

CWP-6104-2024 (O&M) and other connected 10 cases

Savita and others Vs. State of Haryana and others

Present :- None.

It is brought to my notice that in the **final order dated 11.12.2024** passed in **CWP-6104-2024**, titled as ‘**Savita and others Vs. State of Haryana and others**’ and **other connected 10 cases**, at page No.20 in 4th line of paragraph No.24 the word “not” has been inadvertently typed just before the word “complimentary” which needs to be deleted so that correct order may be uploaded.

22.01.2025
Mangal Singh

(VINOD S. BHARDWAJ)
JUDGE



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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CWP-6104-2024 (O&M)
Date of decision: 11.12.2024

Savita and others ...Petitioners

VERSUS

State of Haryana and others ...Respondents

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CWP-12402-2023 (O&M)
Date of decision: 11.12.2024

Paramjeet Kaur and others ...Petitioners

VERSUS

State of Haryana and others ...Respondents

248-A

CWP-5492-2024 (O&M)
Date of decision: 11.12.2024

Shiv Ram and another ...Petitioners

VERSUS

State of Haryana and others ...Respondents

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CWP-6092-2024 (O&M)
Date of decision: 11.12.2024

Rajender ...Petitioner

VERSUS

State of Haryana and others ...Respondents

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CWP-6107-2024 (O&M)
Date of decision: 11.12.2024

Ishan Singh and another ...Petitioners

VERSUS

State of Haryana and others ...Respondents



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CWP-6284-2024 (O&M)
Date of decision: 11.12.2024

Kamal and others ...Petitioners
VERSUS
State of Haryana and others ...Respondents

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CWP-6317-2024 (O&M)
Date of decision: 11.12.2024

Rekha Rani @ Rekha Saini ...Petitioner
VERSUS
State of Haryana and others ...Respondents

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CWP-7112-2024 (O&M)
Date of decision: 11.12.2024

Doli ...Petitioner
VERSUS
State of Haryana and others ...Respondents

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CWP-10079-2024 (O&M)
Date of decision: 11.12.2024

Seema @ Sima ...Petitioner
VERSUS
State of Haryana and others ...Respondents

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CWP-7128-2024 (O&M)
Date of decision: 11.12.2024

Rangeela and another ...Petitioners
VERSUS
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*CWP-6104-2024 (O&M) and other connected 10 cases***248-J****CWP-11886-2024 (O&M)****Date of decision: 11.12.2024**

Kusum

...Petitioner

VERSUS

State of Haryana and others

...Respondents

CORAM : HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present :- Mr. D.D. Singla, Advocate and
Mr. Ravinder Singh, Advocate for the petitioners
in CWP-12402-2023.

Mr. Uday Pratap Singh, Advocate and
Mr. Angrej Singh, Advocate for the petitioner(s)
in remaining cases.

Mr. Suneel Ranga, DAG Haryana.

Ms. Divya Sharma, Advocate for respondents No.2 and 3
in all 11 cases.

VINOD S. BHARDWAJ, J. (Oral)

1. Whether a victim in a hit and run case under the Motor Vehicles Act, 1988 can claim compensation under the Haryana Victim Compensation Policy, 2020 or not, is the issue in these writ petitions that are being decided by a common judgment. For facility of reference, facts are however being extracted from **CWP-6104-2024** titled as '**Savita and others Vs. State of Haryana and others**'.

2. Challenge in the above writ petition is to the order dated 20.07.2023 passed by respondent No.3-District Legal Services Authority, Karnal as well as to the order dated 21.11.2023 passed by respondents No.2-



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Haryana State Legal Services Authority, dismissing the appeal preferred by the petitioners.

