

Crl. Misc. No. 38295 of 2018 and
Crl. Appeal No. D-989-DB of 2018

(1)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Crl. Misc. No. 38295 of 2018 and
Crl. Appeal No. D-989-DB of 2018

DATE OF DECISION: 22.05.2019

Victim (Minor) through her natural guardian
and mother Sheela Rani

.....Applicant

Versus

State of Punjab and others

.....Respondents

**BEFORE:- HON'BLE MRS. JUSTICE DAYA CHAUDHARY
HON'BLE MR. JUSTICE SUDHIR MITTAL**

Present:- Ms. Ravinder Kaur Manaise, Advocate
for the applicant.

Mr. H.S. Sullar, DAG, Punjab.

DAYA CHAUDHARY, J.

Accused-Satnam Singh @ Sunny was convicted by learned Sessions Judge, Ferozepur vide judgment dated 8.5.2017 for offence punishable under Section 376 IPC and Section 4 of POCSO Act and sentenced to undergo RI for 11 years with fine of Rs. 11,000/-. The victim was also awarded compensation of Rs. 6000/- out of amount of fine. The victim (child) has filed the present appeal before this Court for enhancement of compensation, which stands admitted vide order dated 29.10.2018. Victim (minor) through her natural guardian and mother, namely, Sheela Rani also filed an application under Section 482 Cr.P.C. read with Section 357-A Cr.P.C. seeking recommendation to respondent No.2 i.e. District Legal Services Authority to grant compensation to her under the Punjab Victim Compensation Scheme, 2017 framed under Section 357-A of Cr.P.C.

Notice in the application was issued on 29.10.2018. As per office report, respondent-State has been served and accused has been served through jail superintendent.

Learned counsel for the applicant submits that applicant-victim was five years of age at the time of occurrence and suffered injury. For her physical and mental rehabilitation adequate compensation is required to be awarded to her as per Punjab Victim Compensation Scheme, 2017 framed under Section 357-A Cr.P.C.

Learned counsel for respondent-State has not disputed regarding the scheme but contends that the amount of compensation can be recovered from the accused, later on as he is in custody.

Heard the arguments advanced by learned counsel for the parties and have also gone through the documents available on the file including notification dated 30.11.2017 issued by Government of Punjab, Department of Home Affairs and Justice.

Vide notification dated 30.11.2017, Punjab Victim Compensation Scheme, 2017 framed under Section 357-A of Cr.P.C was launched. Clause 6 of the said scheme specifies the criteria for grant of compensation, whereas, clause 8 provides procedure for grant of the same. As per the said scheme, the applicant is entitled for compensation, which is to be disbursed through the Bank account of the victim or through a designated person to be nominated by the Punjab Legal Services Authority or District Legal Services Authority as the case may be. The compensation is required to be paid in lump sum or in two installments as decided by the Punjab Legal Services Authority or District Legal Services Authority. In case the victim is minor, the amount of compensation is to be deposited in

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the account of minor as fixed deposit and can be withdrawn only on attaining the age of majority but under the exceptional cases, the amount of compensation can be withdrawn for the educational or medical needs of the beneficiary by a person as decided by the Punjab Legal Services Authority or District Legal Services Authority as the case may be. As per Schedule of the notification, the victim of rape is entitled for compensation to the tune of Rs. 3 lacs and in case victim is less than 14 years of age, the amount of compensation is to be increased by 50% over the amount specified in the schedule, meaning, thereby, she is entitled for Rs. 4,50,000/-.

In view of the above, application i.e. Crl. Misc. No.38295 of 2018 as well as Crl. Appeal No. D-989-DB of 2018 are allowed. Respondent No.2 i.e. Punjab State Legal Services Authority is directed to grant compensation to the minor applicant/victim as per the Punjab Victim Compensation Scheme, 2017 as framed under Section 357-A Cr.P.C. within a period of four weeks from the date of receipt of a certified copy of the order.

However, Punjab State Legal Services Authority is at liberty to recover the amount so paid to the victim from the accused, who is in custody by availing the appropriate remedy in accordance with law.

(DAYA CHAUDHARY)
JUDGE

22 May, 2019
pooja

(SUDHIR MITTAL)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes