons to be recorded in writing, may condone the delay in filing the claim.

9. Any victim aggrieved of the denial of compensation by the District Legal Service Authority may file an appeal before the State Legal Service Authority within period of ninety days. Provided that the State Legal Service Authority, if satisfied, for the reasons to be recorded in writing, may condone the delay in filing the appeal.

<table>
<thead>
<tr>
<th>Sr. No.</th>
<th>Particular of Loss or injury</th>
<th>Maximum Limit of Compensation</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Loss of life</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>a. Age 40 years or below 40 years Rs. 3.00 Lacs</td>
</tr>
<tr>
<td></td>
<td></td>
<td>b. Age above 40 years and upto 60 years Rs. 2.00 Lacs</td>
</tr>
<tr>
<td></td>
<td></td>
<td>c. Age above 60 years Rs. 1.00 Lacs</td>
</tr>
<tr>
<td>2.</td>
<td>Loss of any limb or part of body (80%) including loss due to acid attack</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>a. Age 40 years or below 40 years Rs. 2.00 Lacs</td>
</tr>
<tr>
<td></td>
<td></td>
<td>b. Age above 40 years and upto 60 years Rs. 1.00 Lac</td>
</tr>
<tr>
<td></td>
<td></td>
<td>c. Age above 60 years Rs. 50,000/-</td>
</tr>
<tr>
<td>3.</td>
<td>Loss of limb or part of body (50%) including loss due to acid attack.</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>a. Age 40 years or below 40 years Rs. 1.00 Lac</td>
</tr>
</tbody>
</table>
b. Age above 40 years and up to 60 years. Rs. 50,000/-
c. Age above 60 years Rs. 25,000/-

4. Rape Rs. 3.00 Lacs

5. Loss or injury causing severe mental agony to women and child victims of women and child victims in cases like Human Trafficking, Kidnapping and Molestation etc. Rs. 50,000/-

The following expenses shall be payable in addition to compensation outlined above.

<table>
<thead>
<tr>
<th>Expenses</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>(i) Funeral expenses</td>
<td>Rs. 2,000/-</td>
</tr>
<tr>
<td>(ii) Medical Expenses-Actual expenses incurred before death or on account of injury supported by bills/ vouchers but not exceeding</td>
<td>Rs. 15,000/-</td>
</tr>
</tbody>
</table>

SAMIR MATHUR,
Additional Chief Secretary to
Government, Haryana,
Home Development

ANNEXURE-5

U.P. Victim Compensation Scheme

UTTAR PRADESH SHASAN
Grih (Police) Anubhag - 9

The Governor is pleased to order the publication of the following English translation of notification No. 653/VI-P-9-2014-31(90)/2010 dated: April 05, 2014.

No. 653/VI-P-9-2014-31(90)/2010
Lucknow: Dated: April, 09, 2014

NOTIFICATION:

In exercise of the powers conferred by section 357 - A of the Code of Criminal Procedure, 1973 (Act 2 of 1974), the Governor of Uttar Pradesh, in co-ordination with the Central Government, hereby frames the following
scheme for providing 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, namely:

THE UTTAR PRADESH VICTIM COMPENSATION SCHEME

1. This Scheme may be called the Uttar Pradesh Victim Compensation Scheme, 2014

2. In this Scheme, unless the context otherwise requires,
   b. “Schedule“ means the Schedule appended to this Scheme;
   c. “State” means the State of Uttar Pradesh;
   d. “Victim“ means a person who himself has suffered loss or injury as a result of the crime and requires rehabilitation, and includes his dependent family members;
   f. “State Legal Services Authority” means the State Authority constituted under Section 6 of the Legal Services Authorities Act, 1987.

(1) There shall be established a fund namely Victim Compensation Fund from which amount of compensation under this Scheme shall be paid to the victim or his dependents who have suffered loss or injury as result of the crime and who require rehabilitation.

(2) The State Government shall allot a separate budget for the purpose of the Scheme every year.

(3) The Fund shall be operated by the Secretary, State Legal Services Authority.

4. A victim shall be eligible for the grant of compensation if:
   a. The offender is not traced or identified, but the victim is identified and where no trial takes place; such victim may also apply for grant of compensation under sub section (4) of section 357-A of the Act;
   b. The victim/claimant reports the crime to the officer-in-charge of the police station within 48 hours of the occurrence or any senior police officer or Executive Magistrate or Judicial Magistrate of the area provided that the District Legal Services Authority, if satisfied for the reasons to be recorded in writing, may condone the delay in reporting;
   c. The victim/claimant cooperates with the police and the prosecution during the investigation and trial of the case.

5. (1) Whenever a recommendation is made by the Court or an application is made by any victim of his dependent under sub section (2) of section 357-A of the Act to the District Legal Services Authority, the District
Legal Services Authority shall examine the case and verify the contents of the claim with regard to the loss or injury caused to the victim arising out of the reported criminal activity and may call for any other relevant information necessary in order to determine genuineness of the claim. After verifying the claim, the District Legal Services Authority shall, after due enquiry, award compensation within two months from the date of receipt of the recommendation of the court of the receipt of application under sub-section (4) of section 357-A of the Act in accordance with the provisions of this Scheme.

