

CWP No.15430 of 2017

[1]

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

**CWP No.15430 of 2017
Date of decision:21.08.2017**

Ranjana Devi ...Petitioner

Versus

Union of India and others ...Respondents

Coram: Hon'ble Mr. Justice Rakesh Kumar Jain

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

Mr. Satya Pal Jain, Senior Advocate, with
Mr. Dheeraj Jain, Advocate, for respondent No.1/UOI.

Ms. Deepali Puri, Addl. A.G., Punjab.

Rakesh Kumar Jain, J.

This is a story of an unfortunate girl who at the age of 21 years was married to one Ravi Kumar on 21.02.2014. She was mal-treated and beaten by her husband for dowry. Since she belongs to a poor family, therefore, could not meet the demand of dowry. She was brutally beaten. When she became unconscious, her husband slit her throat, poured acid on her face and abandoned her at a vacant plot, 5-6 kilometers away, from Ludhiana. She was found by a nearby resident on 02.03.2017 who gave her first aid and called her father. She was admitted to Civil Hospital on 03.03.2017 and was diagnosed with chemical burns on her neck, chest and subsequently had a massive complex surgery of the neck. She got registered FIR No.52 dated 03.03.2017 under Sections 307, 326-A and 498A IPC at Police Station Meherban, District Ludhiana.

Now, the petitioner has prayed for a direction to modify the eligibility criteria for grant of compensation under the Punjab Victim or their Dependents Compensation Scheme, 2011 (as amended from time to time) qua the acid attack survivors as it is allegedly in violation of a decision rendered by the Supreme Court in the case of **Laxmi vs. Union of India and others**, Writ Petition (Crl.) No.129 of 2006, dated 18.07.2013 and a decision of this Court rendered in the case of **Poor Patients Relief Society and others vs. State of Punjab and others**, CWP No.22895 of 2012, dated 02.05.2014 and has prayed for the grant of free medical treatment, reimbursement and for interim compensation/compensation and rehabilitation, besides the additional compensation of ₹1,00,000/- from the Prime Minister National Relief Fund, which is meant for the acid attack survivors.

Before approaching this Court, the petitioner made a representation (Annexure P-10) in this regard to the Chief Secretary, Punjab, Principal Secretary, Department of Home Affairs and Justice, Punjab and the Punjab State Legal Service Authority through its Members Secretary and had also made a representation to the Deputy Commissioner, Ludhiana and joint Secretary, Ministry of Home Affairs, New Delhi for grant of compensation of ₹1,00,000/- under the Prime Minister National Relief Fund. Since there was no reply, therefore, the present petition is filed.

At the time of notice of motion, this Court had passed the following order on 18.07.2017:-

“The petitioner is a survivor of an acid attack by her husband and claiming compensation under the Victim Compensation Scheme, 2011. It is submitted that she had suffered an acid attack on 20.02.2017. She is a mother of a child, who is also handicapped. Her husband has allegedly first slit her throat

and then poured acid on the upper part of her body and left her in jungle but she survived with the grace of God.

Learned counsel for the petitioner has prayed that in the meantime, keeping in view the poverty of the petitioner, interim compensation may be awarded and in this regard she has referred to the instructions dated 9.11.2016 issued by the Ministry of Home Affairs, Government of India under the aegis of the Prime Minister Office by which such victims have been decided to be awarded ₹1 lakh under the Prime Minister Relief Fund. It is submitted that in an identical case i.e. CWP No.2178 of 2017 titled as “Jaspinder Kaur Vs. State of Punjab and others”, this Court, vide an interim order dated 7.2.2017, directed the State of Punjab to pay ₹1 lakh and also to Punjab State Legal Services Authority to pay ₹1 lakh as an interim compensation.

The petitioner has allegedly made the representation to the concerned Deputy Commissioner but so far interim compensation has not been awarded to her. It is also submitted that the procedure is provided to claim interim compensation in the instruction dated 9.11.2016.

Notice of motion for 1.8.2017.

Keeping in view the facts and circumstances of the case, the Deputy Commissioner, Ludhiana, to whom the petitioner has made a representation on 5.7.2017, is directed to proceed forthwith for grant of interim compensation of ₹1 lakh in terms of the instructions dated 9.11.2016 and the Punjab State Legal Services Authority to pay ₹1 lakh to the petitioner forthwith as has been directed in the order passed in CWP No.2178 of 2017 titled as “Jaspinder Kaur Vs. State of Punjab and others” on 7.2.2017.”

