



CWP-4046-2014 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CWP-4046-2014 (O&M)
Reserved on: 09.01.2025
Pronounced on: 15.02.2025

SHAHEEN

-PETITIONER

V/S

STATE OF HARYANA & ORS

-RESPONDENTS

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

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

Mr. Bhupender Singh, D.A.G., Haryana.

Ms. Tanu Bedi, Advocate with
Ms. Hanima Grewal, Advocate
for the respondent No.3.

KULDEEP TIWARI, J. (ORAL)

1. The petitioner, a vitriolage survivor, instituted the instant writ petition in her tricenarian era, for issuance of directions upon the respondents to modify the policy dated 16.01.2014 *qua* the eligibility criteria and to make this policy effective retrospectively. Moreover, the petitioner also sought free medical and surgical treatment, besides seeking compensation for rehabilitation and reimbursement of the expenses, which were incurred by her after borrowing from her friends and relatives.

FACTUAL MATRIX

2. Succinctly stated; the petitioner faced the darkest phase of her life in the 26th year of her life when she became the victim of an acid

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attack on 19.11.2009. Not only this, the petitioner claims herself to be the victim of sexual assault as well. At that time, the petitioner was working in an educational institution and was also pursuing her MBA. This vitriolage constituted the bedrock for registration of FIR No.1178 dated 20.11.2009, under Sections 326, 308, 201 and 120 of the IPC, at P.S. Panipat City. Since there was allegations appertaining to sexual assault but the said offence was not incorporated in the FIR, therefore, the petitioner moved an application for alteration of charges before the Additional Sessions Judge, Rohini Court at Delhi, which was allowed. Resultantly, the FIR came to embody Sections 376(F)/506/308/364-A/342/511/120-B of the IPC.

3. It would be apt to record here that, the main attacker, who threw acid on the petitioner, was a juvenile and he has been convicted in December 2015. The remaining three accused are currently facing trial before Rohini Sessions Court, Delhi and the trial is at the stage of recording statements of witnesses.

4. It is not under dispute that, the petitioner had to undergo various surgeries/plastic surgeries by spending huge amount, which she claims to have borrowed from friends and relatives. Unfortunately, the tragic vitriolage incident made her permanently disabled to the extent of 59%. Not only this, she has lost vision in one eye and is suffering from low vision in the other eye, vision whereof is further reducing considerably and consequently, she is facing difficulty to see in dark environment and to perform her day to day affairs. Moreover, she has



suffered burn injuries over her face, chest and hand. The total burn area was 12% and about 50% of her face was affected with burns.

5. It has been averred in the instant writ petition that, owing to the tragic vitriolage incident, the petitioner has not only lost her identity and occupation, but, her matrimonial ties have also been affected inasmuch as her husband walked out from the matrimonial relationship by leaving her alone to survive in such difficult times. Hence, the petitioner is now not only wandering for justice but for rehabilitation as well.

6. During pendency of the instant writ petition, which was instituted way back in the year 2014, the petitioner received an amount of ₹ 3,74,712/- as interim compensation and all her medical bills have also been satisfied. This fact is not disputed by the petitioner.

7. Although interim compensation has been granted to the petitioner and her medical bills have also been reimbursed, however, the issue appertaining to grant of final compensation yet requires adjudication.

ANALYSIS OF THE HARYANA COMPENSATION SCHEME FOR WOMEN VICTIMS/SURVIVORS OF SEXUAL ASSAULT/ OTHER CRIMES, 2020

8. The Hon'ble Supreme Court has, while rendering the verdict in case titled as "*Nipun Saxena v. Union of India and Ors.*", *W.P. (C) No.565/2012*, directed the States/Union Territories to devise their own mechanisms and schemes while not taking away anything from the NALSA's Scheme, 2018.

9. The respondent-State of Haryana adopted the NALSA's



Compensation Scheme for Women Victims, 2018, to the letter and implemented the Haryana Compensation Scheme for Women Victims/Survivors of Sexual Assault/Other Crimes, 2020 (hereinafter referred to as the 'Scheme of 2020'). This Scheme of 2020 is a comprehensive scheme and prescribes all the guiding factors required to be considered while deciding the quantum of compensation.

