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IMPLEMENTATION OF VICTIM COMPENSATION SCHEME IN INDIA: JUDICIAL TRENDS

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ABSTRACT

This research paper examines the evolution, contours, and implementation of the Victim Compensation Scheme (VCS) in India with a focus on Section 357, 357A–357C of the Code of Criminal Procedure, 1973 (CrPC), constitutional jurisprudence under Articles 21, 14 and 32/226, and special regimes (e.g., the SC/ST Act, POCSO, and acid-attack specific directions). It traces how the Supreme Court’s public law compensation jurisprudence transformed victim relief from a discretionary adjunct to a rights-based entitlement. Through doctrinal analysis of leading judgments and statutory materials, the paper identifies persistent challenges such as inter-State disparities, delays, and limited victim awareness and proposes a calibrated policy roadmap for uniform, timely, and holistic victim rehabilitation consistent with restorative justice. The Indian criminal process historically emphasized the offender, the detection of crime, trial, and punishment, while the victim’s needs for medical, psychological, and economic rehabilitation often remained peripheral. Over the last four decades, the Supreme Court progressively recognized compensation as a public law remedy for infringement of fundamental rights, most notably the right to life and personal liberty under Article 21. The paper traces this shift from discretionary relief to a rights-based entitlement, examining statutory provisions, the role of Legal Services Authorities, and case law interpretations that have expanded the scope of compensation.

KEYWORDS: Victim compensation scheme, Criminal procedure, Victim rights, Compensation, Constitutional rights

1.1 INTRODUCTION

Victimology as a discipline has emerged in India through a gradual shift in criminal justice from an offender-centric to a victim-centric approach. Traditionally, the Indian criminal process focused on the punishment of the offender, with little attention to victim rehabilitation. However, the recognition of the victim’s right to compensation has been consolidated through statutory provisions, judicial pronouncements, and constitutional mandates.

The Victim Compensation Scheme (VCS) under Sections 357, 357A–357C of the Code of Criminal Procedure, 1973 (CrPC) marked a watershed in strengthening restorative justice. The Supreme Court’s jurisprudence, especially under Articles 14 and 21 of the Constitution, elevated compensation from a discretionary relief to a constitutional entitlement in cases such as *Rudal Shah v. State of Bihar* (AIR 1983 SC 1086) and *Nilabati Behera v. State of Orissa* (1993 2 SCC 746).

The subsequent enactment of state-specific

victim compensation schemes, coupled with the NALSA (Compensation to Victims of Crime) Scheme, 2015, institutionalized financial relief as part of the justice process. Despite these reforms, gaps persist in implementation, awareness, and uniformity. This research attempts to examine the doctrinal, statutory, and policy contours of VCS in India while suggesting a calibrated roadmap for holistic victim rehabilitation.

1.2 OBJECTIVES OF THE STUDY

The study is guided by the following objectives:

1. To trace the historical and constitutional foundation of victim compensation in India.
2. To analyze the statutory framework under CrPC, BNSS, and special legislations (e.g., POCSO Act, SC/ST Act, acid attack compensation).
3. To critically examine judicial pronouncements and their role in shaping victim compensation as a right.
4. To identify policy gaps and implementation challenges, including inter-State disparities.
5. To propose recommendations and reforms consistent with restorative justice and international best practices.

1.3 PURPOSE OF THE STUDY

The purpose of this study is three-fold:

- **Doctrinal Purpose:** To clarify the legal position of victim compensation and its jurisprudential evolution.
- **Practical Purpose:** To highlight implementation barriers,
- **Policy Purpose:** To recommend a uniform, timely, and holistic framework that aligns India with global standards of victim rehabilitation.

REVIEW OF LITERATURE

- **Singh (2019)** 'In *Restorative Justice and*

Victim Compensation in India discusses how Section 357A of the CrPC marked a significant shift from offender-centric to victim-centric justice. He highlights the restorative justice dimension and argues that despite the statutory framework, there remain significant disparities in compensation quantum across States.