Thereafter, after completion of service, the Deputy Commissioner, Ludhiana filed the reply.

Briefly stated, the Government of Punjab, Department of Home Affairs and Justice, in exercise of its powers conferred by Section 357-A of the Code of Criminal Procedure, 1973, notified the Punjab Victim or their Dependents Compensation Scheme, 2011 (hereinafter referred to as the

“Scheme”). The said scheme was meant for the victim, who is otherwise not defined in the Scheme but the eligibility for the grant of compensation was laid down as under:-

“4. Eligibility for Grant of Compensation:- The victim or his dependent satisfying the following criteria shall be eligible for the grant of compensation:-

- (1) He/She should not have been compensated for the loss or injury under any other Scheme of the Central/Punjab Government, an Insurance Company or any other institution;
- (2) Loss or Injury sustained by the victim or his dependent should have caused substantial loss to the income of the family resulting difficulty in making both ends meet without the financial aid or has to spend beyond his means on medical treatment; and
- (3) Where the perpetrator of a crime is not traced or identified or where no trial takes place but the victim is identified and the victim has to incur a lot of expenses on physical and mental rehabilitation.”

Thereafter, another notification date 17.06.2013 was issued by the State of Punjab, which reads as under:-

**“GOVERNMENT OF PUNJAB
DEPARTMENT OF HOME AFFAIRS AND JUSTICE
(HOME-IV BRANCH)
NOTIFICATION**

Dated 17-6-2013

No.5/154/2008-3H4/3482 Whereas the Government of Punjab has already notified compensation victim scheme vide Notification No.5/154/2008-3H4/3597 dated 08.12.2011 providing funds for the purpose of compensation to the victims or their dependents as a result of crime and who require rehabilitation. In compliance with the orders of Hon'ble Punjab and Haryana High Court Chandigarh dated 3.9.2012 in the Civil Writ Petition No.6319 of 2008 (O&M)- Court on its motion V/s Union of India, State of Punjab, State of Haryana and U.T. Chandigarh, the Governor of Punjab is pleased to refix the quantum of compensation to be awarded to the victim or his dependent shall not exceed the maximum limit specified in

Schedule. The Schedule under Para No.7 in the notification published on dated 08.12.2011 is modified as under:

Sr. No.	Particular of Loss of Injury	Maximum Limit of compensation
1	Rape	Rs.2,00,000/-
2	Murder with rape	Rs.3,00,000/-
3	Victim of Human Trafficking, Child abuse and Kidnapping	Rs.50,000/-
4	Simple loss or injury to child victim	Rs.10,000/-
5	Rehabilitation of Women and Children	Rs.20,000/-
6	Victim of acid attack. a) In case of disfigurement of face b) Other cases or injury	Rs.3 lac Rs.50,000/-

Note:- It may be ensured that the punishment as an amount of fine awarded by any court may be recovered at the Govt. level in the receipt head from the culprit/culprits.

Place:Chandigarh D.S.Bains
The 13th June, 2013 Principal Secretary to Government of Punjab
Department of Home Affairs and Justice”

Thereafter, another notification was issued on 15.10.2013 but it pertains to rape and murder with rape. The said notification read as under:-

**“GOVERNMENT OF PUNJAB
DEPARTMENT OF HOME AFFAIRS AND JUSTICE
(HOME-IV BRANCH)
NOTIFICATION**

Dated 15.10.2013

No.5/154/2008-3H4/5409 Whereas in compliance with the order of Hon'ble Punjab and Haryana High Court Chandigarh dated 03.09.2012 in the Civil Writ Petition No.6319 of 2008 (O&M)- Court on its motion V/s Union of India, State of Punjab, State of Haryana and U.T. Chandigarh, the Government of Punjab has already modified compensation victim scheme vide Notification No.5/154/2008-3H4/3483 dated 17.06.2013 providing funds for the purpose of compensation to the victims or their dependents as a result of crime and who require rehabilitation. The Governor of Punjab is pleased to refix the quantum of compensation to be awarded to the victim or his/her dependent given as under in the

Schedule:-

Sr. No.	Particular of Loss of Injury	Maximum Limit of compensation
1	Rape	Rs.3,00,000/-
2	Murder with rape	Rs.4,00,000/-

The compensation of the other incidents as shown in notification No.5/154/2008-3H4/3483 dated 17.06.2013 will remain same.