10. Some of the significant Clauses wrapped in the Scheme of 2020 are reproduced hereinafter:-

“6. The application/recommendation for compensation can be moved either before the State Legal Services Authority or the concerned District Legal Services Authority or it can be filed online on a portal which shall be created by all State Legal Services Authorities. The Secretary of the respective District Legal Services Authority shall decide the application/recommendation moved before him/her as per the scheme.

Explanation: In case of acid attack victim the deciding authority shall be Criminal Injury Compensation Board as directed by Hon'ble Supreme Court in Laxmi vs. Union of India W.P.CRML 129/2006 order dated the 10th April, 2015 which includes Ld. District and Sessions Judge, DM, SP, Civil Surgeon/CMO of the district.

7. The State Legal Services Authority or District Legal Services Authority may award compensation to the victim or her dependents to the extent as specified in the Scheduled.

8. While deciding a matter, the State Legal Services Authority or District Legal Services Authority may take into consideration the following factors relating to the loss or injury suffered by the victim,-

(i) gravity of the offence and severity of mental or physical harm or injury suffered by the victim;



- (ii) expenditure incurred or likely to be incurred on the medical treatment for physical and/or mental health including counselling of the victim, funeral, travelling during investigation/inquiry/ trial (other than diet money);*
- (iii) loss of educational opportunity as a consequence of the offence, including absence from school/college due to mental trauma, bodily injury, medical treatment, investigation and trial of the offence, or any other reason;*
- (iv) loss of employment as a result of the offence, including absence from place of employment due to mental trauma, bodily injury, medical treatment, investigation and trial of the offence, or any other reason;*
- (v) the relationship of the victim to the offender, if any;*
- (vi) whether the abuse was a single isolated incidence or whether the abuse took place over a period of time;*
- (vii) whether victim became pregnant as a result of the offence, whether she had to undergo Medical Termination of Pregnancy (MTP)/give birth to a child, including rehabilitation needs of such child;*
- (viii) whether the victim contracted a sexually transmitted disease (STD) as a result of the offence;*
- (ix) whether the victim contracted human immunodeficiency virus (HIV) as a result of the offence;*
- (x) any disability suffered by the victim as a result of the offence;*
- (xi) financial condition of the victim against whom the offence has been committed so as to determine her need for rehabilitation and re-integration needs of the victim;*
- (xii) in case of death, the age of deceased, her monthly income, number of dependents, life expectancy, future promotional/growth prospects etc;*
- (xiii) any other factor which the State Legal Services Authority or District Legal Services Authority may consider just and sufficient.*



9. *Wherever, a recommendation is made by the court for compensation under sub-sections (2) and/or (3) of section 357A of the Code, or an application is made by any victim or her dependent(s), under sub-section (4) of section 357A of the Code, to the State Legal Services Authority or District Legal Services Authority, for interim compensation it shall prima-facie satisfy itself qua compensation needs and identity of the victim. As regards the final compensation, it shall examine the case and verify the contents of the claim with respect to the loss/injury and rehabilitation needs as a result of the crime and may also call for any other relevant information necessary for deciding the claim:*

Provided that in deserving cases and in all acid attack cases, at any time after commission of the offence, Secretary, State Legal Services Authority or Secretary, District Legal Services Authority may suo moto or after preliminary verification of the facts proceed to grant interim relief as may be required in the circumstances of each case.

(2) The inquiry as contemplated under sub-section (5) of section 357A of the Code, shall be completed expeditiously and the period in no case shall exceed beyond sixty days from the receipt of the claim/petition or recommendation:

Provided that in cases of acid attack an amount of One lakh rupees shall be paid to the victim within fifteen days of the matter being brought to the notice of District Legal Services Authority. The order granting interim compensation shall be passed by District Legal Services Authority within seven days of the matter being brought to its notice and the State Legal Services Authority shall pay the compensation within eight days of passing of the order. Thereafter, an amount of Two lakhs rupees shall be paid to the victim as expeditiously as possible and positively within two months of the first payment:

Provided further that the victim may also be paid such further amount as is admissible under this scheme.



(3) After consideration of the matter, the State Legal Services Authority or District Legal Services Authority, as the case may be, upon its satisfaction, shall decide the quantum of compensation to be awarded to the victim or her dependent(s) taking into account the factors enumerated in clause 8 and Schedule-I. However, in deserving cases, for reasons to be recorded, the upper limit may be exceeded:

Provided, in case the victim is minor, the limit of compensation shall be deemed to be 50% higher than the amount mentioned in the Schedule-I.

