

VICTIM COMPENSATION SCHEME

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BEST CITATION – YAJAT PITHADIA & VEER DESHPANDE, VICTIM COMPENSATION SCHEME, *INDIAN JOURNAL OF LEGAL REVIEW (IJLR)*, 5 (12) OF 2025, PG. 794-804, APIS – 3920 – 0001 & ISSN – 2583-2344

I. Introduction

The criminal justice system, being a social construct of human organization, was created with two main goals in mind: the protection of the citizens and the rehabilitation of offenders. It is functioning by way of a sequence of stages—from victimization and inquiry to arrest, prosecution, and finally the sanction—the system is premised on the collaborative involvement of different institutions, the most significant being law enforcement, the judiciary, and penal institutions. Its very effectiveness depends largely on the fine balancing act between the rights, roles, and duties of all the stakeholders involved.

For crime victims, however, justice goes beyond the punishment of the offender. Crime tends to cause physical, emotional, psychological, and economic injury, as well as what is known to as "secondary victimization"¹, which is the insensitivity or neglect they can encounter when in contact with state agencies. These problems need to be addressed by an immediate and sympathetic response from police, prosecutors, the courts, correctional institutions, and involved agencies. A co-ordinated and victim-centred response ensures the provision of help from the time an offense is reported in order to ensure recovery and uphold the dignity and rights of victims. In record of these facts, a major legislative improvement came with the enactment of Section 357A of the Code of Criminal Procedure, 1973, which made it necessary for state governments to set up Victim Compensation Schemes (VCS). These programmes, which are State-funded, aim to extend financial aid to victims who need rehabilitation, thus institutionalizing the role of the state towards the victims of crime.

The legislation structure was further strengthened under the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023, wherein Section 2(1)(y) of the Act widened the scope of the term "victim" to not only cover direct victims but also their legal heirs, guardians, and persons wrongfully prosecuted or imprisoned.

A judicial precedent, particularly in *Maru Ram v. Union of India* (1981)² and *Ankush Shivaji Gaikwad v. State of Maharashtra* (2013)³, have uniformly emphasized that although compensation cannot obliterate victim agony, it provides some degree of justice, consolation, and dignity, especially in grievous harm, humiliation, or death. This judicial approach confirms to the constitutional spirit expressed in Article 41, which emphasizes State's duty to render assistance in times of need, and Article 51A, which mandates citizens to instil compassion.

Collectively, all these changes represent a paradigm shift in Indian criminal law, moving increasingly toward a victim-centered system of justice that combines rehabilitation with retribution.

II. Victim Compensation Scheme Under BNSS

The Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023 is not only a code for the prosecution of

criminal offences but also enshrines, affirms and protects the rights and interests of victims of crimes. Criminal law in the past has been understood as a method to punish criminals

and not to alleviate the suffering of the victim. But with the advent of provisions such as Sections 395, 396, 397, 399, and 400, the law now includes provisions for monetary relief, rehabilitation, and assistance to victims.

Section 395: Restitution through Fines

Section 357 of BNSS gives the court the authority to order that, the fines paid by the accused would be given to the victim. This fund can be utilized to pay for medical care, legal fees, or losses to innocent buyers in real estate crimes as per the intention of the victim. This section guarantees at least partial restitution to the victim directly proportional to the punishment of the offender.

Section 396: State-Funded Victim Compensation Scheme

The big change, though, was brought on with the introduction of Section 357A of CrPC, which mandates each state government, in consultation with the Central Government, to formulate a Victim Compensation Scheme (VCS). Under such a scheme, a special fund is set up to offer financial help to victims of crime who have suffered physical, emotional, or financial injury.

Now changed to Section 396 of BNSS, the legislation provides for a Victim Compensation Scheme which guarantees monetary and rehabilitative assistance for victims of crime or their dependents. All States, in conjunction with the Centre Government, shall have a fund, drawn not only from government contributions but also from NGO donations, institutional funding, and revenue from investments. It ensures that even when the offender is unable to pay, the victim is not denied relief. This program encloses on a broad array of serious crimes like murder, rape, grievous injury, trafficking, kidnapping, robbery, dacoity, and other sexual or violent offenses. It is a social security policy, providing protection to the victims to start their lives anew after the crime.