- **Chockalingam (2011)²** in his work *Victim Compensation and Support in India* provides one of the earliest comprehensive surveys on victim compensation mechanisms. He emphasizes that prior to the statutory amendment of 2008, judicial innovation under Article 21, particularly in *Rudal Sah* and *Nilabati Behera*, laid the foundation for compensation as a constitutional remedy.
- **Sharma (2020)³** in *Compensating Victims of Crime: A Comparative Analysis of Indian and International Regimes* undertakes a comparative study between India, the UK, and the US. He concludes that while India has made progress in legislating a compensation framework, it lags behind Western jurisdictions in terms of uniformity, awareness, and accessibility for victims.
- **Bedi (2021)⁴** in *Judicial Creativity in Victim Compensation Jurisprudence* analyzes how the Supreme Court creatively expanded the idea of compensation through landmark judgments. The article underscores that courts converted compensation from a discretionary adjunct to a constitutional entitlement under Article 21, thereby pushing legislative reforms.

- **Banerjee (2022)⁵** in her study *Implementation Gaps in Victim Compensation Schemes* published in *Economic and Political Weekly* highlights the delay in disbursement of funds

and the lack of awareness among victims. Using field-based evidence, the paper demonstrates that in many states victims either remain unaware of their entitlements or face bureaucratic hurdles in accessing them.

- **Kumar (2018)** ⁶in his commentary on LiveLaw titled *Efficacy of Victim Compensation Schemes under Section 357A* notes that despite NALSA's attempt to harmonize compensation frameworks through its 2015 guidelines, disparities in eligibility and quantum persist across states.
- **United Nations (1985)** ⁷ in its *Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power* provides the international backdrop for victim rights. It stresses the State's responsibility to provide financial relief where offenders are unable to compensate, and its influence is visible in Indian reforms post-2008.
- **NALSA (2015)** through its *Compensation Scheme for Women Victims/Survivors of Sexual Assault and Other Crimes* provided a consolidated national framework. This document remains a touchstone for State-level schemes and ensures minimum standards of compensation, particularly in cases of sexual violence and acid attacks.

1.5 RESEARCH DESIGN

This study follows a **doctrinal and policy-analytical design**:

Doctrinal: Analysis of statutes (CrPC, BNSS, POCSO, SC/ST Act), rules, and judgments.

Policy-Analytical: Review of NALSA schemes, government advisories, and international frameworks.

Comparative: References to UK's Criminal Injuries Compensation Authority (CICA) and US State funds.

Temporal: Focus on post-2009 jurisprudence (after introduction of Section 357A CrPC) while situating it within constitutional developments from the 1980s.

1.6 RESEARCH GAPS

Limited **empirical data** on victim awareness and utilization of schemes, **State-wise disparity** in compensation amounts, procedure, and timelines, Absence of a **uniform national framework** despite NALSA guidelines, Lack of integration of **rehabilitative services** (psychological, medical, vocational) with monetary relief.

1.7 DATA COLLECTION METHODS

- **Primary Sources:** Statutes, State rules, Supreme Court and High Court judgments, constitutional provisions.
- **Secondary Sources:** NALSA compendiums, academic journals (Google Scholar/JSTOR), policy reports, LiveLaw articles, UN declarations.
- **Method:** Doctrinal research supplemented by policy review and comparative analysis.

1.8 LIMITATIONS OF THE STUDY

The study is **non-empirical** due to lack of field surveys. It relies on **consolidated reports** (NALSA, NCRB) which may not capture ground-level realities, Due to **federal diversity**, not all State schemes can be analyzed exhaustively, Focus is primarily on **post-2009 developments**, so earlier victimology scholarship is referenced only for context.

1.9 RESEARCH METHODOLOGY

The research methodology combines:

1. **Doctrinal Method:** Analysis of statutory provisions, case laws, and constitutional principles.
2. **Comparative Method:** Drawing parallels with the UK, US, and UN frameworks.
3. **Policy-Analytical Method:** Assessing

NALSA guidelines, State rules, and government notifications.

