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“Dharma is to protect the Needy”

Research Article on
COMPENSATORY JURISPRUDENCE IN CONTEMPORARY INDIA- A CRITICAL
ANALYSIS

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ABSTRACT

A crime committed in society is not only a social wrong against an individual victim but also includes damages and wrong done to the family and victim involving emotional distress, economic damages, physical, mental and psychological injuries. The effect that a particular criminal has on the minds of the victim and his/ her family is not only limited to physical injury but also mental agony affecting complete existence. In the present life scenario, the accused has several rights in operation however, when it comes to the victim, the victim finds himself/ herself in a vulnerable position. The absence and need of separate law in our country which has regulations regarding victim justice has been brought up by many committees and national commissions which advocate the rights of victims. The research work basically tracks the history of compensatory jurisprudence in India. Further, the paper focuses on the need and object for prominent compensation to victims and understands the vital role played by the judiciary in this process. The work divulges how the compensatory jurisprudence has evolved in India for ages and analyzes the contemporary compensatory jurisprudence in India, followed by observations, conclusions, and suggestions.

Keywords: *Victim, Rights, Compensation, Restitution, Justice*

1. INTRODUCTION

“Law should not sit limply, while those who defy it to go free and those who seek its protection lose hope.”¹

Crime is increasingly growing at present; not only does this challenge the administration of criminal justice, but it also adversely affects the victims. The fundamental objective of our criminal justice system is to shield society from criminal wrongs and to punish the perpetrator. Nevertheless, the system of criminal justice stays usually unsatisfactory if it is seen from the position of the victims. As far as criminology is concerned, it emphasizes the improvement, restoration, and assistance (legal) of the offender. The purpose concerning penology is to protect and rehabilitate the offenders, along with safeguarding the concerns of the victims. However, the current system of criminal justice does not satisfy a victim's sorrow as it does not allow him to participate in the criminal justice system. In the interests of maintaining public order and morality in society, the State needs to prevent the victim from taking the law in his or her hands for the purpose of punishing the offender or for compensating for the injury or hurt that she suffered.

When the criminal justice system in India is evaluated and looked upon, it seems to be less oriented for victims and more focused upon the criminals. While our new criminal code is structured to punish and change criminals, it overlooks the by-product of crime, the victim. One of the fundamental rights enshrined in the Indian constitution is that of the right to life enumerated in Article 21, the Constitution of India. This right guaranteed to the citizens cannot be violated. An inmate, whether a convict or a detainee, remains a human and citizen of the country. Even while imprisoned, he retains all of his human rights, including the right to life guaranteed by the Constitution. Prisoners have civil rights when they are accused of a crime and deprived of their liberty as per the legal process. He is receiving as much help as he can from all over the world. Not only does the prisoner get the legal defense counsel at the expense of the state at the time of the appeal, but he still benefits from the conviction. The post-care reform and rehabilitation programs for the accused are also on the rise due to over-investigating NGOs and human rights organizations. Punishment shall be used more as a cause for recovery,

¹ Jennison v Baker, (1972) 1 All ER 997; Justice V.S. Malimath, Report of the Committee on Reforms of Criminal Justice System, Government of India, Ministry of Home Affairs, (2003), https://mha.gov.in/sites/default/files/criminal_justice_system_2.pdf

rehabilitation, and restoration by way of parole, probation, and community programs for rehabilitation. As a result, the absence of victim-oriented jurisprudence allows the circumstances of victims and their family members to suffer.²

While the concepts of revenge and vengeance as an approach to the prosecution of offenders cannot be tolerated in the case-law of the contemporary criminal law system, the suffering and hardships caused by the victims shall be taken into account. Victimology is a modern research branch that allows a scientific examination of victimization. This involves the relationship between the victim and the accused. Justice J.N. Bhatt described victimology as a science of “pain and compensation”. In a similar context, the apex court of the country noted that:

“The term 'Victimization' is defined neither by the Central Act nor by the Bombay Act. Therefore, the term 'Victimization' has to be given general dictionary meaning. In Concise Oxford Dictionary, 7th Edn., the term 'Victimization' is defined on Page 1197 as follows :

make a victim; cheat; make suffer by dismissal or other exceptional treatment.”³

² Akash Shah, “Victims, Victimization and Victimology”, Legalservicesindia.com, October 17, 2012

³ Colour-Chem Ltd. v A.L.Alaspurkar Ors. (1998) 3 SCC 192.