3. It is submitted by the learned counsel appearing on behalf of the petitioners that deceased-Parmod Kumar, husband of petitioner No.1 and son of petitioners No.2 and 3, met with a tragic road accident on 05.07.2020. As a result of the multiple injuries, Parmod Kumar ultimately died on the same day. An FIR bearing No.220 dated 06.07.2020 was registered under Sections 279 and 304-A of IPC at Police Station Tarori, District Karnal. Deceased-Parmod Kumar was the sole bread-winner of his family and as a result of his untimely demise, the family is compelled to engage in manual labour for sustenance. The driver of the offending vehicle fled from the spot along with his vehicle, after the accident. It is submitted that the petitioners thereafter preferred an application for grant of compensation under the Haryana Victim Compensation Scheme, 2020 (hereinafter referred to as '**the Scheme of 2020**'), however, the District Legal Services Authority, Karnal (hereinafter referred to as '**the DLSA, Karnal**') declined the prayer made by the petitioners by referring to Clause 5 (9) of the Scheme of 2020 and asserting that the claim application was not maintainable. The appeal preferred by the petitioners against the order of the DLSA, Karnal was also dismissed by the Member Secretary, Haryana State Legal Services Authority, Panchkula (hereinafter referred to as '**the HSLSA**') against which the present writ petition has been filed.

4. Reply on behalf of respondents No.2 and 3 has been filed, wherein factual aspects of the said incident are not denied, however, it is



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contended that since the matter pertains to grant of compensation in a road accident case, the same falls within the purview of the Motor Vehicles Act, 1988 (hereinafter referred to as '**the Act of 1988**') and would not be covered under the aforesaid Scheme. An FIR having already been registered into the said incident by the Police, the competent authority to award compensation is Motor Accident Claims Tribunal (hereinafter referred to as '**the Tribunal**'). Reliance was placed on Clause 5(9) of the Scheme of 2020 as well as the provisions of Section 161 of the Act of 1988.

5. Learned counsel appearing on behalf of the petitioners has argued that the respondents have failed to take into consideration the object of the welfare scheme as also the clauses of the Scheme of 2020 in their right perspectives and have denied the claim of the petitioners by misreading and misinterpreting sub-Clause 9 of Clause 5. It is contended that the above said Clause was applicable only with respect to the cases where the compensation was to be awarded by the Tribunal under the Act of 1988. The instant incident being a case of hit and run, the claim application for grant of compensation is not maintainable before the Tribunal and a separate Committee has been constituted for awarding compensation, which is currently headed by the Deputy Commissioner. Hence, the Clause as interpreted by the respondents would not be applicable to in the present case. He further contends that Section 357-A(4) of the Criminal Procedure Code, as it was applicable then, specifically stipulated that the victims of a hit and run case or their dependants could make an application to the DLSA for award of compensation and that even the Scheme of 2020 has been



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formulated in exercise of the powers conferred under Section 357A(4) of the Cr. P.C. Since, the aspect of compensation in hit and run cases has been stipulated in Clause 4 (1) (b) of the Scheme of 2020, hence, the argument advanced by the respondents about the hit and run cases under the Act of 1988 not being covered under the Scheme of 2020 is devoid of merit and not borne out from correct reading of the Scheme document and the relevant statutory provisions.

6. Responding to the above, learned counsel appearing on behalf of Legal Services Authority re-iterates the submission noticed in the written statement and contends that the petitioners have a specific remedy of availing compensation under a separate specific scheme notified by the State Government and that Sub-Clause 9 of Clause 5 of the Scheme of 2020 prohibits them to entertain a compensation application, where a separate remedy under the Act of 1988 has been provided for. She further submits that the Legal Services Authority is not fully equipped to deal with the hit and run cases that may be lodged before it as there is a lack of funds, which might be counter productive and defeat the interests of the litigant/claimants themselves. It is also argued that the Scheme of 2020 has been notified for welfare of the “victim” of serious offences and that the word “victims” as defined under Section 2(wa) of Cr.P.C. is a person who has suffered any loss or injury caused by reason of the act or omission for which the accused person has been charged. Since in a case of hit and run, there is no person who is an accused and has been charged for commission of an offence, hence, the petitioners who are claimants herein before this Court would not



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be called victims in terms of the Scheme of 2020 and as such they are not eligible to institute a claim petition before the District Legal Services Authority. **She also contends that the Compensation to Victims of Hit and Run Motor Accidents Scheme, 2022 is valid w.e.f. 01.04.2022** and the petitioners should avail their remedy thereunder.