Place:Chandigarh
The 15th October, 2013

D.S.BAINS
Principal Secretary to Government of Punjab, Department of Home Affairs and Justice”

It was further followed by another notification dated 05.03.2014, providing ad-hoc relief, compensatiOn and medical reimbursement to the victim of acid attack, which read as under:-

**“GOVERNMENT OF PUNJAB
DEPARTMENT OF HOME AFFAIRS AND JUSTICE
(HOME-IV BRANCH)
NOTIFICATION**

The 5th March, 2014

No.5/154/2008-3H4/175639/1 Whereas in compliance with the order of Hon'ble Punjab and Haryana High Court Chandigarh dated 23.08.2013 in the Civil Writ Petition No.6319 of 2008 (O&M)- Court on its motion V/s Union of India, State of Punjab, State of Haryana and U.T. Chandigarh, the Government of Punjab has already modified compensation victim scheme vide Notification No.5/154/2008-3H4/5409 dated 15.10.2013 providing funds for the purpose of compensation to the victims or their dependents as a result of crime and who require rehabilitations. The Governor of Punjab is pleased to refix the quantum of compensation to be awarded to the victim or his/her dependent given as under in the Schedule:-

Sr. No.	Particular of Loss of Injury	Maximum Limit of compensation
1	Adhoc relief to victim of acid attack at the earliest after lodging the FIR	Rs.25,000/-
2	Death due to acid attack	Rs.5,00,000/-
3	Medical Reimbursement to a victim of acid attack	100% medical reimbursement of all treatment including Plastic Surgery

The compensation of the other incidents as shown in notification No.5/154/2008-3H4/3597 dated 08.12.2011, 5/154/2008-3H4/3483 dated 17.06.2013 and notification no.5/154/2008-3H4/5409 dated 15.10.2013 will remain same.

Place:Chandigarh
The 03 March, 2014

S.S.Channy
Principal Secretary to Government of Punjab, Department of Home Affairs and Justice”

Before the aforesaid notifications dated 15.10.2013 and 05.03.2014 were issued, the Supreme Court passed the following interim order in **Laxmi's case (supra)** on 18.07.2013:-

- “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 publicize the same appropriately for the information of public at large.
15. List the matter on December 3, 2013.”

In **Poor Patients Relief Society' case (supra)**, this Court also passed the following order on 02.05.2014:-

“On perusal of the status report of the State of Haryana, which should be model norms, learned counsel for the petitioners submits that there are two issues - (i) monthly assistance of ₹5,000/- per month as suggested by the Committee presided over by the Chief Secretary and (ii) horizontal reservation in government jobs.

These matters are considered by the State Government, but there has been no positive decision.

Learned counsel for the petitioners states that in view of the stand taken, the issue of horizontal reservation may not be taken further, but emphasizes the importance of continued assistance to the victims as a one time solution is not the remedy. The problem continues and is not cured.

We are also of the view that the monthly assistance of ₹5,000/-per month (at least), as suggested by the Chief Secretary, deserves to be adopted and limited to that aspect the matter should be re-examined by the State authorities.

In so far as the State of Punjab is concerned, the policy of the State of Haryana is to be followed apart from what we have observed today on monthly payment. The State of Punjab will now place their final version of the policy on record. It has also been explained that in the earlier affidavit the availability of funds had been inadvertently magnified hundred times by stating that ₹ 100 crores had been reserved for the purpose of compensation, while only ₹ 1 crore had been reserved. The aspect of availability of sufficient funds must be quickly attended to.