2. EVOLUTION OF COMPENSATORY JURISPRUDENCE

The science of compensation, known as "compensatory jurisprudence" originated at the end of the last century for the welfare of victims of crime. Compensatory jurisprudence as a recent development in criminal law is rapidly evolving since it assists two objectives: first, it gives importance to the situation of the victim in the system of criminal justice and, second, the guilty is forced to understand that he has a responsibility towards those who have been abused by his conduct. At present, there is an increasing trend in many countries, including India, to reassess the issue of restitution or compensation to the victim. The rise in awareness regarding compensatory jurisprudence has been seen in many countries, including India, that focus on reviewing the intricacy of compensation or restoration to wronged victims. Understanding that the offender is unable to pay restitution for acts he committed, various criminal advocates, social workers, and criminologists contemplate the feasibility of the State meeting the compensation for restoring the position of the victim.

In the early days of society, the rule prevalent was for rewarding the victim and not punishing the perpetrator. Narada was the primary to propose that the perpetrator compensate the claimant to make atonement for his wrongdoings. Reaching back to the core of criminal law, it is observed that the family of victims, especially victims hold a vital role in seeking compensation. However, along with the development in law and the organization of prosecution over years, the role of victim that was more in a central position, the same had been pushed towards the margins.⁴

The theory of compensation for victims was prominent in the Penal Codes and mosaic law of ancient Rome and Greece. Roman Law observed a gradual increase in payable compensation based on the stage of the existing crimes. The crimes which may have the concept of restitution were assault, theft, trespass, and libel. The theory of compensation has reached its pinnacle of growth in England during the Anglo-Saxon era,⁵ which first regularly utilized monetary adjustments in the kind of compensation or meeting damage done to the victim. In the England of Anglo-Saxon Era, the defendant was required to compensate the "Wer or Bot" to either the relative of the victim or the victim herself. The sum set upon an individual

⁴ Joshi, K.C. "Compensation Through Writs : Rudul Sah To Mehta" *Journal of the Indian Law Institute*, vol. 30, no. 1, 1988, pp. 69–77. JSTOR, www.jstor.org/stable/43951145.

⁵ "Cesare Lombroso" in Mannheim, *Pioneers*, p.279

based on if his rank was 'wer' and the payment was "wergid" or "bot". Besides, there existed a penalty that was to be on the Head of the State or other public body as a punishment for having been imposed.

However, by the dusk of the Middle Ages, the phenomena of compensating the sufferer started to lose its strength owing to the rise of Ecclesiastical and Royal influence. The demand for justice for victims of crime was renewed during the 19th Century Criminal Reform Movement. Bonneville, Lombroso, and Garofalo, the criminal philosophers, strongly promoted compensation and restitution to the victim. Bonneville emphasized the victim's "public duty." Lombroso⁶ advocated the principle of compensation to the victim and proposed that the person who has been a victim of crime and suffered injury shall be compensated adequately. Garofalo advocated the notion of "forced reparation." He considered that the damages had to be measured in reasonable amounts, not only sufficient to compensate the injured party in full but also to reimburse the costs expended by the State. He also said that if the defendant does not have enough means, his work shall be dedicated to the required reparation. Many of the countries in the west like Great Britain (1964), New Zealand (1963), and California, United States (1965)⁷, have adopted a form of scheme where the victim's compensation is sponsored by the state, especially in the crimes that involve personal abuse. It is, however, the work of the contemporary Hans Von Hentig, *The Criminal and His Victim* (1948), which was considered to be a seminal theme.

The Harvard Law Review (1984) in one of the articles elaborated upon the historical aspect of the principle of restitution. It summarises in the following terms: "Far from being a new solution to sentencing, restitution has been used as a punitive sanction throughout history. In ancient cultures, before the conceptual division of civil and criminal law, it was common practice to force the defendant to compensate the victim or his family for any loss incurred by the crime."⁸ The primary object of such restitution was not to compensate the victim but to shield the perpetrator from violent reprisals by the victim or the community. It was a way by which the perpetrator could redeem the peace he had shattered. As the state increasingly developed a

⁶ Hugh D: Barlow, *Introduction to Criminology* (1970), p. 453

⁷ Rao, Sushila. "Constitutional Rights Violations and Compensatory Jurisprudence in India and U.S.A.: Justifications and Critique." *Student Bar Review*, vol. 18, no. 1, 2006, pp. 93–111. JSTOR, www.jstor.org/stable/44306648

⁸ Mundrathi Sammaiah, *Law on Compensation to Victim of Crime and abuse of power*, 2002 at pp 178-79

monopoly on the institution of punishment and separation of civil and criminal law arose, the victim's right to compensation was integrated into civil law.”⁹



⁹ “Victim Restitution in Criminal Law Process: A Procedural Analysis”, (1984) 97 *Harvard Law Review*, p. 931 – 946.