4. **Jurisprudential Method:** Evaluating

This multi-dimensional methodology ensures that the study is not only descriptive but also analytical, normative, and prescriptive.

CHAPTER 2 – LEGAL AND CONSTITUTIONAL FRAMEWORK OF VICTIM COMPENSATION IN INDIA

2.1 Introduction

The right to victim compensation is not merely a statutory provision but an extension of the constitutional mandate under Articles 14 and 21. Indian courts have increasingly recognized compensation as an indispensable component of justice, ensuring not only punishment of offenders but also restoration of victims. This chapter explores the legislative framework under the Code of Criminal Procedure, 1973 (CrPC), its replication in the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS), and the constitutional jurisprudence developed by the higher judiciary.

2.2 Statutory Framework under CrPC

The **Code of Criminal Procedure, 1973** provides a three-tier structure for compensation through Sections **357, 357A, 357B, and 357C**.

1. **Section 357 CrPC** – Empowers courts to direct compensation to victims from fines imposed on offenders. Though seemingly broad, its application remained sporadic, as seen in *Ankush Shivaji Gaikwad v. State of Maharashtra* (2013) 6 SCC 770, where the Supreme Court stressed that courts must apply their mind to compensation in every case, even when not expressly sought.
2. **Section 357A CrPC** – Inserted by the **Code of Criminal Procedure (Amendment) Act, 2008**, effective from 31 December 2009, this provision made it mandatory for every State Government, in coordination with the Central Government, to establish a

Victim Compensation Scheme (VCS).

Importantly, subsection (4) extends relief to cases where the offender is untraced or acquitted, reflecting the State's independent responsibility to victims⁸

3. **Section 357B CrPC** – Clarifies that compensation under 357A is **in addition** to fine or other penalty under Section 357.
4. **Section 357C CrPC** – Obligates hospitals (public and private) to provide free medical treatment to victims of sexual offences and acid attacks, with reimbursement to be ensured by the State.

Despite this statutory framework, studies highlight that courts frequently neglect to invoke Section 357, and state schemes under Section 357A exhibit wide disparities in quantum and procedure⁹

2.3 BNSS Framework (Sections 395–397)

The Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS) seeks to modernize the criminal procedure while retaining the compensation structure:

- **Section 395 BNSS** – Equivalent to Section 357 CrPC (compensation via fines).
- **Section 396 BNSS** – Equivalent to Section 357A CrPC (mandatory State compensation schemes).
- **Section 397 BNSS** – Equivalent to Sections 357B & 357C CrPC (additional compensation + free medical treatment).

This replication demonstrates the legislature's intent to preserve victim compensation as a core element of criminal justice rather than a peripheral adjunct.¹⁰ LiveLaw (2023) commentary on BNSS notes that while structural continuity is ensured, implementation remains a federal challenge since states continue to maintain separate schemes.

2.4 Constitutional Foundations

The constitutional underpinning of victim compensation is rooted in:

- **Article 21** – The right to life includes the right to live with dignity. In *Nilabati Behera*

v. State of Orissa (1993) 2 SCC 746, the Supreme Court held that compensation could be awarded for custodial death, recognizing public law compensation as part of Article 21.

- **Article 14** – Guarantees equality before law, which extends to victims' entitlement to fair treatment and non-discrimination in access to relief.
- **Articles 32 & 226** – Empower the Supreme Court and High Courts to enforce fundamental rights through **compensatory remedies**. In *Rudal Sah v. State of Bihar* (1983) 4 SCC 141, compensation was awarded for illegal detention, setting a precedent for public law damages.

Scholars such as Bedi (2021) argue that these cases transformed compensation into a **constitutional obligation of the State**, thereby guiding legislative reform under Section 357A.¹¹

2.5 Judicial Pronouncements

Judicial activism has been instrumental in shaping the contours of victim compensation.