(4) The quantum of compensation to be awarded to the victim or his dependents shall be as per Schedule-I.

**Victims of acid attack are also entitled to additional compensation of Rs. 1 lakh rupees under Prime Minister's National Relief Fund vide memorandum no. 24013/94/Misc./2014-CSR-III/GoI/MHA dated the 9th November, 2016.*

Victims of acid attack are also entitled to additional special financial assistance up to five Lakh rupees who need treatment expenses over and above the compensation paid by the respective State/UTs in terms of Central Victim Compensation Fund Guidelines-2016, no. 24013/94/Misc/2014-CSR.III, MHA/GoI.

(5) The State Legal Services Authority or District Legal Services Authority may call for any record or take assistance from any Authority/Establishment/Individual/Police/Court concerned or expert for smooth implementation of the Scheme.

(6) In case trial/appellate court gives findings that the criminal complaint and the allegation were false, then Legal Services Authority may initiate proceedings for recovery of compensation, if any, granted in part or full under this scheme, before the Trial Court for its recovery as if it were a fine.”

11. Clause 6 requires a victim to make an application for compensation either before the State Legal Services Authority or the



concerned District Legal Services Authority or to file it online on a portal created by all State Legal Services Authorities. The Secretary of the respective District Legal Services Authority is bestowed with the authority to make decision on such compensation application. However, the explanation attached to this Clause makes it abundantly clear that, in case of acid attack victim, the deciding authority shall be the Criminal Injury Compensation Board, as directed by the Hon'ble Supreme Court in "Laxmi vs. Union of India" W.P. CRML 129/2006, order dated the 10th April, 2015, which includes District and Sessions Judge, DM, SP, Civil Surgeon/CMO of the district.

12. Clause 7 prescribes the extent of compensation awardable to the victim or her dependents, while Clause 8 stipulates the factors to be borne in mind while awarding compensation. Clause 9 encloses the procedure for grant of compensation.

REASONS FOR SETTING ASIDE THE ORDER DATED 07.09.2020, WHEREBY, PETITIONER'S COMPENSATION APPLICATION WAS DISMISSED BY THE DISTRICT LEGAL SERVICES AUTHORITY, PANIPAT, AND, REASONS FOR REMANDING THE COMPENSATION APPLICATION FOR DECISION AFRESH BUT BY THE CRIMINAL INJURY COMPENSATION BOARD

13. What emerges from a studied survey of the record available before this Court is that, the petitioner had also approached the District Legal Services Authority, Panipat, for claiming compensation under the Scheme of 2020, however, her compensation application was dismissed by the latter through drawing the order dated 07.09.2020. The premise for



drawing the dismissal order was that, the trial in the present case is still pending and an application for awarding compensation under the Scheme of 2020 can only be entertained on final recommendation of the trial Court.

14. To the considered mind of this Court, the dismissal order dated 07.09.2020 is not drawn in consonance with the mandate enclosed in the Scheme of 2020. The principal reason for drawing this inference stems from the fact that, the compensation application was in fact required to be adjudicated by the Criminal Injury Compensation Board and not by the District Legal Services Authority inasmuch as the explanation attached to Clause 6 of the Scheme of 2020 confers the decision making authority in respect of an acid attack victim's application upon the former and not upon the latter. Moreover, in view of Clause 9, there is no provision to wait for final outcome of the trial.

FINAL ORDER

15. In summa, on account of the dismissal order (supra) being rendered in dissonance with the Scheme of 2020, the same is hereby **set aside**. Moreover, taking into account the peculiar facts and circumstances of the case at hand, the District Legal Services Authority is directed to reconsider the petitioner's compensation application in accordance with the Scheme of 2020 and to refer the same to the Criminal Injury Compensation Board, thereby enabling the latter to, in terms of the Schedule attached with the Scheme of 2020 and the note appended beneath it, decide the extent of compensation payable to the petitioner.



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16. Furthermore, since the petitioner requires continuous follow-up treatment for her injuries, which left a scar not only on her skin but her soul as well, therefore, she is at liberty to file fresh claims before the authority concerned with proof of bills, which shall be considered by the latter in terms of the apposite Scheme.

17. Disposed of accordingly.

15.02.2025,
devinder

(KULDEEP TIWARI)
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No