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DELHI VICTIMS COMPENSATION SCHEME, 2015

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Preface

On 29 November, 1985 at its 96th plenary session, The General Assembly of the United Nations, adopted The UN Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power. This brought the dawn of a new era by emphasising the need to set norms and minimum standards in International law for the protection of victims of crime. The U.N. Declaration recognised four major components of the rights of victims of crime –

1. Access to justice and fair treatment;
2. Restitution;
3. Compensation;
4. Assistance.

The Declaration was implemented by introducing Sec. 357-A in the Code of Criminal Procedure. State of Delhi was amongst the frontrunners who came up with specific Scheme for compensation of Victims of Crime by State.

Every Victim of Crime undergoes immense physical, emotional and mental trauma apart from economic losses. State as a custodian of all Fundamental Constitutional Rights is not only legally but also morally & socially bound to come to the rescue of Victims and provide them all help and succour so that they can overcome their trauma, both emotionally as well as financially.

The nature and extent of victimization has to be adequately understood considering the social and stark financial disparity amongst our Citizens. The rights and rehabilitational needs of each victim has to be minutely gauged, recognized and redressed. They deserve our attention and help.

Despite being in place for the last three years (approx.), **The Delhi Victims Compensation Scheme, 2011**, could not achieve the expected attention, popularity and objective. A close look at all the relevant circumstances reveals that it needs to be not only simplified in its application but its monetary benefits too needs to be enhanced by revising the quantum of compensation it offers.

It also needs to be reframed on the aspect of granting immediate interim financial assistance to the victims of crime in their hour of dire need.

**(TO BE PUBLISHED IN THE DELHI GAZETTE PART – IV EXTRAORDINARY)
GOVERNMENT OF NATIONAL CAPITAL TERRITORY OF DELHI
HOME (POLICE-II) DEPARTMENT, 5TH LEVEL, 'C' WING,
DELHI SECRETARIAT, NEW DELHI**

NOTIFICATION

Delhi, dated the _____, 2015

F.No. 11/35/2010/HP-II/ - In exercise of the powers conferred by section 357-A of the Code of Criminal Procedure, 1973 (2 of 1974), the Lt. Governor of National Capital Territory of Delhi in coordination with the Central Government hereby approves the following Scheme for providing funds for the purpose of compensation to the victims or their dependents who have suffered loss or injury as a result of the crime and who require rehabilitation, namely:—

1. SHORT TITLE AND COMMENCEMENT — (1) This Scheme may be called the Delhi Victims Compensation Scheme, 2015.

(2) It shall come into force on the date of its publication in the Delhi Gazette.

(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 Scheme, unless the context otherwise requires:—

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

(b) “Dependent” includes wife, husband, father, mother, grandparents, unmarried daughter and minor children of the victim as determined by the Delhi State Legal Services Authority or District Legal Services Authority on the basis of report of 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 a form appended to this Scheme;

(e) “Fund” means the Victims Compensation Fund constituted under clause 3 of this Scheme;

(f) “Government” means the Government of National Capital Territory of Delhi;

(g) “Offence” means any of the offences mentioned in the Indian Penal Code, 1860 (45 of 1860) or in any other law for the time being in force;

(h) “Penal Code” means Indian Penal Code,1860 (45 of 1860);

(i) “Schedule” means the Schedule appended to this Scheme;

(j) “State Legal Services Authority” means the Delhi State Legal Services Authority (DSLISA), as defined in the Legal Services Authorities Act, 1987 (39 of 1987)

(k) “Victim” means a person who has suffered loss or injury as a result of the offence and in the case of his death, the expression ‘victim’ shall mean to include his or her guardian or legal heir;

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

3. VICTIMS COMPENSATION FUND — (1) There shall be a Fund, namely, the Victims Compensation Fund from which the amount of compensation, as decided by the Delhi State Legal Services Authority or District Legal Services Authority, shall be paid to the victims or their dependent(s) who have suffered loss or injury as a result of an offence and who require rehabilitation.