- ***Rudal Sah v. State of Bihar* (1983) 4 SCC 141** – First case where the SC awarded monetary compensation for violation of Article 21 (illegal detention).
- ***Nilabati Behera v. State of Orissa* (1993) 2 SCC 746** – Compensation held to be a remedy under public law distinct from private tort action.
- ***Bodhisattwa Gautam v. Subhra Chakraborty* (1996) 1 SCC 490** – Interim compensation granted in a rape case even before conviction, reinforcing the preventive and protective role of compensation.

- ***Ankush Shivaji Gaikwad v. State of Maharashtra* (2013) 6 SCC 770¹²** – Mandated courts to consider compensation under Section 357 in all cases.
- ***Suresh v. State of Haryana* (2015) 2 SCC 227¹³** – Declared that Section 357A CrPC requires mandatory consideration by courts; compensation not to be left to judicial discretion.

High Courts have added further clarity:

- Kerala HC (*District Collector, Alappuzha v. DLSA*, 2014) – Held Section 357A to be substantive, applicable even retrospectively.
- Jharkhand HC (2021) – Clarified that courts' role is recommendatory; the quantum of compensation is to be determined by SLSA/DLSA.
- Delhi HC (2025) – Ruled that Delhi Victim Compensation Scheme cannot apply retrospectively to 1984 riot claims (TOI, 2025).

2.6 Special Statutory Regimes

Beyond the CrPC/BNSS, **special laws** incorporate victim compensation:

- **POCSO Act, 2012 (Section 33(8))** – Courts must direct payment of compensation to child victims.
- **SC/ST (Prevention of Atrocities) Act, 1989 (Section 15A(6)(b))** – Mandates relief and rehabilitation measures for victims of caste atrocities.
- **Criminal Law (Amendment) Act, 2013** – Introduced **Section 326A IPC**, directing fines specifically towards medical and rehabilitation costs for acid attack survivors.

2.7 Conclusion

The legal and constitutional framework of victim compensation in India reveals a **progressive expansion** from discretionary relief under

Section 357 CrPC to a rights-based entitlement under Section 357A and its BNSS successor, Section 396. The jurisprudence under Articles 14 and 21, bolstered by judicial creativity, has elevated compensation into a constitutional obligation of the State. However, gaps remain in implementation, uniformity, and victim

awareness. The next chapter examines the doctrinal and comparative perspectives that contextualize these challenges.

CHAPTER 3 – JUDICIAL AND COMPARATIVE PERSPECTIVES ON VICTIM COMPENSATION

3.1 Introduction

The jurisprudence of victim compensation in India has developed primarily through **judicial creativity**, with courts using constitutional provisions to bridge statutory gaps. Parallely, international and comparative models demonstrate how victim rehabilitation can be institutionalized as a matter of right. This chapter examines the role of Indian courts in shaping the doctrine of victim compensation and places Indian practices in dialogue with global regimes.

3.2 Judicial Development in India

3.2.1 Early Constitutional Jurisprudence

The foundation of victim compensation in India lies in public law compensation, an innovation of the Supreme Court.

- **Rudal Sah v. State of Bihar (1983) 4 SCC 141**¹⁴ – The Court awarded ₹30,000 to a prisoner illegally detained for 14 years, holding that Article 21 entails compensation for violation of life and liberty.
- **Sebastian Hongray v. Union of India (1984) 1 SCC 339** – Interim compensation awarded for custodial disappearance, signaling the Court's readiness to use compensation as a public law remedy.

3.2.2 Expansion of Article 21

- **Nilabati Behera v. State of Orissa (1993) 2 SCC 746**¹⁵ – Recognized compensation for custodial death as a constitutional obligation, distinguishing public law claims from private tort actions.

D.K. Basu v. State of West Bengal (1997) 1 SCC 416 – The Court mandated compensation in cases of custodial violence, emphasizing deterrence against state excesses.