Learned counsel appearing for petitioner No. 4 - Daljit Kaur submits that ₹ 1 lac paid to her on 02.04.2013 was not part of the scheme, but from the Chief Ministers Relief Fund. It is further pointed out that her claim has been rejected by the District Legal Services Authority, Kapurthala. The order in this behalf passed on 05.04.2014 by the Chairman and Secretary of the District Legal Services Authority, Kapurthala has been produced before us. On perusal of the same, in our view, the authority fell into an error by rejecting the claim of the applicant. The factum of the applicant

having been granted compensation by the State Government from another source cannot come in the way of grant of compensation under the scheme. The proper manner of appreciating the claim would be that there should be no duplication of payments. Thus, payments received from other sources may be taken into account while determining the amount payable under the scheme, rather than denying the claim. Naturally if the other payments are more than what is admissible under the scheme, nothing would be payable. Similarly, the fact that the perpetrator of crime has been traced out and put to trial would again not make a difference to the agony of the victim. The amount which may be recovered from the perpetrator could always be adjusted subsequently out of the amounts paid, but what is required is the immediate succour in the form of the amount to be paid to the victim and this amount cannot await the final result of trial. We are thus of the view that the Committee needs to revisit the issue in terms of our observations and in any case on the new policy coming into force the case would be examined under that policy.

We may clarify that where the victim has not been finally cured and all process over, there is a continuing cause of action and such cases would be treated as under the scheme of course taking into consideration payments already made. The U.T. Administration is also to bring-forth the same scheme in terms of what has been observed aforesaid and the final version of the scheme be placed on record.

List for compliance on 08.08.2014.

Status report be filed at least three days prior to the next date of hearing.”

Thereafter, the National Legal Services Authority also issued a scheme called “NALSA (Legal Services to Victims of Acid Attacks) Scheme, 2016, with the following objectives:-

- “1) To strengthen legal aid and representation at the national, state, district and taluka levels for victims of acid attacks in availing the benefits of the various legal provisions and schemes for compensation which exist;
- 2) To enable the victims of acid attacks to get access to

- medical facilities and rehabilitative services;
- 3) To create and spread awareness about the entitlements of the victims of acid attacks through the District Legal Services Authorities, Taluka Legal Services Committees, panel lawyers, para-legal volunteers and legal services clinics;
 - 4) To enhance capacities at all levels of panel lawyers, para-legal volunteers, volunteers in legal services clinics, government officers tasked with the implementation of the various schemes, service providers, police personnel, non-government organizations by organizing training, orientation and sensitization programmes; and
 - 5) To undertake research and documentation to study the various schemes, laws etc. to find out the gaps, the needs and to make suggestions to the appropriate authorities.

The ultimate objective of the Scheme is to ensure that the victims of acid attacks are appropriately rehabilitated in the society and live a life of dignity.”

Thereafter, the Government of India, Ministry of Home Affairs, also issued the letter dated 09.11.2016 to the Chief Secretaries of all State Governments/UT Administrations on the subject of additional compensation of ₹1,00,000/- to be paid to the victims of acid attack under PMNRF in addition to the compensation under the Central Government Victim Compensation Fund Scheme (CVCF). The text of the said letter is also reproduced as under:-

“As you may be aware that the issue of acid attack has been taken on a priority basis by the Government of India and several steps have been taken to prevent the incidents of acid attacks and provide treatment and compensation to the victims. The IPC has been amended to include specific provisions on acid attack as an offence.

2. Further, the Hon'ble Supreme Court has also issued a series of directions under W.P. (Criminal) 129 of 2006, Laxmi Minor vs. Union of India to taken proactive measures on regulation of sale of acids, providing free treatment to the acid attack victims and

disbursing compensation to the tune of at least Rs.3.00 lakh (Rupees Three lakh) to the acid attack victim and this Ministry has issued directions for minimum compensation of Rs.3.00 lakh to be provided to acid attack victims under Victim Compensation Scheme.

3. Accordingly the MHA has issued guidelines for the “Central Government Victim Compensation Fund Scheme (CVCF) to help women victims for various crimes committed against them especially sexual offence including rape, acid attacks, crime against children, human trafficking etc. vide letter of even no dated 14.10.2015 and 13.07.2016, which is also available in this Ministry's website.

4. To give immediate temporary relief to the victim, it has been decided to provide additional financial assistance of Rs.1.00 lakh (over and above the amount provided under the Victim Compensation Scheme) to the victims of acid attacks. The eligibility criteria for the additional compensation will remain same. This additional Rs.1.00 lakh (Rupees One lakh) will be provided under the Prime Minister's National Relief Fund.