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

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

(b) Receipt of amount of fines imposed (under section 357 of the Code of Criminal Procedure, 1973 (2 of 1974) and ordered to be deposited by the courts in the Victims Compensation Fund.

(c) Amount of compensation recovered from the wrongdoer/accused under clause 14 of the Scheme;

(d) Amount of compensation returned by the person receiving the compensation as per Form 'II' if any;

(e) Donations/contributions from International/National/Philanthropist/Charitable Institutions/ Organizations and individuals.

(3) The said Fund shall be operated by the Delhi State Legal Services Authority (DSLISA)

5. **ELIGIBILITY FOR COMPENSATION** — The victim or his/her dependent(s), as the case may be, shall be eligible for the grant of compensation after satisfying the criteria that he/she should not have been compensated for the loss or injury under any other scheme of the Central Government or the Government of National Capital

6. Territory of Delhi:

Provided that an affidavit of victim or his/her dependent(s), as the case may be, shall be sufficient unless the State or District Legal Services Authority, as the case may be, directs otherwise for the reasons to be recorded.

7. **PROCEDURE FOR MAKING APPLICATION BEFORE THE STATE OR DISTRICT LEGAL SERVICES AUTHORITY** — An application for the award of interim/ final compensation can be filed by the Victims and/or their Dependents or the SHO of the area and it shall be submitted in Form 'I' along with a copy of the First Information Report (FIR), medical report, death certificate, if available, copy of judgment/ recommendation of court if the trial is over, to the State or District Legal Services Authority.

8. **PLACE OF FILING OF APPLICATION** -- The application/recommendation for compensation can be moved either before the Delhi State Legal Services Authority or the concerned District Legal Services Authority. The Secretary of the respective DLSA shall decide the application/ recommendation moved before him/her as per Scheme. The DSLISA in turn can retain, enquire and decide the matters itself or may call for any application/recommendation moved before any of the District Legal Services Authorities for disposal.

7. RELIEFS THAT MAY BE AWARDED BY THE STATE OR DISTRICT LEGAL SERVICES AUTHORITY—The State or District Legal Services Authority may award compensation to the victims or their dependents to the extent as specified in schedule hereto.

8. FACTORS TO BE CONSIDERED WHILE AWARDING COMPENSATION – While deciding a matter, the Delhi State Legal Services Authority/District Legal Services Authority may take into consideration 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 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;
- (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 his/her need for rehabilitation.
- (12) In case of death, the age of deceased, his monthly income, number of dependents, life expectancy, future promotional/growth prospects etc.
- (13) Or any other factor which the DSLSA/DLSA may consider just and sufficient.

9. GROUND FOR DECLINING THE COMPENSATION — The State or District Legal Services Authority, as the case may be, may decline the compensation giving adequate reasons reduced in writing.

10. 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 their dependent(s), under sub-section (4) of section 357A of the Code, to the Delhi State Legal Services Authority or District Legal Services Authority, it shall examine the case and verify the contents of the claim with regard to the loss/injury and rehabilitation as a result of the crime and may also call for any other relevant information necessary for consideration of the claim from the concerned:

Provided that in exceptional cases of utmost hardship and gravity and in all acid attack cases, at any time after commission of the offence, the Member Secretary/Officer on Special Duty of DSLSA or Secretary, DLSA may suo motu or on an application by the victims/dependents may after preliminary verification of the facts proceed to grant such relief (including interim monetary compensation) 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 DSLSA/DLSA. The order granting interim compensation shall be passed by the DSLSA/DLSA within 7 days of the matter being brought to its notice and the DSLSA shall pay the compensation within 8 days of passing of 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 DSLSA or DLSA, as the case may be, upon its satisfaction, shall decide the quantum of compensation to be awarded to the victim or his/her dependent(s) taking into account the factors enumerated in Clause 8 of the Scheme.

* (In terms of Order of Hon'ble Supreme Court in W.P.(Crl.) No. 129/2006, titled Laxmi v. Union of India & ors. Dt. 18.07.2013)

(4) The award of compensation under this Scheme shall be subject to the condition that if later on the trial court while passing the Judgment orders the accused person to be pay any amount by way of compensation under section 357 of the Code, the victim shall refund the amount of compensation awarded under this Scheme, or the amount of compensation received in pursuance of the order passed under section 357 of the Code, whichever is less. An Undertaking in Form "II" hereto shall be obtained by the Disbursing Authority from the victim before the disbursement of the compensation amount under this Scheme.