3. COMPENSATORY JURISPRUDENCE IN INDIA

Several releases by the Law Commission of India and the Committees constituted for the Reform of the Administration of System of Criminal Justice hold an influential role in the development of "compensatory jurisprudence" in India. To give importance in the criminal code to the adjustment of compensation for the punishment levied and to furnish a substantive power to the courts serving justice to that effect, in 42nd Report (1971) of the Law Commission of India, was proposed to include a new provision in the CrPC (Code of Criminal Procedure).¹⁰

The current provision regarding compensation has been added to the Code of Criminal Procedure through an amendment and that extended its application in various arenas. It was stated in the amended Section 357- "Order to pay Compensation" (as Section 545, Old Criminal Procedure Code) of the CrPC, that "When a Court imposes a sentence, of which fine does not form a part, the Court may, when passing judgment order the accused person to pay, by way of compensation such amount as may be specified in the order to the person who has suffered any loss or injury because of the act for which the accused person has been so sentenced.". Further when Section 62 of the Code is perused, and the court decides not to order the accused for compensation, the reasons for the same have to be written down by the judges. Besides, the Criminal Justice Act, 1982 avails the court to order compensation in various cases that involve injury, death, damage, or/and loss. However, if such an order is not made, the courts shall prominently record the reasoning for doing so.¹¹

Justice R. L. Narasimham who was one among the members of the commission recommended the elimination of Section 545 of the old CrPC and the introduction of a different provision for amending the system of compensation for the victim. He believed that Section 357 was wholly unsatisfactory, first because, according to this section, compensation to the victim could only be done by way of cash. There existed no single clause that allowed for immediate compensation for the injury caused to the victim. Second, the old process implicated in the section was complicated, slow, costly, and also induced a great deal of harassment to the claimant. Besides, it did not have any provision for the convicts who were incapable of paying the compensation.¹² The evil consequence of short-term detention continues and the claimant

¹⁰ See 42nd Report of law commission, 1971, pp 53-54

¹¹ Delhi Domestic Working Women's Forum v Union of India and Ors. (1995) 1 SCC 14

¹² Dadhich Parmindra, "Compensation on Breach of Fundamental Rights" *Bharati Law Review*, Jan- March 2016

may still be unable to derive any benefit as far as reparation is concerned. The 14th Law Commission proposed the “Victim Compensation Scheme” by State governments in its 156th Report (1997) on the Indian Penal Code. It also argued that it would “not be fitting” to order the paying off of compensation through penalty.

For the first time, the Malimath Committee on Reforms of the Criminal Justice System in India (2003) stressed the 'participation of the victims in proceedings as an integral character of rendering justice.'¹³ It also stated that compensation for the victims was always the responsibility of the state and suggested a "victim compensation law" affording the establishment of a "victim compensation fund" which will be under management by the Legal Services Authorities. It also categorized the offenses under which compensation may be granted, not granted, or withdrawn. It is a matter of relief that this recommendation of the Malimath Committee has been incorporated into Cr.P.C. Amendment Act, 2009.

In its 226th report submitted in July 2009, the Law Commission recommended enacting separate legislation that would concern only compensation for the victims of heinous crimes such as rape, acid attacks, abduction, sexual harassment, and others. It proposed a more extensive law for addressing the concerns of victims of various criminal acts who need restoration and compensation for the survival of their life ahead.

¹³ *Ibid*

4. JUDICIAL APPROACH TOWARDS COMPENSATORY JUSTICE

Compensatory Justice Jurisprudence evolved tremendously from the case of *Rudal Shah vs. State of Bihar, 1983*¹⁴ when the Hon'ble Supreme Court provided a liberal reading of Article 21. Post Rudal Shah, there are several judgments of the Supreme Court and the High Courts granting compensation to victims or their dependents for the excesses committed by the State machinery or for the failure of the State to take care of the victims in the event of duty put on them to exercise due care. To render justice, the apex court of our country directed the rehabilitative settlements, along with the payment of financial compensation in several instances where the statutory authorities have failed to shield the right to life, dignity, and liberty as guaranteed under Article 21 of the Indian Constitution.¹⁵

Justice Krishna Iyer, in the case of *Maru Ram & Ors. v. Union of India and Ors, (1981)*¹⁶ opined that “while social responsibility of the criminal to restore the damage or heal the injury is a part of the punitive exercise, the length of the prison term is no reparation to the crippled or bereaved... Victimology must find fulfillment not through barbarity but by compulsory recoupment by the wrongdoer of the damage inflicted not by giving more pain to the offender but by lessening the loss of the forlorn”. In several of the cases decided on compensatory justice, *Hari Kishan and State of Haryana v. Sukhbir Singh & Ors*¹⁷ The SC deplored the inability of the Courts to provide compensation to victims according to Section 357(1) of the Criminal Procedure Code.