3.2.3 Victim Compensation in Criminal Trials

- **Bodhisattwa Gautam v. Subhra Chakraborty (1996) 1 SCC 490**¹⁶ – Interim compensation ordered in a rape case, underscoring victim-centric justice even prior to conviction.
- **Ankush Shivaji Gaikwad v. State of Maharashtra (2013) 6 SCC 770**¹⁷ – Directed courts to apply their mind to compensation in every case under Section 357 CrPC.
- **Suresh v. State of Haryana (2015) 2 SCC 227** – Made Section 357A CrPC mandatory, holding that courts cannot ignore compensation.

3.2.4 High Court Developments

- **Kerala HC (2014)** – Held Section 357A CrPC to be substantive and applicable retrospectively (*District Collector, Alappuzha v. DLSA*).
- **Delhi HC (2025)** – Ruled that the Delhi Victim Compensation Scheme is not retrospective for 1984 riot claims (TOI, 2025).

Together, these decisions mark a judicial transformation of compensation from discretionary relief to an enforceable entitlement under Article 21.

3.3 Comparative Perspectives

3.3.1 United Kingdom

The UK pioneered the **Criminal Injuries Compensation Authority (CICA)** in 1964, now

governed by the **Criminal Injuries Compensation Scheme, 2012.**

- Compensation is funded by the State, not the offender.
- Victims of violent crimes receive standardized payments based on injury tariffs.
- Unlike India, the scheme is centrally administered, ensuring uniformity and predictability¹⁸.

3.3.2 United States

In the US, victim compensation is decentralized, with each State operating its own fund (funded by fines, penalties, and federal grants under the Victims of Crime Act, 1984).

- Compensation covers medical bills, counselling, and lost wages.
- Accessibility is higher due to victim advocates and dedicated offices (Roberts, 2012).
- However, caps on amounts remain lower than civil damages.

3.3.3 United Nations Framework

The **UN Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power (1985)** provides a global normative framework. It emphasizes:

- State responsibility to compensate victims when offenders are unable to do so.
- Provision of social, medical, and psychological support.
- International cooperation for transnational victimization.

India's reforms post-2008 reflect the influence of this Declaration, particularly the obligation to ensure free medical treatment for sexual and acid-attack victims under Section 357C CrPC.

3.4 Doctrinal Insights

Academic literature highlights that judicial creativity in India filled legislative silences. Bedi

(2021) notes that SC judgments in *Rudal Sah* and *Nilabati Behera* directly influenced the 2008 CrPC amendment introducing Section 357A¹⁹. stresses that despite judicial enthusiasm, implementation gaps remain due to poor administrative coordination²⁰. Comparative studies show that India lags behind the UK and US in providing uniformity, timeliness, and awareness mechanisms.²¹

3.5 Conclusion

The comparative study reveals that while Indian courts have expanded victim rights through constitutional interpretation, systemic weaknesses persist in implementation. Unlike the UK's centralized scheme or the US's state-managed funds, India continues to struggle with fragmented State rules and bureaucratic hurdles. The UN Declaration sets aspirational benchmarks that India is yet to fully achieve. Moving forward, lessons from comparative models can guide India towards a uniform national framework with integrated victim services.

CHAPTER 4 – STRUCTURAL AND ADMINISTRATIVE CHALLENGES OF VICTIM COMPENSATION IN INDIA

4.1 Introduction

The introduction of Section 357A of the CrPC and its continuation in Section 396 of the BNSS marked a paradigm shift in Indian criminal justice, recognizing the State's duty to compensate victims. However, more than a decade since its enactment, the scheme remains plagued with structural and administrative challenges. These issues ranging from inter-state disparity to bureaucratic hurdles and inadequate funds prevent the Victim Compensation Scheme (VCS) from fulfilling its restorative purpose. This chapter examines these practical obstacles in detail.

