

CWP No.21842 of 2015

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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**CWP No.21842 of 2015
Date of decision:04.04.2016**

Anju

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: Hon'ble Mr. Justice Rakesh Kumar Jain

Present: Ms. Veena Kumari, Advocate,
for the petitioner.

Ms. Gaganpreet Kaur, AAG, Haryana.

Rakesh Kumar Jain, J.

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.

The petitioner moved an application to the Additional Sessions Judge, Hisar for compensation in order to meet medical expenses and future

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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.

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.

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.

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.

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

Undoubtedly, the acid attack is dated 01.12.2010 and the

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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 undertaken at PGI, Rohtak/Chandigarh and AIIMS, New Delhi.

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:-

“9. Financial Assistance

1. An amount of Rs.25,000/- is to be provided by the concerned Deputy Commissioner/SDM as adhoc 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

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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:-

Particular of Loss or Injury	Maximum Limit of Compensation
Acid attack involving, defacement, loss of limb or part of body and plastic surgery.	Rs.3.00 lacs
Acid attack not involving, defacement, loss of limb or part of body and plastic surgery	Rs.50,000/-

Out fo 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 adhoc 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.

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.”

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.

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>).”

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.”

Thus, from the aforesaid schemes which have been

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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.

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 vs. Union of India and others**, 2016(1) R.C.R. (Criminal) 336.

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

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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.

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.

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

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compensation of ₹6,00,000/- in all, which has to be paid by the Government.

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.

With these observations, the present petition stands disposed of.

April 04, 2016
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(Rakesh Kumar Jain)
Judge