(5) The cases covered under the Motor Vehicles Act, 1988 (Act 59 of 1988) wherein the compensation is to be awarded by the Motor Accidents Claims Tribunal, shall not be covered under this Scheme.

(6) The DSLSA/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.

(7) In case after the disbursement of compensation, at any stage it comes to the notice of DSLSA/DLSA that any relevant fact shared with it during the inquiry for compensation was false, the Authority can initiate proceedings for recovery of part/full compensation awarded after affording an opportunity of being heard to the beneficiary.

11. THE ORDER TO BE PLACED ON RECORD — Copy of the order of 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.

12. METHOD OF DISBURSEMENT OF COMPENSATION — (1) The amount of compensation so awarded shall be disbursed by the DSLSA by depositing the same in a Nationalized Bank or if the branch of a Nationalized Bank is not in existence, it shall be deposited in the branch of a scheduled commercial bank, in the joint or single name of the victim/dependent(s). Out of the amount so deposited, 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 DSLSA/ 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.

13. INTERIM RELIEF TO THE VICTIM — The Delhi 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 the, interim relief so granted shall not be more than Rs. 50,000/- (Rupees Fifty thousand) in any case except in cases of extreme hardship and gravity of the offence where an order may be passed for the reasons to be recorded in writing:

* 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 DSLSA/DLSA. The order granting interim compensation shall be passed by the DSLSA/DLSA within 7 days of the matter being brought its notice and the DSLSA 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.

14. RECOVERY OF COMPENSATION AWARDED TO THE VICTIM OR HIS/HER DEPENDENT(S) — Subject to the provisions of sub-section(3) of section 357A of the Code, the Delhi 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 his/ her dependent(s) from person(s) responsible for causing loss or injury as a result of the crime committed by him/her.

* (In terms of Order of Hon'ble Supreme Court in W.P.(Crl.) No. 129/2006, titled Laxmi v. Union of India & ors. Dt. 18.07.2013)

15. 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 DSLSA/DLSA, in case of non-issuance of Dependency Certificate, after expiry of 15 days, may proceed on the basis of an affidavit to be obtained from the claimant.

16. LIMITATION - Under the Scheme, no claim made by the victim or his/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.

17. REPEAL & SAVINGS –(1)The Delhi Victims Compensation Scheme, 2011 is hereby repealed.

(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.

| S.No. | Particulars of loss or injury | Minimum Limit of compensation | Upper Limit of compensation |
|--------------|--|--------------------------------------|------------------------------------|
| 1. | Loss of Life | Rs. 3 Lakhs | Rs. 10 Lakhs |
| 2. | Gang Rape | Rs. 3 Lakhs | Rs. 7 Lakhs |
| 3. | Rape | Rs. 2 Lakhs | Rs. 5 Lakhs |
| 4. | Unnatural Sexual Assault | Rs. 2 Lakhs | Rs. 5 Lakhs |
| 5. | Loss of any Limb or part of body resulting in 80% permanent disability or above | Rs. 2 Lakhs | Rs. 5 Lakhs |
| 6. | Loss of any Limb or part of body resulting in 40% and below 80% permanent disability | Rs. 1 Lakh | Rs. 3 Lakhs |
| 7. | Loss of any limb or part of body resulting in above 20% and below 40% permanent disability | Rs. 50,000/- | Rs.2 Lakhs |
| 8. | Loss of any limb or part of body resulting in below 20% permanent disability | Rs. 20,000 | Rs. 1 Lakh |
| 9. | Victims of human trafficking/child abuse/kidnapping | Rs. 50,000 | Rs. 2 Lakh |
| 10. | Grievous injury including injury resulting in surgery/serious damage to vital organs | Rs. 50,000 | Rs. 2 Lakhs |
| 11. | Loss of Foetus i.e. Miscarriage as a result of Assault | Rs. 2 Lakhs | Rs. 3 Lakhs |
| 12. | Victims of Burning, in case of disfigurement- | | |
| a. | In case of more than 50% | Rs. 5 Lakhs | Rs. 7 Lakhs |
| b. | In case of 20% to 50% | Rs. 2 Lakhs | Rs. 5 Lakhs |
| c. | In case of less than 20% | Rs. 1 Lakh | Rs. 2 Lakhs |
| 13. | Victims of Acid Attack- | | |
| a. | In case of disfigurement of face. | Rs. 3 Lakhs | Rs. 7 Lakhs |
| b. | In case of injury more than 50%. | Rs. 5 Lakhs | Rs. 7 Lakhs |
| c. | In case of injury less than 50%. | Rs. 3 Lakhs | Rs. 5 Lakhs |