4.2 Inter-State Disparities

The VCS is implemented at the State level, leading to huge variations in compensation amounts. For example:

- NALSA's 2018 report shows that acid attack victims in Delhi were entitled to up to ₹7 lakh, whereas in Bihar the amount was ₹1 lakh.
- Compensation for rape survivors ranges from ₹1 lakh in some states to ₹10 lakh in others

This unevenness violates Article 14's guarantee of equality before law and creates a justice lottery, where victims' entitlements depend on geography rather than need.

4.3 Delays in Disbursal

Even where compensation is sanctioned, disbursal is often delayed for months or years.

- In *Nipun Saxena v. Union of India* (2019) 2 SCC 703, the Supreme Court expressed dismay at the slow release of funds despite court directions.²²
- NCRB (2022) data reveals that only a fraction of sanctioned amounts actually reached victims within the prescribed timeframe.²³

Such delays defeat the rehabilitative aim of the scheme, particularly for survivors of sexual violence and acid attacks, where immediate relief is crucial.

4.4 Inadequate Funding

Many states allocate minimal budgets for VCS, leading to partial or non-payment.

- Banerjee notes that some SLSAs operate with annual VCS budgets insufficient even for a handful of cases.²⁴
- NCRB (2022) reported that less than 40% of eligible acid attack survivors received compensation due to fund shortages.²⁵

Without dedicated and adequate funding, the statutory promise of compensation remains largely illusory.

4.5 Bureaucratic Hurdles

Victims face excessive procedural requirements such as FIR copies, medical certificates, charge-sheets, and multiple

attestations.

- Banerjee found that this paperwork discourages victims from pursuing claims, especially those from marginalized communities.²⁶
- LiveLaw highlighted that survivors of sexual assault often abandon claims due to repeated visits to police stations and SLSA offices.²⁷

These hurdles not only retraumatize victims but also contradict the principle of victim-centric justice envisioned under Section 357A.

4.6 Lack of Awareness

Awareness remains a critical gap.

1. A survey cited showed that victims were largely unaware of their right to claim compensation.²⁸
2. More recent reports (2021) confirmed that less than 20% of eligible victims knew about state schemes.²⁹

Without widespread dissemination through police stations, hospitals, and legal aid clinics the scheme cannot reach those it is intended to benefit.

4.7 Weak Monitoring and Oversight

Although NALSA issues guidelines and collects reports, monitoring remains weak:

1. Many states fail to file annual compliance reports.
2. SLSAs often lack sufficient staff and technical capacity.
3. There is no uniform digital tracking system for victims to follow their applications.

This accountability deficit perpetuates delays and irregularities in disbursal.

4.8 Conclusion

The structural and administrative challenges of VCS reveal a gap between legislative promise and ground reality. Inter-state disparity, delays, underfunding, bureaucratic hurdles, and lack of awareness collectively undermine victims' rights.

Unless these systemic issues are addressed through uniform standards, adequate funding, simplified procedures, and strong monitoring, the Victim Compensation Scheme will remain a paper tiger.

CHAPTER 5 – JUDICIAL AND DOCTRINAL GAPS IN VICTIM COMPENSATION

5.1 Introduction

The judiciary in India has been the **torchbearer of victim compensation**. From *Rudal Sah* (1983) to *Suresh v. State of Haryana* (2015), the courts have progressively converted compensation into a constitutional entitlement under Article 21. Yet, despite this proactive role, judicial and doctrinal gaps persist. Trial courts often neglect compensation, jurisprudence remains inconsistent, and doctrinal ambiguities blur the scope of Sections 357 and 357A CrPC. This chapter evaluates these challenges.

5.2 Judicial Evolution: From Discretion to Obligation

Initially, compensation was viewed as a discretionary adjunct under Section 357 CrPC.