The Court advised all lower courts that the powers conferred by Section 357 of the Criminal Procedure Code be exercised liberally to achieve the objectives of justice. The Supreme Court has recommended all the lower courts “to exercise the power of awarding compensation to the victims of offense following Section 357 of Criminal Procedure Code, 1973, to achieve the goal of social justice...It is an important provision but courts have seldom invoked it, perhaps due to ignorance of the object of it. It empowers the Court to award compensation to the victim while passing judgment of conviction. In addition to conviction,

¹⁴ Rudal Shah vs. State of Bihar, 1983 AIR 1086, 1983 SCR (3) 508

¹⁵ Supreme Court Legal Aid Committee v State of Bihar (1991) 3 SCC 482; Kewal Pati v State of U.P (1995) 3 SCC 600; Nilabati Behera v State of Orissa (1993) 2 SCC 746; Railway Board v Chandrima Das (2000) 2 SCC 465; Khatri (1) v State of Bihar (1981)1 SCC 623.

¹⁶ Maru Ram & Ors. v. Union of India and Ors, (1981) 1 SCC 107

¹⁷ Hari Kishan and State of Haryana v. Sukhbir Singh & Ors, AIR 1988 SC 2127:(1988) 4 SCC 551

the Court may order the accused to pay some amount by way of compensation to the victim who has suffered by the action of the accused. It may be noted that this power of the Courts to award compensation is not ancillary to other sentences but it is besides thereto.”¹⁸ In Dilip S. Dahanukar's case¹⁹ The Court also favored the investigation to assess the capability of the defendant to compensate. The Court stated: “...The purpose of imposition of fine and/or grant of compensation to a great extent must be considered having the relevant factors therefore in mind. It may be compensating the person in one way or the other.”

Again, the Court noted that power in this field must be exercised liberally and fairly. It should not be unreasonable, given the events of the case, such as the reason for the crime, the monetary benefit gained by the defendant, and "his means of paying the fine."²⁰ While ascertaining the amount of compensation, the validity of the victim's claim, the nature of the crime, and the willingness and ability of the accused to pay the compensation shall also be taken into consideration. The judiciary has in a later phase has reacted compassionately to the rape victims who essentially need actual, ethical, moral, legal, and financial help for coping up with the trauma.

In the judgment of *Mukunda Martand Chatnis v. Madhuri, 1992*²¹ For assassinating the character of the victim woman, the court allowed compensation of Rs. 36,000 and Rs. 1 lakh for the claimant. Further, *Dudalure M.J. Cherian v. Union of India, 1995*²² the SC ordered the State of Uttar Pradesh for providing compensation of two lakh and fifty thousand rupees to the two rape victims.

In *Rupaldeo Bajaj v K.P.S. Gill, (1995)*²³ The Supreme Court set the offender's responsibility and granted monetary compensation to the victim.

¹⁸ Ibid. p. 2131, Also refer to Sarwan Singh and others v. State of Punjab (1978) 4 SCC 111; Dilip S. Dahanukar v. Kotak Mahindra Co. Ltd. And Anr. (2007) 6 SCC 528; Baldev Singh and Anr v. State of Punjab (1995) 6 SCC 593; Balraj v. State of U.P. (1994) 4 SCC 29.

¹⁹ (2007) 6 SCC 528

²⁰ Palaniappa Gounder v. Tamil Nadu. AIR 1977 SC 1323; Sarwan Singh v. Punjab, AIR 1978 SC 1525 : (1978) 4 SCC 111

²¹ Mukunda Martand Chatnis v. Madhuri, AIR 1992 SC 1804

²² Dudalure M.J. Cherian v. Union of India, 1995 SCC (Cri) 925

²³ Rupaldeo Bajaj v K.P.S. Gill, (1995) 6 SCC 194

In the *Delhi Domestic Working Women's Forum v. Union of India*²⁴, the Supreme Court stressed the need to set up a Criminal Injury Compensation Board for victims of rape within 6 months in the light of the Directive Principles set out in Article 38(I), Indian Constitution. Court argued that rape victims also experience significant financial losses as they are too traumatized to continue to function. In the further case of *Bodhisattwa Gautam v. Shubhra Chakraborty*²⁵, the SC reinstated the above judgment and went to the extent of advocating for interim compensation.