Redressal is advised by the court or claimed directly by the victim from the District or State

Legal Services Authority. Victims can even approach the authority in cases of acquittal, discharge, or where the offender is untraceable. The authority has to adjudicate within two months and can even direct immediate medical assistance or interim relief.

This reward is apart from fines or penalties under the Bharatiya Nyaya Sanhita. In all, the scheme makes sure that justice doesn't end up only in punishing criminals but goes on to ensure that the rehabilitation and dignity of victims is protected.

Section 396 and 397: Interim Relief

One of the biggest features of the law is the realization that the victim must not wait for the final determination in trial. Section 396 of BNSS entitles courts to suggest compensation at any point during proceedings depending on the facts of a case, whereas Section 397 of BNSS compels public or private hospitals to give immediate first-aid or medical attention to victims of specific crimes, mainly sexual offences and acid attacks. The cost for the same is subsequently paid back from the Victim Compensation Fund.

Other Provisions (Sections 399 and 400)

There are also additional security measures under Section 399 of BNSS, which authorizes magistrates to grant a maximum of ₹1000 as compensation to those persons who were unjustly detained because of false arrests made by police without valid authority. Section 400 of BNSS also entitles compensation in non-cognizable cases to enable victims to cope with the cost of criminal proceedings.

III. Judicial Evolution of Victim Compensation in India

The history of victim compensation in India is a powerful narrative of judicial activism and progressive legal thinking that has gradually developed victim-focused justice within the nation's criminal justice system. Prior to obtaining statutory approval, the judiciary set the stage by developing legal principles through critical judgments, thereby converting

compensation from a simple monetary restitution to an instrument of justice which guarantees dignity and reparation for crime victims.

The starting point of this transformation could be found in the landmark judgement of Supreme Court. In *Hari Kishan v. Sukhbir Singh* (1988)⁴, the Court departed from the conventional pecuniary loss model, expanding the scope to include a more expansive concept of justice for victims. Pay was no longer considered mere restitution of physical money loss but an acknowledgment of the harm, trauma, and loss of dignity perpetrated to the victim by criminal conduct. This ruling was a milestone, building a need for a victim-oriented strategy that sees the inherent value in relief as a rehabilitative measure that is consistent with principles of substantive justice. It highlighted the role of the judiciary in completing legislative failures, injecting a crucial human element into criminal law enforcement.

Developing from this foundation, the Supreme Court further enlarged the ambit of compensation for victims in *S.S. Ahluwalia v. Union of India* (2001)⁵. In this case, the Court strongly reaffirmed the governmental responsibility in cases involving mass violence, i.e., riots, emphasizing the responsibility of the State to compensate the victims regardless of the State's role being either direct or indirect. This judgment was instrumental in establishing that the State cannot escape liability for upholding the rights of citizens or rectifying the harms inflicted during communal riots. The decision reaffirmed the proposition that compensation of victims overcomes private parties and involves public authority, hence ushering in a sea change from individual accountability to institutional responsibility. It also opened the door for State-led compensation programs, reflecting an evidence-based recognition of victims' rights to reparation at the policy level.

The Court's ruling in *Manish Jalan v. State of Karnataka* (2008)⁶ added a subtle twist by

compelling the consideration of context-specificity in the award of compensation. In respecting the varied circumstances of victims and offenses, the ruling asked courts to look at the gravity and nature of the offense, the extent of harm inflicted, and the financial status of the accused in deciding on payment amounts. The case departed from uniform or arbitrary orders of compensation by propagating a measured, fair system that is responsive to both the victim's requirements and the accused's ability. The judgment highlighted the imperative of proportionate justice that is context-sensitive and ensuring that victim compensation remains a reasonable, reasoned exercise, not a mechanical transaction. The principle is a guarantee against under- and over-compensation, setting up a realist judicial approach.