In *Rudal Sah v. State of Bihar* (1983) 4 SCC 141, the Supreme Court awarded monetary compensation for illegal detention, inaugurating public law compensation under Article 21.³⁰

In *Nilabati Behera v. State of Orissa* (1993) 2 SCC 746, the Court clarified that compensation for custodial death was a constitutional remedy distinct from private law damages.³¹

Bodhisattwa Gautam v. Subhra Chakraborty (1996) 1 SCC 490 expanded this approach to gender-based violence by ordering interim compensation in a rape case.³²

These cases laid the doctrinal foundation that victim compensation is integral to the right to life and dignity.

5.3 The Section 357A Mandate and its Judicial Interpretation

The **2008 CrPC amendment introducing Section 357A** was shaped by judicial creativity.

Ankush Shivaji Gaikwad v. State of Maharashtra (2013) 6 SCC 770 – SC held that courts must apply their mind to compensation in every case, even without a specific plea.³³

Suresh v. State of Haryana (2015) 2 SCC 227 – Clarified that Section 357A is **mandatory**, not discretionary, and courts cannot absolve themselves of responsibility.³⁴

Nipun Saxena v. Union of India (2019) 2 SCC 703 – SC emphasized timely disbursement of compensation to survivors of sexual assault, directing States to comply with NALSA guidelines.³⁵

Despite these rulings, lower courts rarely invoke Section 357A, showing a gap between higher judiciary directives and trial-level practice.

5.4 Persistent Doctrinal Gaps

5.4.1 Scope of “Victim”

The definition of “victim” under Section 2(wa) CrPC (now Section 2(34) BNSS) includes heirs, but courts differ on whether distant relatives can claim compensation.

5.4.2 Interim vs. Final Compensation

While SC in *Bodhisattwa Gautam* endorsed interim relief, many trial courts remain hesitant, causing undue delay in urgent cases.

5.4.3 Quantum of Compensation

There is no uniform judicial standard for assessing compensation. Courts oscillate between restitutionary logic (covering actual expenses) and restorative logic (covering rehabilitation and dignity).

5.4.4 Overlap with Civil and Tort Remedies

Doctrinal ambiguity exists over whether victims compensated under Section 357A can also claim damages in civil suits. Some courts treat statutory compensation as supplementary, others as exclusive.

5.5 Judicial Inconsistency in Trial Courts

Empirical studies and commentaries (Banerjee, 2022; Bedi, 2021) note that:

- Compensation is ordered in less than 20% of eligible cases.
- Many trial courts ignore SC mandates in *Ankush Shivaji Gaikwad and Suresh*.
- High Courts have been inconsistent—e.g., Kerala HC held Section 357A retrospective (2014), while Delhi HC denied retrospective application in riot cases (2025).

This inconsistency undermines predictability and trust in judicial relief for victims.³⁶

5.6 Scholarly Insights

- Bedi argues that the SC's jurisprudence reflects judicial activism filling legislative silences, but it has not trickled down to trial courts.³⁷
- Banerjee highlights implementation failure, with courts reluctant to order compensation unless directed by higher judiciary.³⁸
- Sharma notes that unlike in the UK and US, Indian courts lack clear statutory guidelines on quantum and procedure, leading to judicial arbitrariness.³⁹

5.7 Conclusion

The judiciary has been instrumental in constitutionalizing victim compensation, yet judicial and doctrinal gaps remain. Trial courts' reluctance, inconsistent interpretation of victim eligibility, ambiguity on interim relief, and lack of standards for quantum of compensation reveal a system in transition. Unless these doctrinal uncertainties are clarified and judicial compliance ensured, victim compensation will remain more a promise on paper than a consistent remedy in practice.

CHAPTER 6 – FINDINGS, RECOMMENDATIONS, AND SUGGESTIONS

6.1 Introduction

The preceding chapters examined the evolution, judicial development, and practical implementation of the Victim Compensation Scheme (VCS) in India. While constitutional

jurisprudence and legislative reforms have recognized victims' rights, structural, administrative, and judicial challenges continue to weaken its impact. This chapter consolidates the major findings of the research, before offering recommendations and suggestions for a more effective and restorative victim compensation regime in India.

