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HOME DEPARTMENT

NOTIFICATION

The 31st March, 2017

No. 12187—HOME-CHR-VCS-0001-2015-CP&M—In exercise of the powers conferred by the provision of Section 357-A of the Code of Criminal Procedure, 1973, (2 of 1974), and in supersession of the Odisha Victim Compensation Scheme, 2012 and the subsequent amendments effected thereto and in pursuance of the guidelines issued by the Central Government, the State Government of Odisha do hereby make the following scheme to regulate payment of compensation to the victims of crime or their family members, namely: —

1. Short Title and Commencement:-

- (1) This Scheme may be called “The Odisha Victim Compensation Scheme, 2017”.
- (2) It shall come into force on the date of its publication in the *Odisha Gazette*.

2. Definitions : — In this scheme, unless the context otherwise requires, —

- (a) “Act” means the Code of Criminal Procedure, 1973.
- (b) “District Legal Services Authority” and “State Legal Services Authority” shall respectively mean a District Legal Services Authority and the State Legal Services Authority constituted under Section 9 and Section 6 of the Legal Services Authorities Act, 1987 respectively.
- (c) “Fund” means the Victim Compensation Fund.
- (d) “Schedule” means the Schedule appended to this scheme.
- (e) “State Government” means the Government of Odisha.
- (f) “Loss or injury” means as defined in the Schedule, and
- (g) “Victim” means a person who himself/herself suffered loss or injury as a result of crime and requires rehabilitation and in case of his/her death also his/her dependants:

Provided that where the victim is a minor, his/her parents would be dependants in case they are found to have been affected by the crime or in case the perpetration of crime has left a scar on their dependant family members.

2. Objectives of the Scheme : —

The Scheme aims at providing: —

- (a) Financial assistance to the victim ; and
- (b) Support services such as shelter, counseling, medical aid, legal assistance, education and vocational training depending upon the needs of the victim.

4. Victim Compensation Fund :-

- (a) There shall be constituted a Fund namely, Victim Compensation Fund from and out of which the amount of compensation shall be paid to the Victim or his/her dependants, as the case may be.
- (b) The Fund shall be operated by the Member Secretary, State Legal Services Authority.
- (c) There shall be credited to the Fund—
 - (i) Money out of budget provision made by the State Government for the purpose of the Scheme;
 - (ii) All grants, subscriptions, donations and gifts made by the Central Government, State Government, any local authority or anybody, whether incorporated or not or any person ; and
 - (iii) All other sums received by or on behalf of the victims compensation from any source whatsoever including in compliance to any court order.

5. Target Group/Beneficiaries :-

The Scheme shall cover the victims and in case of death of the victim, his/her dependants or the member/members of the family of victim who have suffered the atrocity resulting from crime or by the crime, the member/members who have been visited with a scar and would be eligible for compensation as per the compensation order.

6. Assistance under the Scheme :-

- (a) Under this scheme, the victim or dependants, as the case may be, shall be entitled to financial assistance and restorative support services.

- (b) Assistance under the scheme shall be available in respect of each of the cases where the F.I.R. is lodged.
- (c) The victim or his / her dependants may make an application to the State or District Legal Services Authority.

7. Eligibility for compensation :-

The victim satisfying the following criteria shall be eligible for compensation:

- (a) He/She has not been compensated for the loss or injury under any other scheme of the Central or the State Government or Insurance Company or any other institution. The victim shall inform to the authority the details of claims for compensation made under any other scheme or from any other source. The victim will be free to choose another scheme of Government, if the same is more beneficial to him or her. He/She cannot claim both, or part benefit from one scheme and part from another.
- (b) Loss or injury sustained by the victim have caused substantial loss to the income of the family making it difficult to live as before without the financial aid or has affected his/her dignity or personality or the medical treatment of mental/physical injury should have caused financial stress for the family.
- (c) The victim shall co-operate with the police and prosecution from the stage of investigation till conclusion of trial of the case.

8. Authorities responsible for implementation of the Scheme :-

(A) District Legal Services Authority

The District Legal Services Authority in every district will have the exclusive jurisdiction to deal with applications for assistance received under the Scheme in that district.

(B) Functions of the District Legal Services Authority :-

The District Legal Services Authority shall perform the following functions:-

- (a) To consider the claims and provide financial assistance and support services, as the case may be, in accordance with the procedure prescribed under the scheme.
- (b) To arrange for psychological, medical and legal assistance to the affected persons.
- (c) To arrange for counseling support to the affected woman including counseling of the spouse in case the affected woman is married.

- (d) To arrange shelter for the affected woman for such period as may be required.
- (e) To arrange for education or vocational/professional training, as the case may be, for the affected woman under the ongoing schemes/programs should she require such a support for rehabilitation.
- (f) Issue directions to the appropriate authorities to provide protection to the affected persons whenever deemed necessary.
- (g) Whenever a recommendation is made by the Court or an application is made by any victim under Sub-Section 4 of Section 357-A of the Code to the District Legal Service Authority, the District Legal Service Authority shall examine the case and shall verify the contents of the claim with regard to the loss or injury caused to the claimant and also may call for any other relevant information necessary for consideration of the claim from the concerned.
- (h) The District Legal Service Authority shall decide the quantum of compensation to be awarded to the victim on the basis of loss 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 fact of each case.
- (i) The quantum of compensation to be awarded to a victim under this scheme shall not exceed the maximum limit as per the Schedule.
- (j) The amount of compensation as decided by the District Legal Service Authority in accordance with the Schedule shall be disbursed to the victim from the Fund.