Extending the reach of compensation to the victims even more, the Supreme Court judgment in *Nipun Saxena v. Union of India* (2018) was a milestone in addressing the particular needs of vulnerable victims of sexual crimes, viz., under the Protection of Children from Sexual Offences Act (POCSO). The ruling necessitated the establishment of focused victim compensation programs that are trauma-informed and gender-sensitive, keeping in mind sexual crime victims are likely to have special needs like psychological trauma, social stigma, and rehabilitation in addition to financial compensation. By requiring victim compensation schemes that address these needs, the Court validated the intersectionality of justice – prioritizing over and above compensation toward full care and empowerment of sexual violence victims. This ruling reflects an advanced grasp of intersectionality in criminal justice and victimology.

Together, these judicial precedents have set the normative and conceptual basis for the inclusion of victim compensation as statutory right within the BNSS model. This paradigmatic movement is a maturation of victim compensation from informal judicial decisions

to systematized, codified procedure commanded by statute. The BNSS emphasizes timeliness, accessibility, and comprehensiveness in compensation administration in ensuring that relief is not symbolic but effective and meaningful. In addition, the statutory scheme consolidates the State as the central guarantor of victims' rights, demonstrating an enlightened democratic ethos that values victim dignity and restitution as essential elements of criminal justice.

Criteria of Grant of Compensation

The criteria for granting compensation differ among States but generally follow the degree of harm and financial distress. Odisha, Chhattisgarh, Assam, and Goa all state that compensation is intended exclusively for victims who suffer "substantial" effects, i.e., loss so large that it makes it impossible for them to keep a decent standard of living or pay for the necessary treatment.⁷

Curiously, Odisha takes it a step ahead by looking at not only monetary losses but also their effect on a victim's dignity and personality, understanding the wider psychological and social impacts of crime. Madhya Pradesh, however, has a sophisticated approach—if the victim's yearly income is above a particular amount, the amount of compensation to be paid is cut down by half, striking a balance between fairness and fiscal prudence.

Process of Assessment

The District Legal Services Authority (DLSA) or State Legal Services Authority (SLSA) decides the actual compensation amount after evaluating various aspects of each case. This can include consultations with medical boards (Arunachal Pradesh), police (Odisha), or probation officers (Madhya Pradesh). Delhi's 2011 scheme laid down a detailed set of factors, such as:

- Nature and gravity of the offence,
- Degree of physical, mental, or emotional injury,
- Medical, funeral, or counselling expenses,

- Effect on the education or employment of the victim,
- Re-relationship between the offender and the victim,
- Whether the assault was a one-time event or repetitive,
- Effects such as pregnancy, disability, or HIV,
- Financial status of the family of the victim, and
- Age or dependency in the event of death.

This wide-ranging framework means that the individual circumstances of a victim are taken into account, making compensation more than just a financial process—it is a way of reclaiming dignity and facilitating long-term rehabilitation.⁸

Interim Relief for Special Cases

Some of the State's offer immediate relief even prior to comprehensive assessment. Gujarat (2016), for example, and Tamil Nadu (2013) insist on ₹1 lakh as immediate assistance to victims of acid attacks, payable within 15 days from the date of reporting the crime. The instant relief, however, is subject to certification by the concerned police officer or magistrate, at times becoming an obstacle for the victim who is already traumatized by the crime.

Grounds for Rejection of Claims

Though all but a few States are silent on when the application can be rejected, some States such as Goa, Himachal Pradesh, Karnataka, and Madhya Pradesh enumerate specified reasons to reject or seek refund with interest. These are:

- Not reporting the offence,⁹
- Failure to assist in investigation or trial,
- Giving false evidence or false complaints,
- Evidence of abetment of the crime, or
- Conduct against prosecution in court.

Delhi's scheme additionally insists that reasons for rejection must be formally recorded, ensuring transparency and accountability.

