

Spare a thought for victim

Various states and UTs have come up with their own definitions of victim, legal heir and dependents. There is no uniformity even in the time limit for applying for compensation and for getting relief



For rape victims, the compensation in most states is from Rs 0- Rs 50,000. But in Haryana, Karnataka, Punjab, Uttar Pradesh and UTs it is Rs 1 lakh or above. Goa provides an exceptional amount of Rs 10 lakh for rape victims

One of the basic principles of the criminal justice system in India is that crimes are wrongs against the State, but our overemphasis on this principle leads us to a situation where we focus primarily on punishing the accused, ignoring the plight of the victims and their dependents who suffer grave loss and deprivation in cases of death caused by negligence, murder, rape, acid attack and other heinous crimes.

Acknowledging the fact that victims (and their dependents) need to be provided relief and rehabilitation and that this is the responsibility of the State, the United Nations Declaration on Victims of Crime and Abuse of Power, 1985, led member states to make provision for victim compensation in their laws.

India already had a law in this regard (the Code of Criminal Procedure 1973) empowering courts to order compensation if needed. But this enabling provision in the law, intended to provide relief, failed to do so because of three major reasons – the court could not order the accused person to pay fine or compensation if he did not have the resources, or was found not guilty, and no interim compensation could be ordered to be paid while the case was pending in the court.

In line with the UN Declaration, this Code of Criminal Procedure, which granted powers to the courts to award compensation to victims was amended in 2009, with the insertion of Section 357. This new clause mandated states to enact Crime Victim Compensation Schemes (VCS). As a follow-up, most states created District Legal Services Authority and State Legal Services Authority, charged with the job of providing compensation to victims and their dependents.

Although the amendment and various victim compensation schemes, set up in response, by various states governments, were well-intended, they have unfortunately not been able to provide victims the required relief because of a number of shortcomings in the way these schemes were devised and in their implementation.

The foremost is the restrictive eligibility criteria. Next is the long and vague procedure for processing of applications and the disbursement of funds. Another major infirmity is that the word 'dependent' has not been defined anywhere in the code or in the VCSs, thus creating ambiguity within the system.

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Different states have come up with different income qualification to be eligible for compensation. In Haryana it is Rs 4.5 lakh while in Mizoram only below poverty line families can apply for compensation. In Tripura, a victim cannot claim compensation if there is an earning member in the family. There are even more restrictive clauses in several other states

States have laid down different time limits for reporting the crime to the police or magistrate, failing which the application for compensation is not to be accepted. States like Haryana, Uttar Pradesh, Tamil Nadu and Karnataka have a time limit of 48 hours, but in Jammu and Kashmir it is six months. Many states require claimants to "cooperate with the police" without which their application would be rejected.

There is great disparity also in the amount of compensation offered under the Victim Compensation Scheme in different states. For instance, Rajasthan gives Rs 2 for acid attack victims; Bihar gives Rs 25,000. For rape victims the compensation in most states is from Rs 0- 50,000. But in Haryana, Karnataka, Punjab, Uttar Pradesh and UTs it is Rs 1 lakh or above. Goa provides an exceptional amount of Rs 10 lakh for rape victims.

Similarly while the handling of funds for compensation, in most states is done by the district collector, it is the legal department in Gujarat and the director of police in Uttarakhand and Tamil Nadu that is entrusted with the task.

Clearly there is a lot of ambiguity, arbitrariness, disparity, red tape in the schemes and the procedure followed that prevent the victim from receiving timely relief. The schemes are also plagued by an element of subjectivity.

The heartless and indifferent attitude of the authorities and public apathy deepens the grief of victims and dependents. It is about time they were given a sympathetic relook and issues were resolved to ensure speedy relief and justice with a degree of uniformity across states.

Perhaps, the best way to do it is to enact a central legislation overriding individual state victim compensation schemes. This would help in streamlining the process of application for compensation and remove the disparities created by different schemes offered by various state governments.

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The views expressed are personal