

THE TAMIL NADU VICTIM COMPENSATION SCHEME, 2013



LAWYER STATUTES

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[G.O. (Ms.) No.1055, Home (Police.XII), 30th November 2013.]

No.II(2)/HO/898(a)/2013.

In exercise of the powers conferred by Section 357-A of the Code of Criminal Procedure, 1973 (Act 2 of 1974), the Governor of Tamil Nadu in co-ordination with the Central Government hereby prepares the following scheme for providing funds for the purpose of compensation to the victim or his dependents who have suffered loss or injury as a result of the crime and who require rehabilitation, namely:-

SCHEME

1. Short title.- This scheme shall be called the **Tamil Nadu Victim Compensation Scheme, 2013.**

2. Definitions.- In this Scheme, unless the context otherwise requires:-

(a) **“Code”** means the **Code of Criminal Procedure, 1973 (Central Act 2 of 1974)**;

(b) **“crime”** means illegal acts of omission or commission made punishable by any Law or an offence committed against the human body of the victim;

(c) **“dependents”** means spouse, father, mother, unmarried daughter, minor children and other legal heirs of the victim who, on providing sufficient proof, is found fully dependent on the victim by the District Legal Services Authority;

(d) **“family”** means parents, children and includes all blood relations living in the same household;

(e) **“Fund”** means the Victim Compensation Fund established under **clause 3**;

(f) **“Schedule”** means Schedule appended to this Scheme;

(g) **“Scheme”** means the Tamil Nadu Victim Compensation Scheme; and

(h) **“State”** means the State of Tamil Nadu



3. Victim Compensation Fund.- (1) There shall be constituted a fund, namely, Victim Compensation Fund.

(2) The Victim Compensation Fund shall consist of:-

(a) budgetary allocation for which necessary provision shall be made in the annual budget by the State;

(b) fine imposed under **section 357** of the Code and ordered to be deposited by the Courts in the Fund.

(c) amount of compensation recovered from the accused under **clause 9** of the Scheme.

(d) donations and contributions received from International or National philanthropist or charitable institutions or organizations and individuals.

(3) The Home, Prohibition and Excise Department shall be the Nodal Department for regulating, administering and monitoring the Scheme.

(4) The Director General of Police, Tamil Nadu, Chennai- 600 004, shall be accountable for his functions under the Scheme and for furnishing periodical returns of the amounts remitted to him by the State Government through the Nodal Department.

(5) The Fund shall be operated by the Director General of Police, Tamil Nadu, Chennai- 600 004.

Author's Note:- The Code of Criminal Procedure, 1973 (2 of 1974), Sec. 357. Order to pay compensation.- (1) When a Court imposes a sentence of fine or a sentence (including a sentence of death) of which fine forms a part, the Court may, when passing judgment, order the whole or any part of the fine recovered to be applied -

(a) in defraying the expenses properly incurred in the prosecution;

(b) in the payment to any person of compensation for any loss or injury caused by the offence, when compensation is, in the opinion of the Court, recoverable by such person in a civil court;

(c) when any person is convicted of any offence for having caused the death of another person or of having abetted the commission of such an offence, in paying compensation to the persons who are, under the Fatal Accidents Act, 1855 (13 of 1855), entitled to recover damages from the person sentenced for the loss resulting to them from such death;

(d) when any person is convicted of any offence which includes theft, criminal misappropriation, criminal breach of trust, or cheating, or of having dishonestly received or retained, or of having voluntarily assisted in disposing of, stolen property knowing or having reason to believe the same to be stolen, in compensating any bonafide purchaser of such property for the loss of the same if such property is restored to the possession of the person entitled thereto.

(2) If the fine is imposed in a case which is subject to appeal, no such payment shall be made before the period allowed for presenting the appeal has elapsed, or, if an appeal be presented, before the decision of the appeal.

(3) 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 of the person who has suffered any loss or injury by reason of the act for which the accused person has been so sentenced.



(4) An order under this section may also be made by an Appellate Court or by the High Court or Court of Session when exercising its powers of revision.

(5) At the time of awarding compensation in any subsequent civil suit relating to the same matter, the Court shall take into account any sum paid or recovered as compensation under this section.