9. **Procedure for grant of compensation:-**

- (a) Whenever a recommendation is made by the Court or an application is made by any victim under Sub-Section (4) of Section 357-A of the Code to the District Legal Service Authority, the District Legal Service Authority shall examine the case and verify the contents of the claim with regard to the loss or injury caused to victim and arising out of the reported criminal activity and may call for any other relevant information necessary in order to determine genuineness. After verifying the claim, the District Legal Service Authority shall after due enquiry award compensation within two months from the date of recommendation of the court or application received from the victim subject to the provisions contained hereinafter.

- (b) Compensation under this Scheme shall be paid subject to the condition that if the trial Court while passing judgment at later date, orders the accused persons to pay any amount by way of compensation under Sub-Section (3) of Section 357 of the Act, the victim shall remit an amount ordered equal to the amount of compensation, or the amount ordered to be paid under the said sub-section (3) of Section 357 of the Act, whichever is less. An undertaking to this effect shall be given by the victim before the disbursal of the compensation amount.
- (c) The District Legal Service Authority shall decide the quantum of compensation to be awarded to the victim on the basis of loss 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. In case of grant of compensation less than the maximum fixed for the reasons to be recorded in writing.
- (d) The quantum of compensation to be awarded under the scheme shall be disbursed to the victim or his dependents, as the case may be, from the Fund. The quantum of compensation to be awarded to a victim under this scheme shall not exceed the maximum limit as specified in the Schedule.
- (e) Compensation received by the victim from the State in relation to the crime in question, namely, insurance, *ex gratia* and/or payment received under any other Act or State run scheme or Central run scheme, shall be considered as part of the compensation amount under the scheme and if the compensation amount as decided by the District Legal Services Authority exceeds the payments received by the victim from the sources mentioned above, the balance amount shall be paid out of the Fund.
- (f) The victims of cases covered under the Motor Vehicle Act, 1988 (59 of 1988) wherein compensation is awarded by the Motor Accident Claims Tribunal or under the provisions of the Code, shall not be covered under the Scheme.
- (g) The cases Covered under S.C. & S.T. (POA) Act and P.C.R. Act, 1955 shall not be covered under the Scheme.
- (h) The compensation awarded shall be paid in two phases, first half being within any time before commencement of trial and the rest half on conclusion of trial subject to the satisfaction to be recorded in writing by the District Legal Services Authority basing upon the opinion of the public prosecutor concerned that the victim cooperated with the prosecution during trial.

- (i) The District Legal Services Authority, to alleviate the suffering of the victim may order for immediate first aid facility of medical benefits to be made available free of cost on the certificate of the officer-in-charge of the police station or Magistrate of the area concerned, or any other interim relief as it may deem fit.
- (j) The payment of Compensation from the Fund will be made by Account Payee Cheque or electronic money transfer to the Account of the payee.
- (j) Any compensation awarded by the order of Special Court under Sub-Section (8) of Section 33 of the Protection of Children from Sexual Offence Act, 2013 shall be paid from the fund under this scheme.

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 twelve months from the date of crime.

11. **Appeal:-**Any victim aggrieved of the decision made by the District Legal Services Authority regarding compensation may file an appeal before the State Legal Services Authority within a period of ninety days from the date of such decision:

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

12. **Submission of quarterly details:-**The State Legal Services Authority shall submit quarterly the details of payment of compensation to victims under the scheme to State Government and shall also place requisition for requirement of more funds for proper and effective implementation of the scheme.
13. The present scheme will apply to all the pending cases where no award has been passed as on the date of coming into effect of the present Scheme.
14. **Interpretation:-** If any question arises relating to interpretation of these rules, it shall be referred to State Government for clarification or decision.

SCHEDULE

Sl. No.	Particulars of loss or injury	Maximum limit of compensation payable
(1)	(2)	(3)
1	Death (Loss of life)	Rs. 2,00,000
2	Rape	Rs. 3,00,000
3	Physical Abuse of Minor	Rs. 2,00,000
4	Rehabilitation of Victim of Human Trafficking	Rs. 1,00,000
5	Sexual Assault (Excluding Rape)	Rs. 50,000
6	Permanent Disability (More than 80%)	Rs. 2,00,000
7	Partial Disability (40% to 80%)	Rs. 1,00,000
8	Burn greater than 25% (Excluding acid attack)	Rs. 2,00,000
9	Loss of foetus	Rs. 50,000
10	Loss of fertility	Rs. 1,50,000
11	Acid Attack	Rs. 3,00,000
12	Loss or injury causing severe mental agony to women and child victims in cases like Human Trafficking.	Rs. 10,000
13	Harassment of child due to being used for pornographic purposes.	Rs. 20,000

Note: Specification of the amount of compensation as per the schedule above is subject to the condition that if the competent court / Authority passing the award feels for the reasons to be recorded in writing that the award of compensation be more than the maximum amount as specified, then special order of the State Government shall be necessary for payment of the excess amount of compensation.

Explanation:

1. For the purpose of assessing the percentage or gravity of disability, physical abuse, injuries or determining loss of fetus, loss of fertility, or mental agony the certificate of Chief District Medical Officer or Sub-Divisional Medical Officer, as the case may be, shall be conclusive unless the Competent Court or Authority finds it unacceptable for the reasons to be recorded in writing.
2. For the purpose of a child being used for pornography or mental agony to the victim of Witchcraft or of Human Trafficking, the report of the investigating officer including the copy of the FIR shall be the *prima facie* proof of the incident.
3. In the case of victimization due to human trafficking the question of rehabilitation shall be decided by the concerned District Legal Services Authority after due enquiry.

By order of the Governor

ASIT TRIPATHY

Principal Secretary to Government