In *Uttarakhand Sangharsh Samiti, Mussoorie v. State of Uttar Pradesh, and others*²⁶ The court ruled that women who have been molested and assaulted are entitled to receive the same compensation as victims of death.

*The Chairman, Railway Board, and Others v. Mrs. Chandrima Das and Other*²⁷ was one among such cases of compensation where the amount of Rs.10 lakhs was given as compensation to the survivor, as the High Court held that the rape was not merely a violation of the ordinary human right, but a violation of the fundamental right.

Other illustrative cases in which the Courts have provided liability for excesses committed by the State or for negligence on the part of the State are:-

In *Nand Ballabh Pant v. State (Union Territory of Delhi)*²⁸ The defendant was directed, by way of restitution, to pay a fine to the wife of the deceased. In another scenario, *Palaniappa Gounder v. State*²⁹ The Supreme Court held that the sum of compensation should not be unreasonable. Further, it is nowhere reasonable, first, determining the sum of compensation and then imposing a fine lesser than the amount for compensation decided. In *Guruswami v. State of Tamil Nadu*³⁰ the Supreme Court observed that, in the event of a murder, it is only appropriate that adequate compensation should be given to the dependents of the deceased.

²⁴ Delhi Domestic Working Women's Forum v. Union of India (1995) 1 SCC 14

²⁵ Bodhisattwa Gautam v. Shubhra Chakraborty, AIR 1996 SCC 922

²⁶ Uttarakhand Sangharsh Samiti, Mussoorie v. State of Uttar Pradesh and others, [(1996)UPLBEC 461]AUHC

²⁷ The Chairman, Railway Board and Others v. Mrs. Chandrima Das and Other 4 (2000) INSC 26 (28 January 2000)

²⁸ Nand Ballabh Pant v. State (Union Territory of Delhi) AIR 1977 SC 892 : 1977 Cri LJ 549

²⁹ Palaniappa Gounder v. State, AIR 1977 SC 1323 : 1977 Cri LJ 992

³⁰ Guruswami v. State of Tamil Nadu, AIR 1979 SC 1177 : 1979 Cri LJ 704.

In *Prabhu Prasad Shah v. the State of Bihar*,³¹ The judges of the apex court opined that “criminal justice has many dimensions beyond conviction, sentence, acquittal, and innocence...the victim is not to be forgotten but must be restored to the extent possible”. In *Mangilal v. State of Madhya Pradesh*³² Integrating the ideals of natural justice, the SC acknowledged that “a court is required to hear an accused before fixing the quantum of compensation.” In *Ankush Shivaji Gaikwad Vs. The state of Maharashtra*³³ the court stated that “while the award or refusal of compensation in a particular case may be within the Court's discretion, applying the tests which emerge from the above cases to Section 357, it appears that the provision confers a power coupled with a duty on the Courts to apply its mind to the question of awarding compensation in every criminal case. Application of mind to the question is best disclosed by recording reasons for awarding/refusing compensation. It is axiomatic that for any exercise involving application of mind, the Court ought to have the necessary material which it would evaluate to arrive at a fair and reasonable conclusion. It is also beyond dispute that the occasion to consider the question of award of compensation would logically arise only after the court records a conviction of the accused”. The judgments of the Court referred to above clearly show that the case law on countervailing justice has gradually but steadily taken shape in India and is taking on new dimensions at present.

Recent Judgements Regarding Compensatory Jurisprudence in India:

In the 2015 judgement of *State of Himachal Pradesh v Ram Pal*³⁴ The Supreme Court stated that it was the duty of the state to take care of the life of the citizens. If the accused is not in a condition to pay, the state shall provide the compensation to the victim for the loss occurred to him or her. Another classic case of compensatory jurisprudence is 2015 judgement of *Suresh v State of Haryana*³⁵. In this case, a businessman and his son were killed and the

³¹ Prabhu Prasad Sah v. State of Bihar AIR 1977 SC 704: See also Sukhdeo Singh v. State of Punjab, 1982 SCC (Cri) 467.