6.2 Key Findings

6.2.1 Evolution and Constitutionalization

- The VCS in India has developed from being a discretionary adjunct under Section 357 CrPC to a mandatory obligation under Section 357A/BNSS 396, largely due to judicial activism.
- Landmark rulings like *Nilabati Behera*, *Bodhisattwa Gautam*, and *Suresh v. Haryana* have constitutionalized victim compensation as part of the right to life and dignity under Article 21.

6.2.2 Structural Gaps

Inter-State disparities exist in quantum of compensation, creating inequities across states. Delays in disbursement undermine the rehabilitative purpose of compensation. Funding shortages at the State Legal Services Authorities (SLSAs) level limit actual payouts.

6.2.3 Administrative Challenges

- Lack of awareness among victims about their entitlements.
- Bureaucratic hurdles like excessive documentation retraumatize survivors.
- Weak monitoring by NALSA and SLSAs creates accountability deficits.

6.2.4 Judicial and Doctrinal Challenges

- Trial courts frequently ignore mandatory provisions of Section 357A despite SC directions.
- Lack of uniform criteria for quantum assessment results in arbitrariness.
- Doctrinal ambiguities persist regarding eligibility of victims, interim relief, and

overlap with civil remedies.

6.2.5 Comparative Lessons

- UK's CICA model ensures uniformity through centralized administration.
- US victim funds integrate financial compensation with medical and counseling support.
- UN Declaration of 1985 provides a global framework emphasizing state responsibility and victim rehabilitation.

6.3 Recommendations

6.3.1 Uniform National Framework

A National Victim Compensation Fund administered by NALSA should replace fragmented state schemes. This would ensure equality under Article 14 by eliminating inter-state disparities.

6.3.2 Dedicated Budgetary Allocations

The Union and State governments must earmark specific budgetary lines for victim compensation, preventing fund shortages at SLSAs.

6.3.3 Time-Bound Disbursal

Compensation should be released within a 60-day statutory deadline, with High Courts monitoring compliance through annual reports.

6.3.4 Awareness Mechanisms

Victim rights must be displayed prominently at police stations, hospitals, and courts. Legal aid clinics should proactively assist victims in filing compensation claims.

6.3.5 Simplified Procedures

The process of claiming compensation should be made victim-friendly:

- Acceptance of FIR and medical certificate as sufficient documentation.
- Creation of a single-window online portal for filing and tracking applications.

6.3.6 Judicial Training and Accountability

Judicial academies must train trial judges on

their mandatory duty under Section 357A/BNSS

396. Annual judicial audits should be introduced to track compliance.

6.3.7 Integration with Victim Services

Compensation must not be seen as a stand-alone monetary relief. It should integrate:

- Free medical treatment (as under Section 357C CrPC).
- Psychological counseling and rehabilitation.
- Vocational training and employment support for long-term recovery.

6.4 Suggestions

1. **Adopt Best Practices from UK & US** – Centralized uniformity from UK and victim-support structures from US should be incorporated.
2. **Introduce Interim Relief** – Courts should provide interim compensation within 30 days in cases of rape, sexual assault, and acid attacks.
3. **Community Awareness Programs** – Public campaigns through television, social media, and NGOs can bridge the awareness gap.
4. **Victim Advocates** – Appointment of victim liaison officers at district courts to guide survivors.
5. **Research and Data Collection** – Government should publish annual consolidated data on victim compensation disbursal to improve transparency and policy evaluation.

6.5 Conclusion

The Victim Compensation Scheme has transitioned from a judicial innovation to a statutory and constitutional obligation. Yet, persistent gaps in structure, administration, and judicial practice have prevented it from realizing its full restorative potential. By adopting a uniform, adequately funded, victim-friendly, and holistic model, India can transform

compensation from a procedural afterthought into a meaningful right of victims consistent with constitutional values of dignity, equality, and justice.

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