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HOME DEPARTMENT

NOTIFICATION

The 12th July 2012

No. 27466-CP/CR-07/2012- In pursuance of Section 357-A of the Code of Criminal Procedure, 1973 (2 of 1974), the State Government in co-ordination with the Central Government do hereby make the following scheme for providing funds for the purpose of compensation to the victims who have suffered loss or injury as a result of the crime and require rehabilitation, namely:-

1. Short Title and Commencement :

- (a) This scheme may be called "*The Odisha Victim Compensation Scheme, 2012*".
 (b) It shall come into force on the date of its publication in the *Odisha Gazette*.

2. Definitions :

In this scheme, unless the context otherwise requires-

- (a) "*Act*" means the Code of Criminal Procedure, 1973.
 (b) "*District Legal Services Authority*" and "*State Legal Services Authority*" shall respectively mean a District Legal Services Authority and the State Legal Services Authority constituted under Section 9 and Section 6 of the Legal Services Authorities Act, 1987 respectively.
 (c) "*Fund*" means the Victim Compensation Fund.
 (d) "*Schedule*" means the Schedule appended to this scheme.
 (e) "*State Government*" means the Government of Odisha.
 (f) "*Loss or injury*" means as defined in the Schedule and
 (g) "*Victim*" means a person who himself/herself suffered loss or injury as a result of crime and requires rehabilitation and in case of his/her death also his/her dependants :

Provided where the victim is a minor, his/her parents would be dependants in case they are found to have been affected by the crime or in case the perpetration of crime has left a scar on their dependant family members.

3. Objectives of the Scheme :

The Scheme aims at providing –

- (a) Financial assistance to the victim ; and
- (b) Support services such shelter, counselling, medical aid, legal assistance, education and vocational training depending upon the needs of the victim.

4. Victim Compensation Fund:

(a) There shall be constituted a Fund namely, Victim Compensation Fund from and out of which the amount of compensation shall be paid to the Victim or his/her dependants, as the case may be.

(b) The Fund shall be operated by the Secretary, State Legal Services Authority.

(c) There shall be credited to the Fund-

- (i) Money out of budget provision made by the State Government for the purpose of the Scheme;
- (ii) All grants, subscriptions, donations and gifts made by the Central Government, State Government, any local authority or anybody, whether incorporated or not or any person ; and
- (iii) All other sums received by or on behalf of the victims compensation from any source whatsoever including in compliance to any court order.

5. Target Group/Beneficiaries :

The Scheme shall cover the victims and in case of death of the victim, his/her dependants or the member/members of the family of victim who have suffered the atrocity resulting from crime or by the crime, the member/members who have been visited with a scar and would be eligible for compensation as per the compensation order.

6. Assistance under the Scheme :

(a) Under this scheme, the victim or dependants, as the case may be, shall be entitled to financial assistance and restorative support services.

(b) Assistance under the scheme shall be available in respect of each of the cases where the F.I.R. is lodged.

7. Eligibility for compensation :

The victim satisfying the following criteria shall be eligible for compensation-

(a) He/She has not been compensated for the loss or injury under any other scheme of the Central or the State Government or Insurance Company or any other institution. The victim shall inform to the authority the details of the claims for compensation made under any other scheme or from any other source. The victim will be free to choose another scheme of Government, if the same is more beneficial to him or her. He/She cannot claim both, or part benefit from one scheme and part from another.

- (b) Loss or injury sustained by the victim have caused substantial loss to the income of the family making it difficult to live as before without the financial aid or has affected his/her dignity or personality or the medical treatment of mental/physical injury should have caused financial stress for the family.
- (c) The victim shall co-operate with the police and prosecution from the stage of investigation till conclusion of trial of the case.

8. Authorities responsible for implementation of the Scheme :

(A) District Legal Services Authority

A District Legal Services Authority in every district will have the exclusive jurisdiction to deal with applications for assistance received under the Scheme in that district.

(B) Function of the District Legal Services Authority:

The District Legal Services Authority shall perform the following functions-

- (a) To consider the claims and provide financial assistance and support services, as the case may be, in accordance with the procedure prescribed under the scheme.
- (b) To arrange for psychological, medical and legal assistance to the affected persons.
- (c) To arrange for counselling support to the affected woman including counselling of the spouse in case the affected woman is married.
- (d) To arrange shelter for the affected woman for such period as may be required.
- (e) To arrange for education or vocational/professional training, as the case may be, for the affected woman under the ongoing schemes/programmes should she require such a support for rehabilitation?
- (f) Issue directions to the appropriate authorities to provide protection to the affected persons whenever deemed necessary.
- (g) Whenever a recommendation is made by the Court or an application is made by any victim under sub-section 4 of Section 357-A of the Act to the district Legal Service Authority, the District Legal Service Authority shall examine the case and shall verify the contents of the claim with regard to the loss or injury caused to the claimant and also may call for any other relevant information necessary for consideration of the claim from the concerned. After verifying the claim, the District Legal service Authority will make recommendations for compensation.
- (h) The **[District Legal service Authority] shall decide the quantum of compensation to be awarded to the victim 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.

- (i) The quantum of compensation to be awarded to a victim shall not exceed the maximum limit as per the Schedule.
- (j) The amount of compensation as decided by the**[District Legal service Authority] in accordance with the Schedule shall be disbursed to the victim from the Fund.