Note: In case the victim is less than 18 years of age, the compensation amount may be increased by up to 50% more than specified above.

**BY ORDER AND IN THE NAME OF THE Lt. GOVERNOR
OF THE NATIONAL CAPITAL TERRITORY OF DELHI,
Addl. Secy. (Home)**

FORM –I

**APPLICATION FOR THE AWARD OF COMPENSATION UNDER DELHI VICTIMS
COMPENSATION SCHEME, 2015 FOR INTERIM/FINAL RELIEF**

| | | |
|-----|---|--|
| 1. | Name of the Applicant Victim(s) or his/her/their Dependent(s) | |
| 2. | Age of the of the Victim(s) or his/her/their Dependent(s) | |
| 3. | (a) Father's Name | |
| | (b) Mother's Name | |
| | (c) Spouse's Name | |
| 4. | Address of the Victim(s) or his/her/their Dependent(s) | |
| 5. | Date and time of the Incident | |
| 6. | Whether FIR has been lodged? If Yes, enclose Copy of FIR. If No, give status thereof. | |
| 7. | Whether medical examination has been done? If yes, enclose Medical Report/ Death Certificate /P.M. Report. | |
| 8. | Status of trial, if pending. If over, enclose copy of judgment and order on sentence. | |
| 9. | Has the applicant been awarded any compensation by the trial court or any other Govt. agency. If, yes give details. | |
| 10. | Give details of financial expenditure/ loss incurred | |
| 11. | Have you instituted any civil suit/ claim against the perpetrator of offence. If yes give details. | |

Signature of the Victim/Dependent

FORM -II
UNDERTAKING

**To be submitted before the disbursal of the compensation under Delhi Victims
Compensation Scheme, 2015
Before DSLSA/DLSA by the Victims or their Dependents)
(Strike out whichever is not applicable)**

I/We (Name of the Victim or their Dependents) S/o, D/o, W/o R/o hereby undertake that I/We have read all the entire Delhi Victims Compensation Scheme, 2015 and after fully understanding the same, I/We have filled in this Undertaking form.

I/We fully undertake that, if at a later stage, the Trial Court while passing the judgment awards compensation to me/us under Section 357 Cr.P.C. I shall inform the same DSLSA/DLSA promptly.

I/We undertake that in case the Compensation awarded to me/us U/s 357 Cr.P.C. is paid by the convict to me/us, I/We shall refund the compensation received by me/us from this Authority.

I/We also undertake that in case under the order of Trial Court, Convict compensates me/us by paying amount which is less than compensation provided to me/us under this Scheme then I/We shall refund that portion of the compensation received by me/us from this Authority.

I/We am/are aware that the first charge/duty to compensate me/us for loss or injury or rehabilitation is that on the convict and upon receipt of compensation from the convict I/We am/are supposed to refund the compensation received from this Authority under the Scheme.

I/We shall have no objection in case the amount supposed to be refunded by me/us in future is obtained by this Authority directly from the my/our Bank Account/FDR opened/prepared at the time of disbursal of compensation under the Scheme.

The information given by me/us in my/our application form is true to the best of my/our knowledge and belief.

Dated : _____

Signature of the Applicant/Victim/Dependent