³² Mangilal v. State of Madhya Pradesh, 2004Cri LJ 880; AIR 2004 SC1280

³³ Ankush Shivaji Gaikwad Vs. State of Maharashtra, Criminal Appeal No. of 2013 arising out of S.L.P. (CRL.) No.6287 of 2011

³⁴ (2015) 11 SCC 584

³⁵ AIR 2015 SC 518

Supreme Court directed the state to provide compensation of ten lakh rupees as an interim compensation.

In the famous case of *Laxmi v Union of India, 2016*³⁶ The victim girl was an acid attack survivor and was awarded suitable compensation of three lakh rupees with full medical expenses to be borne by the state. In an earlier case of *Mohd Harun v Union of India, 2014*³⁷ The Supreme Court emphasized that there is a need to provide immediate compensation that has to be seen by the District Legal Service Authority which will determine the quantum of punishment to be provided.

In recent case of *Zorawar Singh v Gurbax Singh Bains, 2015*³⁸, the Supreme Court held that if there is some delay in investigation then the compensation to the victim shall be given by the erring officer in investigation. In case of *Tekram v State of Madhya Pradesh, 2016*³⁹, a blind girl was sexually molested by the accused and the victim was later provided with compensation of rupees eight thousand per month for the entirety of her life. This is a landmark judgement in a view that all the states and union territories were directed that there shall be some uniform scheme of compensation for such women victims.

The judgments of the Court referred to above clearly show that the case law on countervailing justice has gradually but steadily taken shape in India and is taking on new dimensions at present.

³⁶ (2016) 3 SCC 699

³⁷ (2014) 5 SCC 252

³⁸ (2015) 2 SCC 572

³⁹ (2016) 4 SCC 461

5. CRITICAL ANALYSIS

The concept of compensation to a victim has remained a concept in the nascent and continues to develop at a very slow rate. Although the judiciary in India does not still advocate the old outdated approach for only monetary compensation as a support to the victim moreover there is much more momentum to pace at for assisting the victims from all and various angles. Through the various case laws as seen earlier in the paper, there is a dire need in India for a system of jurisprudence in criminal law that is more victim-centric and affords to cater to the various distinct needs for the justice of a victim. Such a compensation scheme shall be holistic in nature which can cover the assistance in various forms like through rehabilitative measures, psychological support, and prosecution to integrate the victim back when she/he returns to an environment having societal norms.

A successful victim compensation scheme in our country shall not only define the roles of several stakeholders in the process but must also render transparency in the matter of accountability and budget. The state exchequer in such cases shall and must always be prepared for meeting the contingencies and for supporting the victim through financial expenditure incurred by him/ her. This can also have various ways through which funds can be channelized from international associations and the general public.

The law as for the compensation is concerned under the Criminal Procedure Code Amendment Act and as per the recommendations of the law commission is limited to the knowledge that is primarily scholarly. However, the state agencies and legislature can realize and integrate the stakeholders and victims of such cases in a proper law making-process according to the complaints and data of applications by the victims.

There is a need for the criminal justice machinery in our country to be reinvented and rejuvenate so that it focuses on the nature of the crimes from the perspective of the effect that it can have upon a victim and reactions that it may have from the society in which the victim resides and gets back after being wronged. Justice to a victim not only can be done through monetary compensation but conscious choices can be made through providing for proper rehabilitation of victims of heinous crimes.

6. CONCLUSION & SUGGESTIONS

The concept of compensation to a victim has remained a concept in the nascent and continues to develop at a very slow rate. Victim Compensation in India has to be treated to be more than just remaining in the circumference of Section 357 or even Section 357A per se. It must envision some scheme that harmoniously binds the criminal procedures along with the role of courts, rehabilitative support, civil remedy, and accountability of the state. The contemporary law regarding compensatory jurisprudence shall be redesigned and reformed in sync with the international standards regarding the subject. Further, the engagement of victims and their involvement is equally important for recommending and reforming the compensation system that focuses on empowering the victims. To ensure that all the states of the country move forward progressively and in harmony, it is important that all states work together in recommendations and follow consistent and unvarying standards for computing the quantum of the compensation. In the states where various multiple relief schemes for the victims exist, these shall be brought into light for benefitting victims through relief funds. Besides the instances where the judges think that compensation cannot be provided, other redressal mechanisms must be placed which may assist the victim. For successful implementation of these suggestions and developing the victims' position in the criminal justice system, various members of the judiciary and administration like police, courts, SLISA and DLISA, etc. shall work in harmony for the greater good.

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