9. Procedure for grant of compensation :

- (a) Whenever a recommendation is made by the Court or an application is made by any victim under sub-section (4) of Section 357-A of the Act to the District Legal Service Authority, the District Legal Service Authority shall examine the case and verify the contents of the claim with regard to the loss or injury caused to victim and arising out of the reported criminal activity and may call for any other relevant information necessary in order to determine genuineness. After verifying the claim, the District Legal service Authority shall after due enquiry award compensation within two months in accordance with provisions of this scheme.
- (b) Compensation under this Scheme shall be paid subject to the condition that if the trial court while passing judgment at later date, orders the accused persons to pay any amount by way of compensation under sub-section (3) of Section 357 of the Act, the victim shall remit an amount ordered equal to the amount of compensation, or the amount ordered to be paid under the said sub-section (3) of Section 357 of the Act, whichever is less. An undertaking to this effect shall be given by the victim before the disbursal of the compensation amount.
- (c) The District Legal Service Authority shall decide the quantum of compensation to be awarded to the victim 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 subject to the maximum limit as given in the Schedule.
- (d) The quantum of compensation to be awarded under the scheme shall be disbursed to the victim or his dependents, as the case may be, from the Fund. The quantum of compensation to be awarded to a victim shall not exceed from the maximum limit as specified in the Schedule.
- (e) Compensation received by the victim from the state in relation to the crime in question, namely, insurance, *ex gratia* and/or payment received under any other Act or State run scheme or Central run scheme, shall be considered as part of the compensation amount

under the scheme and if the eligible compensation amount exceeds the payments received by the victim from above sources mentioned above, the balance amount shall be paid out of the Fund. The quantum of compensation to be awarded to a victim shall not exceed the maximum limit as specified in the Schedule.

- (f) The victims of cases covered under the Motor Vehicle Act, 1988 (59 of 1988) wherein compensation awarded by the Motor Accident Claims Tribunal or under the provisions of the Act, shall not be covered under the Scheme.
- (g) The cases covered under S.C. & S.T. (POA) Act and P.C.R. Act, 1955 shall not be covered under the Scheme.
- (h) *Deleted (*vide Notification dt.27.12.2012*)
- (i) The compensation awarded shall be paid in two phases, first half being within any time before commencement of trial and the rest half on conclusion of trial.
- (j) The District Legal Services Authority, 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 Magistrate of the area concerned, or any other interim relief as it may deem fit.
- (k) The payment from Victim Compensation Fund will be made by Account Payee Cheque or electronic money transfer to the Account of the payee.

**[Any compensation awarded by the order of the Special Court under Sub-section (8) of Section 33 of the Protection of Children from Sexual Offence Act, 2012 shall be paid from the Scheme.]

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."

11. Appeal :

Any victim aggrieved of the denial of compensation by the District Legal Service Authority may file an appeal the State Legal Service Authority within a period of ninety days-

Provided that the State Legal Services Authority, if satisfied, for the reasons to be recorded in writing, may condone the delay in filing the appeal.

SCHEDULE

Sl. No.	Particulars of loss or injury	Maximum limit of Compensation (In rupees)
1	Loss of life	Earning member Rs.1,50,000 Non-earning members Rs.75,000
2	Loss of any limb or part of body resulting 80% or above disability [***omitted]	Earning Member Rs.1,00,000 Non-earning member Rs.50,000
3	Loss of any limb or part of body result disability of 40% & above but below 80% [***omitted]	Rs.40,000
4	Loss of any limb or part of body resulting below 40% disability.	Rs.10,000
5.	Loss or injury causing severe mental agony to women and child victims in case like Human Trafficking.	Rs.10,000
6.	Simple injury to child victim	Rs.10,000
*[7.	Rape	Rs.1,50,000/-]
** [8.	Penetrative Sexual Assault and aggravated Penetrative Sexual assault in case of child victims.	Rs.1,50,000/-
9.	Sexual assault and Aggravated sexual Assault in case of child victims.	Rs.50,000/-
10.	Sexual harassment of child and using child for pornographic purposes.	Rs.20,000/-]
***11	[Victim of acid attack	Rs.3,00,000/-]

Explanation:

- i) *[For the purpose of assessing the percentage of disability, loss or injury causing several mental agony to women and child victims in case like human trafficking and simple injury to the child victims, the certificate of CDMO/SDMO, as the case may be, shall be conclusive unless authority finds it unacceptable for reasons to be recorded in writing.
- ii) In case of rape, the concerned authority shall call for the report of CDMO/SDMO and report of investigating Police Officer including the copy of the FIR to assess the prima facie of the incident which shall be conclusive unless the authority finds it unacceptable for the reasons to be recorded in writing.]
- iii) **[In case of Penetrative Sexual Assaults and Aggravated Penetrative Sexual Assaults and Sexual Assault and Aggravated Sexual Assault, the report of Chief District Medical Officer or Sub-divisional Medical Officer and report of Investigating Officer including the copy of the FIR to assess the prima facie of the incident shall be conclusive unless the authority finds it unacceptable for the reasons to be recorded in writing.
- iv) In case of Sexual Harassment of child and Using Child for Pornographic Purposes, the report of Investigating Officer including the copy of the FIR to assess the prima facie of the incident shall be conclusive unless the authority finds it unacceptable for the reasons to be recorded in writing.]
- v) ***[In case of victim of acid attack for the purpose of assessing the percentage of loss or injury, the report of chief District Medical Officer (CDMO)/Sub-divisional Medical Officer (SDMO) and report of Investigating Officer including the copy of the FIR in relation to shall be conclusive unless the authority finds it unacceptable for the reasons to be recorded in writing and, on the basis of such reports Rupees One Lakh Rs.1.00 lakh shall be paid to the victim of acid attack within fifteen days of the occurrence of such incident to facilitate immediate medical attention and expenses in this regard.]

By order of the Governor
U.N.Behera
 Principal Secretary to Government

*Inserted vide Notification dt.27.12.2012

**Inserted vide Gazette Notification dt.13.06.2013

***Inserted vide Notification dt.26.12.2013