7. No other argument has been raised by the respective parties.
8. Before proceeding further into the matter, it would be necessary to refer to certain statutory provisions required for adjudication of the present writ petition:-

“Motor Vehicles Act, 1988

161. Special provisions as to compensation in case of hit and run motor accident.—

(1) *For the purposes of this section, section 162 and section 163—*

- (a) *“grievous hurt” shall have the same meaning as in the Indian Penal Code (45 of 1860);*
- (b) *“hit and run motor accident” means an accident arising out of the use of a motor vehicle or motor vehicles the identity whereof cannot be ascertained in spite of reasonable efforts for the purpose;*
- (c) *“scheme” means the scheme framed under section 163.*

(2) *Notwithstanding anything contained in the General Insurance Business (Nationalisation) Act, 1972 (57 of 1972) or*



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any other law for the time being in force or any instrument having the force of law, the General Insurance Corporation of India formed under section 9 of the said Act and the insurance companies for the time being carrying on general insurance business in India shall provide for paying in accordance with the provisions of this Act and the scheme, compensation in respect of the death of, or grievous hurt to, persons resulting from hit and run motor accidents.

(3) Subject to the provisions of this Act and the scheme, there shall be paid as compensation—

(a) in respect of the death of any person resulting from a hit and run motor accident, a fixed sum of [twenty-five thousand rupees];

(b) in respect of grievous hurt to any person resulting from a hit and run motor accident, a fixed sum of [twelve thousand and five hundred rupees].

(4) The provisions of sub-section (1) of section 166 shall apply for the purpose of making applications for compensation under this section as they apply for the purpose of making applications for compensation referred to in that sub-section.

**Provision for Victim
Compensation Scheme under
the erstwhile Criminal
Procedure Code, 1973:-**

**Corresponding provision under the
Bharatiya Nagarik Suraksha
Sanhita, 2023**



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Section 357A (Victim Compensation Scheme):

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.

2. Whenever a recommendation is made by the Court for compensation, the District Legal Service Authority or the State Legal Service Authority, as the case may be, shall decide the quantum of compensation to be awarded under the scheme referred to in sub-section (1)

3. If the trial Court, at the conclusion of the trial, is satisfied, that the compensation

396. Victim compensation scheme-

(1) Every State Government in coordination 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.

(2) Whenever a recommendation is made by the Court for compensation, the District Legal Service Authority or the State Legal Service Authority, as the case may be, shall decide the quantum of compensation to be awarded under the scheme referred to in sub-section (1)

(3) If the trial Court, at the conclusion of the trial, is satisfied, that the compensation awarded



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awarded under section 357 is not adequate for such rehabilitation, or where the cases end in acquittal or discharge and the victim has to be rehabilitated, it may make recommendation for compensation.

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.

5. On receipt of such recommendations or on the application under sub-section (4), the State or the District Legal Services Authority shall, after due enquiry award adequate compensation by

under Section 395 is not adequate for such rehabilitation, or where the cases end in acquittal or discharge and the victim has to be rehabilitated, it may make recommendation for compensation.

(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.

(5) On receipt of such recommendations or on the application under sub-section (4), the State or the District Legal Services Authority shall, after due enquiry award adequate compensation by completing the



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completing the enquiry within two months. enquiry within two months.

6. The State or the District Legal Services Authority, as the case may be, to alleviate the suffering of the victim, may order for immediate first-aid facility or medical benefits to be made available free of cost on the certificate of the police officer not below the rank of the officer incharge of the police station or a Magistrate of the area concerned, or any other interim relief as the appropriate authority deems fit. (6) The State or the District Legal Services Authority, as the case may be, to alleviate the suffering of the victim, may order for immediate first-aid facility or medical benefits to be made available free of cost on the certificate of the police officer not below the rank of the officer in charge of the police station or a Magistrate of the area concerned, or any other interim relief as the appropriate authority deems fit.

Section 2 (wa) of the erstwhile Cr.P.C.