IV. Who Pays Victim Compensation and Why?

The responsibility to pay victim compensation in India has become a collective arrangement between the State and the perpetrator, expressing both the retributive principle of punishment and the State's welfare role. According to Section 395 of the Bharatiya Nagarik Suraksha Sanhita (BNSS), the courts have been empowered to direct that the amount of fines so paid by the perpetrators shall be used in disbursement of direct relief to victims. This is a measure that compels offenders to themselves pay for the minimizing of the harm they have committed, with these funds often being used for medical care, legal fees, or other short-term needs resulting from crime. But while this system introduces a measure of restitution into the criminal justice process, it is of limited application because fines cannot always match the extent of the harm or distress to the victim, particularly in serious offenses or where the perpetrator is penniless. It is at this juncture that Section 396 of the BNSS becomes revolutionary. By making State Governments, in consultation with the Central Government, responsible for formulating and implementing Victim Compensation Schemes (VCS), the law entrenches the principle that the State cannot shirk responsibility toward its citizens who are victimized at the hands of crime. The statutory provisions acknowledge that there are numerous occasions when offenders are acquitted, absconding, unidentified, or simply not in a position to pay. Where this is the case, denying victims redress would go against the essence of substantive justice. The State, then, through special funds, comes in as guarantor of relief, making sure that the compensation is not left to the sole discretion of the culpability or solvency of the accused.

The rationale for such a State responsibility has its basis in the principle of social justice and constitutional culture of welfare governance. Although crime stems from individual behavior, the fact that the State cannot entirely stop or prevent crime makes it partially responsible for

what happens. Compensation, in this perspective, is not a gesture of charity but a governmental legal and moral obligation, emanating from an awareness that victims' rights should be paramount to the criminal justice system. The Central Victim Compensation Fund, which was created in 2015, further supports this goal by attempting to uniformize discrepancies between State schemes and offer additional aid, thus uniforming relief across jurisdictions.

Victim compensation under the BNSS is therefore a two-pronged system: it takes restitution from offenders where possible, but most importantly, it institutionalizes the State's role as the chief assurance of relief and rehabilitation to victims. This twin framework ensures that justice does not start and stop with punishing the perpetrator but goes meaningfully further to confront the trauma, the losses, and the dignity of the victim. In assuming this obligation, the State shows that compensation of victims is a duty of social justice and public policy at the core of constructing a victim-responsive criminal justice system.

V. Policy Recommendations on Enhancing Victim Compensation System

The development of victim compensation under the BNSS is a substantial move towards the evolution of India's criminal justice model. But turning the legislative will into successful practice needs systemic policy changes that will fill gaps and operationalize the provisions. Basing on comparative study of international best practices and Indian implementation experience-based evidence, the following policy proposals are key interventions:

Development of Uniform National Standards

The main obstacle to an efficient victim compensation is found in the strong variation in State schemes, with an uneven landscape of justice provision. States now provide different compensation levels for the same crimes—between ₹50,000 and ₹10 lakhs for rape victims, depending on location. This deviation

disrespects the constitutional doctrine of equality before law under Article 14. A single national minimum compensation system needs to set minimum levels of standards and permit States to go above them according to their budgetary strength.

The Central Victim Compensation Fund (CVCF) standards of 2016 sought to bridge this gap by making ₹3 lakhs for acid attack and rape victims, ₹1 lakh for human trafficking victims, with an additional 50% compensation for minor victims compulsory. But its implementation continues to be patchy across States. Policy intervention must make adopting these norms mandatory at regular intervals with inflation indexation and cost-of-living adjustments.

Enabling Automatic Compensation Mechanisms

Existing procedures which involve formal requests, place an undue obstacle in the way of traumatized victims. automatic referral mechanisms could become the mainstream in streamlining this process. Some international practice proves the efficacy of automatic referral mechanisms. Austria has an automatic police-to-victim support referral system that greatly enhances access to services. The Netherlands also uses a subrogation principle whereby compensation authorities provide prompt relief and later recover sums from offenders or insurers.

