

IN THE HIGH COURT OF ORISSA AT CUTTACK

**W.P.(C) No.31930 Of 2021
(Through hybrid mode)**

Chanchala Panda

....

Petitioner

Mr. S.K.Mohanty, Advocate

-versus-

State of Odisha and others

....

Opposite Parties

Mr. P.C.Panda, AGA

CORAM: JUSTICE ARINDAM SINHA

**ORDER
21.03.2022**

**Order No.
03.**

1. Mr. Mohanty, learned advocate appears on behalf of petitioner and submits, his client's daughter committed suicide on having been raped. Claims for compensation have been successively rejected. Impugned in the writ petition is order dated 11th June, 2018 passed by the appellate authority rejecting appeal against order dated 31st January, 2017 passed by the District Legal Services Authority, Balasore. He submits, clause-10 in the Odisha Victim Compensation Scheme, 2012 was relied upon to reject his client's claim but under section 357-A in Code of Criminal Procedure, 1973, there is no bar of limitation.

2. Mr. Panda, learned advocate, Additional Government Advocate appears on behalf of State and submits, the appellate order was made

on hearing petitioner. Reasons have been given relying on clause-10 in the scheme. There should be no interference.

3. Sub-section (1) in section 357-A is reproduced below.

“(1) Every State Government in co-ordination with the Central Government shall prepare 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.”

The scheme is in compliance with the statutory mandate. Sub-section (4) in section 357-A is also reproduced below.

“(4) Where the offender is not traced or identified, but the victim is identified, and where no trial takes place, the victim or his dependents may make an application to the State or the District Legal Services Authority for award of compensation.”

Clause-10 in the scheme is reproduced below.

“10. Limitation:

No claim made by the victim or his dependants under sub-section 4 of Section 357-A of the Act shall be entertained after a period of twelve months from the date of the crime.”

4. Above clause 10 could not be invoked by the forums below. The clause refers to claim made under sub-section (4) of section 357-A. Said sub-section talks about where the offender is not traced or identified and where no trial takes place. It appears from impugned order that charge-sheet has been filed to stand the accused to trial.

5. Impugned order is on the face of it illegal. It is not necessary for this Court to adjudicate petitioner's contention regarding section 357-A not providing for limitation and, therefore, the scheme cannot do so.

6. Impugned order is quashed. Petitioner is entitled to and must get victim compensation under the scheme. Concerned authority will sanction and disburse the same within three weeks of communication of the order.

7. The writ petition is disposed of.

(Arindam Sinha)
Judge

Prasant