2 (wa) ["victim" means a person who has suffered any loss or injury caused by reason of the act or omission for which the

Corresponding provision under the Bharatiya Nagarik Suraksha Sanhita, 2023

2 (y) “victim” means a person who has suffered any loss or injury caused by reason of the act or omission of the accused person and



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accused person has been includes the guardian or legal heir
charged and the expression of such victim;
"victim" includes his or her
guardian or legal heir;]

Haryana Victim Compensation Scheme-2020

No.S.O.24/C.A.2/1974/S.357A/2020- In exercise of powers conferred by Section 357-A of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974), the Governor of Haryana in co-ordination with the Central Government, hereby frames the following schemes for providing funds for the purpose of compensation to the victim or his/her dependents who have suffered loss or injury as a result of the crime and who require rehabilitation, namely:-

2. Definitions:

2(1) (a) "Act" means the code of Criminal Procedure, 1973 (Central Act 2 of 1974);

2(1)(b) "crime" means illegal act or omission or commission or an offence committed against the human body of the victim;

2(1)(c) "dependents" means wife/husband, father, mother, unmarried daughter, minor children and includes other legal heir of the victim who, on providing



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sufficient proof, is found fully dependent on the victim by the District Legal Services Authority;

2(1)(d) *“family” means parents, children and includes all blood relations living in the same household;*

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2(1)(g) *“Victim” means victim as defined under the Act and also includes acid attack victim.*

3 Victim compensation fund.

3(2)(a) *budgetary allocation for which necessary provision shall be made in the annual budget by the State;*

4(1) Eligible for compensation.

4(1)(b) *the offender is not traced or identified, and where no trial takes place, such victim may also apply for grant of compensation under sub-section (4) of Section 357-A of the Act;*

5. Procedure for grant of compensation

5(1)(3) *The District Legal Services Authority shall decide the quantum of compensation to be awarded to the victim or his dependents on the basis of loss caused to the victim, medical expenses to be incurred on treatment, minimum sustenance amount required for rehabilitation including such incidental charges as funeral expenses etc. The compensation may vary from case to case depending on fact of each case.*



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5(1)(9) **The cases covered under The Motor Vehicles Act, 1988 (Central Act 59 of 1988) wherein compensation is to be awarded by the Motor Accident Claims Tribunal, shall not be covered under the scheme.**

(emphasis supplied)”

9. Adverting to the Scheme document, it is evident that the aforesaid Scheme had been notified by the Government of Haryana, in exercise of powers conferred by Section 357-A of the Code of Criminal Procedure, with an object of providing compensation to the victim or their dependents who have suffered loss or injury as a result of the crime. The aforesaid expression i.e. crime, dependents and victim have been defined under Section 2(b), 2(c) and 2(g), respectively under the Scheme of 2020. As per the definition of ‘crime’, it is an illegal act or omission or commission or an offence committed against the human body of the victim. ‘Victim’ carries the same meaning as has been assigned to it under Section 2(wa) of Cr.P.C. As per the said definition, "victim" means a person who has suffered any loss or injury caused by reason of the act or omission for which the accused person has been charged and the expression "victim" includes his or her guardian or legal heir.

10. Section 3 (2) of the Scheme of 2020 mandates that the State Government shall provide a budgetary allocation, as necessary to meet out



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the expenses prescribed thereunder, while Sub-Section 4 (1)(b) provides for the eligibility of a victim for claiming compensation in a case where the offender is not traced or identified, and where no trial takes place, and such a victim may also apply for grant of compensation under sub-section 4 of Section 357-A of Cr.P.C. Clause 5 (3) of the Scheme of 2020 empowers the District Legal Services Authority to decide quantum of compensation to be awarded to the victim or his/her dependent, on the basis of loss caused to such victim including the medical expenses to be incurred on treatment, minimum sustenance amount required for the rehabilitation, funeral expenses etc. and the compensation may vary from case to case depending upon the facts of each case. However, Sub-Clause 9 thereof excludes the cases covered under the Act of 1988 wherein the compensation has to be awarded by the Tribunal.

11. The well settled position in law is that all the Clauses have to be read together so as to give a meaningful interpretation to the Scheme document and no Clause should be so interpreted as would render any other Clause nugatory or otiose.