India must create automatic triggers for compensation based on FIR registration for certain types of crimes. When the police register rape cases, acid attacks cases, trafficking cases, or grievous hurt cases, the compensation proceedings must automatically start without the need for independent applications by victims. This would remove procedural delays and minimize secondary victimization resulting from bureaucratic actions.

Deploying Specialized Victim Support Officers

The over-dependence of the existing system on District Legal Services Authorities (DLSA) brings institutional bottlenecks and skill deficits. DLSAs fail to undergo specialized training in

victimology and trauma-informed practice, resulting in insensitive case handling and delay in adjudication. One Stop Centres studies indicate that specialized training greatly enhances victim outcomes and effectiveness in service delivery.

The policy change must implement stand-alone Victim Support Officers in every DLSA that are trained in trauma-informed care, gender sensitivity, and accelerated case management. These officers must have qualifications in social work, psychology, or victimology, as in the Israeli Prisoner Rehabilitation Authority model that identifies tangible gains in rehabilitation results through specialist oversight.

Integration of Psychological Counselling and Vocational Rehabilitation

Existing compensation schemes are more geared towards money rather than psychological and social rehabilitation of the victims. Victims of serious offenses need integrated assistance involving mental health care, skills training, and restoration of livelihoods. There are international standards which also stress holistic intervention and meeting both urgent and long-term victim needs.

The policy guidelines would need to require inclusion of psychological counselling services in compensation schemes. Project Stree Manoraksha's trauma-informed mental health care model in One Stop Centres is a feasible blueprint for large-scale replication. In addition, vocational rehabilitation schemes would need to be included, borrowing from replicated models showing demonstrable impacts on employment status and social reintegration.

Remuneration must comprise earmarked funds for skills training, micro-credit programmes, and placement services. Findings confirm that vocational support enhances long-term recovery rates and prevents secondary victimization.

VI. Critical Analysis of Implementation Challenges

Victim compensation implementation in India, despite progressive legislative designs, suffers from systemic challenges eroding policy intent. Empirical observations demonstrate enormous disconnects between statutory provisions and ground-level realities requiring remedial interventions in urgency.

Institutional Delays and Bureaucratic Inefficiencies

The biggest prevailing issue is long adjudication periods by DLSAs. Though BNSS provides for compensation orders within two months under Section 396, operational implementation tends to take years. Delhi's 2011 scheme provides for DLSA orders within seven days and payment within eight days, but the enforcement is slack across jurisdictions. These delays inflict extreme financial hardship on victims who need immediate medical attention or livelihood compensation.

The institutional setup provides several bureaucratic layers—police investigation, court hearings, DLSA evaluation, and fund release—each of which is a potential source of delay. Victims may be uninformed about application procedures, supporting documents, or appeal processes, also adding to the delays.

Lack of Appropriate Financial Resources and Budget Allocation

Fund sufficiency is yet another important implementation hurdle. The allocation of ₹200 crores to all States from the Central Victim Compensation Fund is inadequate considering the number of eligible cases as well as the quantum of compensation. State governments do not keep sufficient corpus funds, and thereby the disbursements get delayed or the compensation get diluted.

Financial limitations are most serious in States with higher rates of crime or with limited financial capacity. Lack of specific budget lines in State budgets for victim compensation reflects the lack of sufficient policy emphasis.

Frequent replenishment through mechanisms is still not suitably institutionalized.

Inter-State Disparities and Coordination Failures

Implementation is sharply uneven across States, leading to unequal access to justice. While some such as Kerala have greater compensation standards, others only offer token relief. This makes a mockery of constitutional principles and provides perverse incentives for forum shopping by victims.

Coordination between state and central governments is lacking, with weak monitoring systems to guarantee adherence to CVCF guidelines. The lack of uniform reporting formats hinders effective impact assessment and policy learning.

Awareness Deficits and Capacity Constraints

There is extensive ignorance regarding compensation schemes across victims, police officers, and legal professionals, which drastically constrains the usage of schemes. Marginalized groups and rural dwellers are especially hindered in gaining access to information and coping with bureaucratic hurdles.