(2) Compensation under this Scheme shall be paid subject to the condition that if the trial court, while passing judgement at later date, orders the accused persons to pay any amount by way of compensation under sub-section (3) of section 357 of the Act, the victim/claimant shall remit an amount ordered equal to the amount of compensation or the amount ordered to be paid under the said sub-section (3) whichever is less. An undertaking to this effect shall be given by the victim/claimant before the distribution of the compensation amount.

(3) The District Legal Services Authority shall decide the quantum of compensation to be awarded to the victims or his dependents on the basis of loss caused to the victim, medical expenses to be incurred on treatment, minimum sustenance amount required for rehabilitation including such incidental charges as funeral expenses etc. The compensation may vary from case to case depending on the facts of each case.

(4) Keeping in view the particular vulnerabilities and special needs of the affected person in certain cases, the District Legal Services Authority or the State Legal Services Authority, as the case may be, will have the power to provide additional assistance of Rs.25,000/- subject to maximum of Rs. 1,00,000/-, in the cases where:

a. The affected person is a minor girl requiring specialized treatment and care;

b. The person is mentally challenged requiring specialized treatment and care;

c. Any other case as may be deemed fit by the Legal Services Authority concerned.

(5) The quantum of compensation to be awarded to the victim or his dependents shall not exceed the maximum limit as per Schedule - I.

(6) The amount of compensation decided under the Scheme shall be disbursed to the victim or his dependents, as the case may be, from the Fund. The interim or final financial assistance, as the case may be, shall be remitted to the bank account of the applicant preferably within a week. In cases where the person affected is a minor, the amount shall be remitted to the bank account of his parent or guardian after the Authority Concerned is satisfied about the proper utilization of the amount of compensation.
(7) Compensation received by the victim from the State in relation to the crime in question, namely insurance, ex gratia and/or payment received under any other Act or State-run Scheme, shall be considered as part of the compensation amount under this Scheme and if the due compensation amount exceeds the payments received by the victim from collateral sources mentioned above, the balance amount shall be paid out of the Fund.

(8) The cases covered under the Motor Vehicles Act, 1988 (Act no.-59 of 1988) wherein compensation is to be awarded by the Motor Accident claims TRibunal, shall not be covered under this Scheme.

(9) The District Legal Services 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 the police officer not below the rank of the officer-in-charge of the police station or the Magistrate of the area concerned. The district Legal Services Authority may order for any other interim relief as it may deem fit.

6. While determining the compensation and rehabilitation services to be provided on the basis of the restorative needs of the affected person, the Authority shall be guided by the following factors:

a. Type and severity of the bodily injury suffered by the affected person and expenditure incurred or likely to be incurred on victim’s medical treatment and psychological counselling.

b. Age and financial condition of the affected person so as to determine the need for his education or professional or vocational training, as the case may be.

c. Non-pecuniary loss entailing suffering, mental or emotional trauma or humiliation faced.

d. Expenses incurred in connection with provision of any alternate accommodation in cases where the affected person resides in a place other than where the offence was committed and the FIR has been recorded and/or criminal trial initiated.

7. Copy of the order of compensation passed under this Scheme shall be mandatorily placed on record of the trial court to enable the court to pass order of compensation under sub-section (3) of section 357 of the Act.

8. No claim made by the victim or his dependents under sub-section (4) of section 357-A of the Act shall be entertained after a period of six-months of the crime:

Provided that the District Legal Services Authority, if satisfied for the reasons to be recorded in writing, may condone the delay in filing any claim.

9. Any victim aggrieved of the denial of compensation by the District Legal Services Authority may file an appeal before the State Legal Services Authority within a period of ninety days;

Provided that the State Legal Services Authority, if satisfied for the reasons
to be recorded in writing, may condone the delay in filing the appeal.

Appeal

S.K. Raghuvanshi
Sachiv

Schedule - 1

<table>
<thead>
<tr>
<th>Particulars of loss or injury</th>
<th>Maximum limit of compensation</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Rape</td>
<td>Rs. 2,00,000/-</td>
</tr>
<tr>
<td>2. Loss or injury causing severe mental agony to the victim of the crime</td>
<td>Rs. 1,00,000/-</td>
</tr>
<tr>
<td>3. Victim of corrosive substance i.e. acid attack etc.</td>
<td>Rs. 3,00,000/-</td>
</tr>
<tr>
<td>4. Death (Non-earning member)</td>
<td>Rs. 1,50,000/-</td>
</tr>
<tr>
<td>5. Death (Earning member)</td>
<td>Rs. 2,00,000/-</td>
</tr>
<tr>
<td>6. Victim of Human Trafficking</td>
<td>Rs. 2,00,000/-</td>
</tr>
</tbody>
</table>

S.K. Raghuvanshi
Sachiv

ANNEXURE-6

West Bengal Victim Compensation Scheme

The Kolkata Gazette

Extraordinary
Published by Authority
GOVERNMENT OF WEST BENGAL
Home Department

NOTIFICATION

Scheme

1. (1) These Schemes may be called the West Benga Victim Compensation Scheme, 2012,
   (2) This may come into force at once.

2. In these Scheme, unless the context otherwise required
   b. “Dependents“ means person who fully depends on the earnings of the victim;
   c. “Schedule“ means a Schedule appended to these Scheme;
   d. “State” means State of West Bengal;
   e. “Victim” means a person who himself has suffered loss or injury as a result of crime and required rehabilitation and includes dependent.

3. (1) There shall be constituted a fund namely Victim Compensation Fund from which amount of compensation under these Scheme shall be paid to the victim or his dependents who have suffered loss or injury as a result of the crime and who require rehabilitation.
   (2) The State Government shall allot a separate budget for the purpose of the Scheme every year.
   (3) The fund shall be operated by the Secretary, State Legal Services Authority or the District Legal Services Authority, as the case may be,
   (4) The fund will be maintained and audited as per existing Government rules.

4. A victim of acid attack and sexual offences including rape and human trafficking shall be eligible for the grant of compensation if:-
   a. A recommendation is made by the Court for the compensation under sub-section (2) of Section 357A of the Act;
   b. The Trial Court, at the conclusion of the trial, is satisfied, that the compensation awarded under 357 is not adequate for such rehabilitation, or where the cases end in acquittal or discharge and the victim has been
rehabilitated, makes recommendation for compensation under sub-section (3) of section 357(A) of the Act;

c. The offender is not traced or identified, but the victim is identified and where no trial takes place, such victim or his dependent may apply for award of compensation under sub-section (4) of section 357A of the Act;

d. They should have been compensated for the loss or injury under any other scheme of the Central or State Government, Insurance Company or any other institutions.

5. (1) Whenever a recommendation is made by the Court of Compensation or an application is made by any victim or his dependent under sub-section (4) of section 357A of the Act to the State or the District Legal Services Authority, the State or the District Legal Services Authority shall examine the case and shall verify the contents of the claim with regard to the loss or injury caused to the claimant and also may call her for any other relevant information necessary for consideration of the claim from the concerned victim or his dependent. After verifying the claim and after due enquiry the State or the District Legal Services Authority shall award compensation under sub-section (5) of section 357A of the Act.

(2) The State or the District Legal Services Authority, as the case may be, shall decide the quantum of compensation to be awarded to the victim, medical expenses to be incurred on treatment, minimum sustenance amount required for rehabilitation including such incidental charges, as funeral expenses etc.

(3) The quantum of Compensation to be awarded to the victim of his dependents shall not exceed from the maximum limit as per Schedule -I

(4) The amount of compensation as appended to these scheme by the State or the District Legal Services Authority shall be disbursed to the victim or his dependents, as the case may be, from the Victim Compensation Fund.

(5) The cases covered under Motor Vehicle Act, 1988 (59 of 1988) wherein compensation is to be awarded by the Motor Accident Claims Tribunal, shall not be covered under these Scheme.

(6) The State or the District Legal Services 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 the police officer not below the rank of the officer-in-charge of the police station or Magistrate of the area concern, or any other interim relief as it may deem fit.

6. Under these Scheme, no claim made by the victim or his dependents under sub-section (4) of section 357A of the Act shall be entertained after a period of six months of the Crime.

Provided that, the State of the District Legal Services Authority if satisfied, for the reasons to be recorded in writing may condone the
delay in filing the claim.

This Notification is issued with concurrence of Finance Department (Group D), vide their U.O. No. D 182/3 dated 07.03.2012 and with the approval of Cabinet held on 06.09.2012.

Schedule - I

<table>
<thead>
<tr>
<th>Sl. No.</th>
<th>Particular of Loss or Injury</th>
<th>Maximum Limit of Compensation</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Loss of Life</td>
<td>Rs. 2.00 Lacs</td>
</tr>
<tr>
<td>2.</td>
<td>Loss of any limb or part of body resulting 80% or above handicap</td>
<td>Rs. 50,000/-</td>
</tr>
<tr>
<td>3.</td>
<td>Loss of any limb or part of body resulting 40% &amp; below 80% handicap</td>
<td>Rs. 20,000/-</td>
</tr>
<tr>
<td>4.</td>
<td>Rape of Minor</td>
<td>Rs. 30,000/-</td>
</tr>
<tr>
<td>5.</td>
<td>Rape</td>
<td>Rs. 20,000/-</td>
</tr>
<tr>
<td>6.</td>
<td>Rehabilitation</td>
<td>Rs. 20,000/-</td>
</tr>
<tr>
<td>7.</td>
<td>Loss of any limb or part of body resulting below 40% handicap</td>
<td>Rs. 10,000/-</td>
</tr>
<tr>
<td>8.</td>
<td>Loss or injury causing severe mental agony to women and child victims in cases of Human Trafficking</td>
<td>Rs. 10,000/-</td>
</tr>
<tr>
<td>9.</td>
<td>Loss or injury to Child victims</td>
<td>Rs. 10,000/-</td>
</tr>
</tbody>
</table>

By order of the Governor,

B. Banerjee
Principal Secretary to the Government of West Bengal.