12. Victim Compensation Scheme is a benevolent piece of Public Policy to help a family in distress due to demise of a family member in a case where an offence has been committed. Ordinary a welfare statute or a Policy has to be widely construed and is not to be applied restrictedly.

13. The case is thus being examined keeping the above roles in mind and to harmoniously interpret the Scheme to give functionality to all Clauses.



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14. Section 161 of the Act of 1988 stipulates grant of compensation in cases of hit and run. The aforesaid provision starts with a non-obstante clause and stipulates that notwithstanding anything contained in any other law for the time being in force or any other instrument having the force of law, the insurance companies carrying on general insurance business in India shall also provide for paying in accordance with the provision of this Act and the Scheme made under Sub-Section 3 i.e. compensation with respect to the death of any person or grievous hurt to a person resulting from a hit and run accident covered under the Act of 1988.

15. The aforesaid Clause, even though starts with a non-obstante Clause, but the same is not in the nature of an over-riding provision and is instead a supplementing Clause which fastens the general insurance companies to also make provision for compensation scheme under the Act of 1988. The provision is thus an additional scheme for considering the compensation claims and does not exclude any other remedy that is available elsewhere under any other statute or forum. It is in furtherance thereto that separate scheme under Sub-Section 3 of Section 161 of the Act of 1988 has been notified.

16. The Central Government has also notified a Schemed titled as **“Compensation to Victims of Hit and Run Motor Accidents Scheme, 2022”** in supersession of the Solatium Scheme, 1989 notified earlier. As per the procedure prescribed under the newly notified scheme, for grant of compensation under the hit and run motor accident cases, a Claims Enquiry Officer i.e. the Sub-Divisional Officer, Tehsildar or any other officer in



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charge of the revenue Sub-Division and a Claims Settlements Commissioner i.e. the District Magistrate/Deputy Commissioner and Collector have been notified by the government to entertain the application for grant of compensation and to disburse the admissible compensation under the Act.

17. It is thus evident that a separate procedure for grant of compensation in 'hit and run cases' under Section 161 has been prescribed and such cases are not placed before the Motor Accident Claims Tribunal for adjudication and assessment of compensation under the Act of 1988.

18. On a conjoint reading of the aforesaid Scheme formulated under Section 161 of the Act of 1988, is read with Clause 5(9) of the Scheme of 2020, it is evident that the exclusion of claim cases under the Scheme of 2020 has been carved only with respect to the categories where the compensation under the Motor Vehicles Act, 1988 is to be awarded by the Motor Accident Claims Tribunal. It is thus undisputed that no other category of case would be ousted from the scope of the Scheme of 2020..

19. Further, the Scheme in question has been notified under Section 357-A (4) of Cr.P.C., the said Section clearly stipulates about grant of compensation to the victims 'where the offender is untraceable or is not identified and no trial takes place'. The victim or his/her dependents then may make an application to the State or to the District Legal Services Authority for the award of compensation. Even though an attempt has been made by the learned counsel appearing on behalf of the Legal Services Authority to establish that the word "victim" carries the same definition as has been prescribed under Section 2(wa) of Cr.P.C. and that since in a hit



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and run case, there is 'no person who is accused and charged for commission of an offence', hence, the said Scheme would not be applicable to such a case. I find that the aforesaid argument is grossly flawed and would not be borne out from the ultimate object of the said Scheme. Since the compensation Scheme has been framed by the Government in view of the mandate of Section 357-A(4) Cr.P.C. which itself contemplates for grant of compensation in cases where the accused is unidentified or is not taken up for trial, it can hardly be conceived that the State Government intended to exclude the circumstances wherein the accused could not be identified or could not be arrested and charged for commission of the said offence. Once the substantive provision of Cr.P.C. under which the Scheme was framed, itself contemplates the grant of compensation in cases where the offender is not traced or identified, the argument that in the absence of an accused being charged, the victim would not be entitled to claim a compensation under the Scheme of 2020 would be inherently contradictory.