5. For providing additional assistance, the District Magistrate/Deputy Commissioner of the concerned District will have to send a report to the Ministry of Home Affairs as per the enclosed format (Annexure-I), with a copy to Prime Minister's Office by FAX or by e-mail to pmnrf@gov.in. The report will have to contain information, such as bank account number, Aadhar number and other details of the victim (bank account detail of the guardian in case victim is minor). On receipt of the report from Ministry of Home Affairs, the compensation will be paid to the bank account directly within 05 working days.

6. Shri S.K. Bhalla, Director (CS-I), CS Division, Ministry of Home Affairs, 5th Floor, NDCC.II Building, Jai Singh Road, New Delhi, has been nominated as Nodal Officer in the matter. His Tele: No. is 011-23438138 (Telefax), email-dircs1-mha@nic.in.

7. It is also requested that the State/UT may give wide publicity to the contents of this Memorandum, so that the report reaches immediately to the Prime Minister's office for compensation. No separate application will be required to be submitted by the victim and report of District Magistrate/Deputy

Commissioner of concerned district will be sufficient for processing of the application.”

Although there are various notifications of the State of Punjab, NALSA, decision of the Supreme Court, High Court, Prime Minister National Relief Fund etc. but the fact remains that the petitioner, who is extremely poor and having a handicapped child also from the husband who had tried to kill her by slitting her throat and poured acid on her face to destroy her identity is still without any compensation.

The Deputy Commissioner, Ludhiana, in his affidavit dated 09.08.2017, has averred that a letter has been written to the petitioner for providing her personal details and to the Civil Surgeon, Ludhiana and to the Commissioner of Police, Ludhiana to furnish the details about the case and after receipt of information from all concerned quarters, the matter would be submitted to the Ministry of Home Affairs, Government of India requesting for release of compensation of ₹1,00,000/- to the petitioner under the Prime Minister National Relief Fund.

It is totally understandable that the Government has to move as per the procedure but the delay in procedure in not even granting succor to the injured woman who has suffered the extreme agony and pain because of injury caused to her by none else than her husband by slitting her throat and pouring acid on her face to destroy her identity and leaving her alone 5-6 kilometers away from the *abadi* of Ludhiana to die. Although she has survived but her pain and sufferings are still continuing because of acute poverty because of which she is finding it difficult to maintain her handicapped child and also to incur day to day expenses for her bread and butter and the medicines.

Initially, when the Government of Punjab floated the Scheme on

08.12.2011, it did not look into the injuries and sufferance of the acid attack victims but on 17.06.2013, issued another notification and decided to give ₹3,00,000/- as compensation to the victim of acid attack on account of disfigurement of face and ₹50,000/-for other injuries. Still, it did not think of the expenses to be incurred in such cases by the survivors of the acid attack on their medical treatment. Thereafter, on 05.03.2014, the Government of Punjab issued another notification and decided to give 100% medical reimbursement of all treatment including plastic surgery. This was perhaps done after an interim order was passed by the Supreme Court on 18.07.2013 in **Laxmi's case (supra)**. Prime Minister office has also given priority to the acid attack victims and provided an additional compensation of ₹1,00,000/-, over and above the amount of compensation, under the Central Government Victim Compensation Fund Scheme so that poor persons, like the petitioner, may not have to think that they/she should not have survived.

The photograph of the petitioner before and after the acid attack is on record which narrates her tale of woes and is sufficient to move this Court against the apathy of the Government in not providing her immediate relief.

Thus, taking into consideration the totality of the facts and circumstances, I am of the considered opinion that the petitioner deserves to the compensation of ₹3,00,000/- in terms of notification dated 17.06.2013 on account of disfigurement of her face, 100% medical reimbursement for the treatment she had already taken including plastic surgery etc. and also for the follow up treatment in terms of notification dated 05.03.2014 and ₹1,00,000/- to be awarded under the Prime Minister National Relief Fund in terms of the letter dated 09.11.2016 issued by the Ministry of Home Affairs, Government of

India and I order accordingly. The Chief Secretary, Government of Punjab and the Joint Secretary to the Government of India, Ministry of Home Affairs are requested to look into this matter personally so that immediate relief can be granted to the petitioner.

The Registry is directed to send a copy of this order, through fax and email, to the Chief Secretary, Government of Punjab and the Joint Secretary to the Government of India, Ministry of Home Affairs for necessary action.

August 21, 2017
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(Rakesh Kumar Jain)
Judge

Whether speaking / reasoned: Yes/No

Whether Reportable: Yes/No