Police training on victim compensation is still insufficient, with officers frequently lacking awareness of their role in assisting applications. Legal aid lawyers do not possess specialized training in compensation procedures, making them less effective advocates for victims.

Reform Recommendations

On this basis, short-term policy interventions must prioritize:

-Uniform National Minimum Compensation Standards: Enact compulsory minimum compensation levels adjusted for inflation, with routine review mechanisms and cost-of-state adjustments.

-Automatic Compensation Systems: Enact technology-facilitated automatic trigger mechanisms connected to FIR registration for covered crimes, removing application forms for

basic compensation categories.

-Specialized Victim Support Officers: Place trained professionals in DLSAs armed with qualifications in trauma-informed care, fast-track procedures, and inter-agency coordination.

-Integrated Psychological Counselling and Vocational Rehabilitation: Mandate comprehensive support services such as mental health care, skills training, and employment assistance as an integral part of compensation schemes.

These reforms, put in place methodically with proper resource deployment and monitoring arrangements, can turn victim compensation from a formality of procedure into an effective tool of restorative justice that promotes human dignity and enables real rehabilitation.

VII. Conclusion

The transition to victim compensation under the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023 is a turning point in the criminal justice revolution in India—a shift away from the long-standing offender-focused, retribution model towards a victim-centered and restorative one. Victim compensation codification is not merely a legislative development; it places the State's responsibility to treat victims not merely as passive onlookers, but as worthy individuals entitled to redress and rehabilitation.

This legislative advance is centered on a deep judicial base. From wider interpretations of the Constitution in *Maru Ram v. Union of India*, where the scope of Article 21 was broadened in holding that the State has an obligation to preserve life and dignity, to the more explicit ruling in *Ankush Shivaji Gaikwad v. State of Maharashtra*¹⁰, where compensation was held to be a constitutional requirement and not a benevolent act, the judiciary has always laid down the intellectual foundation for victim compensation. These verdicts represent a humane judicial consciousness that was the first to acknowledge imbalance between offenders and victims, opening the door to their

ultimate codification in the BNSS.

But as I look at this evolution, I think the real test of success will not be in legislative drafting but in its enforcement. A lack of sustained commitment, ongoing difficulties like poor budgeting, bureaucratic delay, uneven disbursement among states, and weak victim awareness have blunted the scheme's transformative potential. My own worry is that without fundamentally increasing institutional and financial commitments, the BNSS could end up being more symbolic than substantial for millions of victims.

The path ahead requires a multi-faceted strategy: strong and well-funded state compensation programs, technology-based disbursement systems to reduce delays, and judicial oversight to guarantee that compensation is not an elective afterthought. I especially believe it is essential that the range of victim compensation needs to extend beyond financial redress to include holistic rehabilitation—mental health counseling, legal services, vocational rehabilitation, and genuine opportunities for social reintegration. The NALSA Compensation Scheme for Women Victims (2018) offers a workable framework, but its principles require widespread application across all types of victims.

By contrast, international standards such as the UN Declaration of Basic Principles of Justice for Victims of Crime (1985) highlight that where the offenders cannot provide compensation, it is then of pivotal importance for the role of the State as a defender of the dignity of the victim. The BNSS is calling on such thinking, but it must evolve into a victim-sensitive system, sensitive to the vulnerabilities of women, children, and the disadvantaged. To my thinking, this means looking at victim compensation not as a symbolic bridge following punishment but as a necessary pillar balancing offender accountability with societal healing.

Ultimately, the codification of compensation for victims in the BNSS is a milestone and a challenge. It is a reflection of India's desire to

provide justice that is inclusive, restorative, and humane. But to translate this legislative promise into lived reality, concerted coordination among courts, state governments, civil society, and the legal profession is an absolute imperative. To me, victim compensation is not a procedural mechanism—it is a manifestation of justice itself, a demonstration of humanity, and an affirmation that the legal system has a responsibility to heal, restore, and dignify those already subjected to the worst.

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