20. Examining the arguments of respondent from another angle, if the Scheme intended to exclude the case under the Motor Vehicles Act, 1988 entirely from the purview of Scheme of 2020, there was no reason or occasion to incorporate the same or the Scheme could have simply been that the cases under the Motor Vehicles Act, 1988 shall not be covered under the Scheme. Instead, the Scheme creates a distinct class of cases to be excluded from the purview of the Scheme i.e. where compensation is to be awarded by the Tribunal. Hence, by necessary inference, even other claim under the Motor Vehicles Act, 1988 can also be raised under the Scheme of 2020. The



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above interpretation clearly ensures co-existence and harmony with Clause 4(1)(b) of the Scheme read with Section 357A(4) of Cr.P.C.

21. Additionally, even though the respondent District Legal Services Authority has tried to read an exclusion of Hit and Run Cases under Clause 5(9) of the Scheme of 2020 but the State of Haryana, which is the author of the Scheme, has nowhere adopted or supported the said interpretation either in its reply or during the course of arguments. Had the intent of author of the Scheme too would have been the same, they would have certainly expressed their concurrence to the above interpretation.

22. Adverting to the argument of the learned counsel for the Legal Services Authority that they are not equipped to decide such cases and would be lacking in funds to meet all the claims that may be so filed, I find that the above said argument is also not worthy of acceptance. The State having formulated a Scheme for grant of compensation, it cannot plead lack of availability of funds. The arguments lacks in merit when examined in light of the response filed by the State of Haryana. The State has at no point pleaded any lack of resources or funds for disbursement of claims under the Legal Services Authorities Act, 1987. Moreover, it is not that the State is not catering to making provision for grant of compensation at all and it is only that a separate mechanism of assessment of compensation and disbursement thereof has also been provided under the said scheme. Hence, irrespective of whether the victim raises a claim before the Settlement Commissioner/Chief Settlement Commissioner, as per the hit and run compensation Scheme notified by the Government of India or under the instant Scheme, the funds



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still need to be provided by the respective State or Central Government and a victim can claim only under one scheme. Even for the said reason, the argument deserves to be rejected.

23. Further, so far as the argument of the learned counsel for respondent-Legal Services Authority, that since another scheme has been notified by the Central Government, hence, the petitioners ought to submit their application under the said scheme, I am of the opinion that both these welfare schemes are complimentary and operating in the same sphere. It has to be left to the option of the claimant as to under which beneficial scheme he would prefer a claim. It is not for any other person to direct as to under which scheme one should apply for the benefit. Such aspect has to be left to the best assessment and judgment of the claimant himself and his choice cannot be restricted at the pleasure of the Scheme implementation agency.

24. The agency implementing a Scheme does not have statutory right to curb the choice of the claimant once no such restriction is imposed by the State. The law of “**Generalia Specialibus Non Derogant**” would not be applicable in the present case as the Schemes are complimentary and not conflicting. Besides, both are benevolent Schemes and were not intended to exclusively regulate or curtail any right. The Hit and Run Scheme itself being under Section 161 of the Motor Vehicles Act, 1988 never intended to over-ride any other Scheme.

25. Hence, viewed from any angle, the arguments of respondent are devoid of merit.

26. I am further strengthened in my view by the judgment dated



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10.01.2023 of Delhi High Court passed in **W.P.(C) 13161/2021 and CM APPL. 41543/2021** titled as '**Smt. Kameshwari Devi and another Vs. The State (Govt. of NCT of Delhi) and others**'. The operative part thereof reads thus:

“2. The Petitioners, who are the wife and the children of Late Shri Ram Preet Singh have approached this Court, seeking directions to the Respondents to enhance the amount of compensation awarded under the Delhi Victim Compensation Scheme, 2018. The Petitioners further seek the setting aside of the order dated 22nd December, 2020 passed by the District Victim Compensation Committee, Central District, Tis Hazari Courts, Delhi in respect of FIR No.193/19 registered at P.S. I.P. Estate, by which a compensation of Rs.3,00,000/- was directed to be paid to the wife of the deceased, Petitioner No.1 – Smt. Kameshwari Devi, and a sum of Rs.1,00,000/- each was directed to be paid to the daughters of the deceased, Petitioner No.2 – Ms. Pooja and Petitioner No.3 – Ms. Poonam. The operative portion of the said order dated 22nd December, 2020 is extracted below:

“An affidavit of dependency has been filed by Smt. Kameshwari Devi, wife of deceased according to which the deceased is survived by her and her children. So, Smt. Kameshwari Devi, wife of deceased, Poonam and Pooja (daughters of deceased) are entitled for compensation. The committee has also considered



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other provisions of Delhi Victim Compensation Scheme, 2018. Upon considering the same, the Committee is of the considered view that the case of the deceased falls under SI. No.1 and Part-I of the Schedule to the Delhi Victim Compensation Scheme, 2018 and as such, final compensation of Rs.5,00,000/- (Rupees Five Lac Only) should be paid to the following LRs of the deceased in proportion mentioned below:

Sl. No.	Name of victim/LRs of deceased	Bank Name & Branch	Account No.	IFSC Code	Amount
1.	Smt. Kameshwari Devi (wife)	State bank of India, Geeta colony	33804907158	SBIN0013763	Rs.3,00,000/- (Rupees Three Lac Only)
2.	Ms. Poonam (Daughter)		1603001500058469	PUNB016030	Rs.1,00,000/- (Rupees One Lac Only)
3.	Ms Pooja (daughter)	State Bank of India	31966943583	SBIN0013763	Rs.1,00,000/- (Rupees One Lac Only)

Thus, in exercise of power under Section 357A(2) of Cr.P.C. it is recommended that a sum of Rs. 3,00,000/- (Rupees Three Lac Only) to be paid to Smt. Kameshwari Devi (wife of deceased) and a sum of Rs.1,00,000/- (Rupees One Lac Only) each to be paid to Ms. Poonam and Ms Pooja (daughters of deceased) as Final Compensation from the Victim Compensation Fund constituted under Rule 3 of the Delhi Victim Compensation Scheme, 2018.”

4. *The deceased is survived by his wife and three children*



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i.e., two daughters and a son. All of the three children have now attained the age of majority. The said LRs of the deceased, who are the Petitioners herein, had approached the DSLSA for award of compensation under the Delhi Victims Compensations Scheme, 2018. The said Authority, after considering the matter, awarded a total sum of Rs.5,00,000/-, vide order dated 22nd December, 2020, as extracted hereinabove. It is this order which is under challenge in the present petition.

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12. Further, it is usually seen in such accident matters that the family of the deceased not only receives compensation, if found eligible, under the Victim Compensation Scheme, 2018, but the MACT Court after conducting the due enquiry and on the basis of the investigation undertaken by the police, awards compensation to the family of the deceased under the Motor Vehicles Act, 1988. In the present case, the family of the deceased has been completely deprived of any compensation under the Motor Vehicles Act, 1988, due to the non-tracing of the culprits who caused the accident.

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14. Accordingly, the Respondent No.3 - Delhi State Legal Service Authority is directed to release a further sum of Rs.5,00,000/- to the Petitioner No.1 - widow of the deceased, which she would use in the manner as she deems appropriate,



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for the welfare of the children and for the family.”

27. For the foregoing reasons, I find that the orders passed by the District Legal Services Authority and as upheld by the Member Secretary, Haryana State Legal Services Authority are flawed and not based upon the correct interpretation and application of the Statutory provision as also the object of the Scheme of 2020. The same are consequently set aside. The matter is remanded to the District Legal Services Authority concerned to take a fresh decision in accordance with law and as per the applicable Scheme in view of the judgment passed by the Court. An assessment of compensation shall thus be made and the admissible compensation be disbursed to the claimants herein.

28. Respective parties shall appear before the concerned District Legal Services Authority on 28.01.2025, which shall thereafter proceed with the matter and pass an order in accordance with law.

29. All the petitions are allowed.

30. The application(s), if any, shall stand(s) disposed of.

(VINOD S. BHARDWAJ)
JUDGE

11.12.2024

Mangal Singh

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No