4. Eligibility for compensation.- (1) A victim or his dependents shall be eligible for the grant of compensation under the Scheme where:-

(a) a recommendation is made by the Court under **sub - section (2) or (3) of section 357-A of the Code** or the Victim or his dependents make an application to the State or the District Legal Services Authority for award of compensation under **sub - section (4) of Section 357-A of the Code**;

(b) the victim or his dependents shall report the crime to the officer-in-charge of the Police Station or any senior police officer or Executive Magistrate or Judicial Magistrate of the area within forty eight hours of the time of the occurrence of the crime:

Provided that the State or the District Legal Services Authority, if satisfied, for the reasons to be recorded in writing, may condone any delay in reporting the crime;

(c) the offender is traced or identified and a trial has taken place, the victim or his dependents has co-operated with the police and the prosecution during the investigation and trial of the criminal case;

(d) the crime, on account of which the compensation is to be paid under this Scheme has been occurred within the territorial limits of the State.

Author's Note:- The Code of Criminal Procedure, 1973 (2 of 1974), Sec. 357A.- (1) Every State Government in co-ordination with the Central Government shall prepare a scheme for providing funds for the purpose of compensation to the victim or his dependants who have suffered loss or injury as a result of the crime and who require rehabilitation.

(2) Whenever a recommendation is made by the Court for compensation, the District Legal Service Authority or the State Legal Service Authority, as the case may be, shall decide the quantum of compensation to be awarded under the scheme referred to in sub-section (1).

(3) If the trial Court, at the conclusion of the trial, is satisfied that the compensation awarded under section 357 is not adequate for such rehabilitation, or where the cases end in acquittal or discharge and the Victim has to be rehabilitated, it may make recommendation for compensation.

(4) Where the offender is not traced or identified, but the victim is identified, and where no trial takes place, the victim or his dependants may make an application to the State or the State Legal Services Authority for award of compensation.

(5) On receipt of such recommendations or on the application under sub-section (4), the State or the District Legal Services Authority shall, after due enquiry award adequate compensation by completing the enquiry within two months. (6) The State or the District Legal Services Authority, as the case may be, to alleviate the suffering of the victim, may order for immediate first-aid facility or medical benefits to be made available free of cost on the certificate of the police officer not below the rank of the officer in charge of the police station or a Magistrate of the area concerned, or any other interim relief as the appropriate authority deems fit.

5. Procedure for grant of compensation.- (1) Whenever a recommendation is made by the court under **sub-section (2) of Section 357-A of the Code** or an application is made by any victim or his dependents under **sub-section (4) of**



said Section 357-A to the State or the District Legal Services Authority, the State or the District Legal Services Authority shall examine the case, verify the contents of the claim with regard to the loss or injury caused to the victim arising out of the reported crime. The said Authority may also call for any other relevant information which may be necessary in order to determine the genuineness of the claim for compensation. After verifying such claim and conducting due enquiry, the State or the District Legal Services Authority shall award adequate compensation within two months, in accordance with the provisions of the Scheme.

(2) Compensation under the Scheme shall be paid subject to the condition that if the trial court while passing judgement at a later date, order the accused person to pay any amount by way of compensation under **sub-section (3) of section 357 of the Code**, the victim or his dependents shall remit an amount equal to the amount of compensation paid under the Scheme or the amount ordered to be paid under **sub-section (3) of said Section 357**, whichever is less. An undertaking to this effect shall be given by the victim or his dependents before the disbursal of the compensation amount. The trial Court, appellate Court, the Court of Session or the High Court, while releasing the compensation amount paid by the accused persons under sub-section (3) of Section 357 of the Code to the victim shall ensure that the victim has remitted back the compensation amount disbursed by the State under section 357-A of the Code so as to avoid payment of double compensation for the same loss or injury.

(3) The State or the District Legal Services Authority shall decide the quantum of compensation to be awarded to the victim or his dependents on the basis of loss or injury caused to the victim, medical expenses to be incurred on treatment, minimum sustenance amount required for rehabilitation including such incidental charges as funeral expenses, etc. The compensation may vary from case to case depending on the facts of each case.

(4) The quantum of compensation to be awarded to the victim or his dependents shall be subject to the maximum limit specified in the Schedule.

(5) The amount of compensation decided under the Scheme shall be disbursed to the victim or his dependents, as the case may be, from the Fund. While making payment of the amount of compensation, the District Collector or the Commissioner of Police shall ensure that all the provisions of the Scheme are strictly complied with.

(6) Any other compensation paid to the victim or his dependents by the State Government in relation to the crime, such as insurance, ex-gratia, Hon'ble Chief Minister's Public Relief Fund, Hon'ble Chief Minister's Accident Relief Fund, Victims Assistance Fund or interim relief under the scheme or any payment made under any other Act or any other State-run Scheme, shall be considered as part of the compensation amount decided under the Scheme. The victim or his dependents who have already received compensation amount from the other sources mentioned above shall be deemed to be compensated under the Scheme and shall not be entitled to separate compensation under the Scheme. If the compensation amount decided under the Scheme exceeds the payments made to the victim or his dependents from the other sources mentioned above, the balance amount shall be paid from the Fund.

(7) The award of compensation made by the Motor Accidents Claims Tribunals under the **Motor Vehicles Act, 1988 (Central Act 59 of 1988)**, shall not be compensated towards the compensation decided under the Scheme.

(8) The State or the District Legal Services Authority, to alleviate the suffering of the victim, may order for immediate first aid facility or medical benefits to be made available free of cost on the certificate of the police officer not below the



rank of the officer-in-charge of the Police Station or a Magistrate of the area concerned, or any other interim relief, as it may deem fit.

6. Interim relief to acid attack victims.- (1) Notwithstanding anything contained in this Scheme, the State or the District Legal Services Authority shall award an interim relief of Rupees three lakhs to the acid attack victims under **sub-section (6) of Section 357-A of the Code**, as the after care and rehabilitation cost on the certificate of the officer-in-charge of the Police Station or the Magistrate of the area concerned. Out of the said amount, a sum of Rupees one lakh shall be paid to the acid attack victim within fifteen days of the date of reporting of the crime and the balance amount of Rupees two lakhs shall be paid to the victim within two months after the date of sanction of initial relief of Rupees one lakh.

(2) The above interim relief shall be subject to the provisions of **clause 5** as may be applicable and it shall be sanctioned, drawn and disbursed to the acid attack victims by the authorities as specified in **clause 7**.

7. Procedure for sanction, drawal and disbursement.- (1) The Secretary to Government, Home, Prohibition and Excise Department shall sanction the compensation amount awarded by the State Legal Services Authority. The District Collectors concerned in respect of the Districts and the Commissioners of Police in respect of Cities coming under a Police Commissionerate shall draw and disburse the above compensation amount to the victims or his dependents within one month from the date of receipt of sanction order from the Home, Prohibition and Excise Department.

(2) The District Collectors in the Districts and the Commissioners of Police in Cities coming under a Police Commissionerate shall sanction the compensation amount awarded by the District Legal Services Authority or the trial Court. They shall draw and disburse the sanctioned amount to the victim or his dependents within one month from the date of receipt of award from the District Legal Services Authority.

8. Order to be placed on record.- Copy of the order of compensation passed under the Scheme shall be placed on record of the trial Court to enable the Court to pass order of compensation under **sub-section (3) of Section 357** of the Code, if any.

9. Recovery of compensation awarded to victim from wrongdoer / accused.- The State or the District Legal Services Authority, if deem it proper, may institute proceedings before the competent court of law for recovery of the compensation granted to the victim or his dependents from the person responsible for causing loss or injury as a result of the crime committed by him.

10. Limitation.- No claim made by the victim or his dependents under **sub-section (4) of Section 357-A of the Code** shall be entertained after a period of six months after the date of commission of the crime:

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

11. Appeal.- Any victim or his dependents aggrieved by the denial of compensation by the District Legal Services Authority may file an appeal before the State Legal Services Authority and any victim or his dependents aggrieved by the denial of compensation by the State Legal Services Authority may file an appeal before the State Government within a period of ninety days from the date of receipt of the order of such denial of compensation :

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

APPENDIX

Serial Number	Particulars of loss or injury	Amount of Compensation
(1)	(2)	(3)
1.	Loss of life	Up to Rs. 3.00 lakh
2.	Loss of any limb or part of body (more than 80%)	Up to Rs. 2.00 lakh
3.	Loss of any limb or part of body (more than 50%)	Up to Rs. 1.00 lakh
4.	Loss of life due to acid attack	Up to Rs. 3.5 lakh
5.	Rape	Up to Rs. 3.00 lakh
6.	Loss or injury causing severe mental agony to women and children in cases like human trafficking, kidnapping, molestation, etc.	Up to Rs. 1.00 lakh

The following expenses shall be payable in addition to the compensation outlined above:-

1.	Funeral expenses	Rs. 2, 000
2.	Medical expenses – Actual expenses incurred before death or on account of injury as supported by bills or vouchers.	Up to Rs. 1, 50, 000/- (can be brought under Health Insurance Scheme)

The Health Department shall take measures to provide treatment to the victims of acid attack under the **Hon'ble Chief Minister Comprehensive Health Insurance Scheme**.

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Statutes Referred in this Scheme:-

1. *Code of Criminal Procedure, 1973 (2 of 1974)*
2. *Motor Vehicles Act, 1988 (59 of 1988)*

Other Relevant Laws:-

The Union Territory of Puducherry Victim Assistance Scheme, 2012 – as amended by Union Territory of Puducherry Victim Assistance (Amendment) Scheme, 2013.

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