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കേരള ഗസറ്റ്
KERALA GAZETTE

അസാധാരണം
EXTRAORDINARY

ആധികാരികമായി പ്രസിദ്ധപ്പെടുത്തുന്നത്

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GOVERNMENT OF KERALA

Home (C) Department

NOTIFICATION

G. O. (Ms.) No. 224/2017/Home.

Dated, Thiruvananthapuram, 5th November, 2017
20th Thulam, 1193.

S. R. O. No. 755/2017.—In exercise of the powers conferred by section 357A of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974), and in supersession of G. O. (Ms.) No. 37/14/Home, dated 24-2-2014 published as S. R. O. No. 167/2014 in the Kerala Gazette Extraordinary No. 731 dated 25-2-2014, the Government of Kerala, in co-ordination with the Central Government, hereby make 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 and commencement.*—(1) This scheme may be called the Kerala Victim Compensation Scheme, 2017.

(2) It shall come into force at once.

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

(a) “applicant” means a victim or the dependent of a victim who applies for compensation;

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

(c) “Fund” means the Victim Compensation Fund constituted under paragraph 3;

(d) “injury” means any injury specified in the Schedule;

(e) “loss”, includes loss to property occurred as a result of an injury;

(f) “probation officer” means an officer appointed by the State Government as a probation officer under section 13 of the Probation of Offenders Act, 1958 (20 of 1958);

(g) “Schedule” means the Schedule appended to this scheme;

(h) “State” means the State of Kerala;

(i) “victim” shall have the same meaning as assigned it in Section 2 (wa) of the Criminal Procedure Code (Act 2 of 1974);

(j) Dependent includes wife, husband, father, mother, unmarried daughter, minor children and such other persons as may be determined by the District Legal Services Authority concerned as dependents of the Victim;

(k) All other words and expressions used herein and not defined, but defined in the Criminal Procedure Code, 1973 (Central Act 2 of 1974), Indian Penal Code, 1860 (Central Act 45 of 1860) or the Kerala General Clauses Act have the same meanings respectively as assigned to them in the said Acts.

3. *Constitution of Victim Compensation Fund.*—(1) There shall be a Fund to be constituted, namely the “Victim Compensation Fund”.

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

(a) budgetary allocation made in the annual budget by the State;

(b) receipt of amount of fines imposed under section 357 of the Code;

(c) donations and contributions received from International or National Charitable Institutions, organisations and individuals;

(d) Contribution from corporate social responsibility funds of various public and private undertakings;

(e) ½rd of the earnings by the convicted prisoners in jail;

(f) Cost ordered earmarked for this purpose by Criminal Courts.

(3) The amount in the Fund shall be held in Public Account under the new head of account.

(4) The existing head of account in which the fines and fees are deposited as per section 357 of the Code have to be credited to the newly opened head of account.

(5) The Home Department shall be the Nodal Department for regulating, administering and monitoring the scheme.

(6) The Fund shall be operated by the Member Secretary, Kerala State Legal Services Authority.

(7) The State Legal Services Authority shall submit to Government, through the nodal department an annual report comprising, inter alia, of the consolidated receipts to and expenditure from the Victim Compensation Fund.

4. *Eligibility for Compensation.*—The victim or his dependent shall be eligible for compensation under the scheme in the following cases, namely:—

(a) where a recommendation is made by the Court under sub-section (2) or sub-section (3) of section 357A of the Code;

(b) where the offender is not traced or identified, but the victim is identified and where no trial takes place and in which case, the victim or his dependent may make an application to the District Legal Services Authority;

(c) the crime, on account of which the compensation is to be paid under the scheme, should have been occurred within the State.

Exception.—In case, the crime has occurred outside the State and the victim is found within the limit of the State, he/she shall be eligible for interim relief contemplated under sub-section (6) of section 357A of the Code.

5. *Procedure for grant of compensation.*—(1) On receipt of the recommendation by the trial court or on application under sub-section (4) of section 357 A of the Code, the District Legal Services Authority shall, after due enquiry through appropriate authority as deemed fit by the State or the District Legal Services Authority, award adequate compensation by completing the enquiry within two months.

(2) The District Legal Services Authority shall examine and verify the contents of the claim with regard to the loss or injury caused to the victim and arising out of the crime. The Authority may call for any relevant information necessary to determine the genuineness of the claim. After verifying the claim and conducting due enquiry, the District Legal Services Authority shall award adequate compensation within two months, in accordance with the provisions of the scheme.

(3) The District Legal Services Authority 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 an officer-in-charge of the police station or a Judicial or Executive Magistrate of the area concerned or any other interim relief as deemed fit by the Authority.

(4) The amount of compensation will be decided by the District Legal Services Authority based on the standard criteria given in the Schedule appended to the scheme.

(5) Compensation shall be paid as a single lump sum or in two instalments as decided by the District Legal Services Authority.

(6) The District Legal Services Authority shall decide the quantum of compensation under sub-section (2) and (3) of section 357A of the Code within sixty days of the receipt of the recommendation.

(7) The District Legal Services Authority shall decide the quantum of compensation on the basis of loss caused to the victim, medical expenses incurred on treatment, minimum sustenance amount required for rehabilitation including incidental charges like funeral expenses.

(8) In the case of compensation to victim of rape/victim under trauma, the matter shall be informed to the probation officer in the district concerned for effective rehabilitation and continuous evaluation.

(9) 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. Compensation received from the public sector undertakings shall be considered as part of the compensation amount under this scheme.

(10) The cases covered under the Motor Vehicles Act, 1988 (Central Act 59 of 1988) wherein compensation is to be awarded by the Motor Accidents Claims Tribunal, shall not be covered under the scheme.

(11) The District Legal Services Authority, shall institute proceedings before the competent court of law for recovery of the compensation, granted to the victim or his dependent, from the victim if found ineligible later.

6. *Disbursement of compensation.*—(1) Disbursement of compensation will be done through a nationalised bank account.

(2) In the case of a victim who is a minor, the amount of Compensation awarded shall be deposited in the account of the minor as fixed deposit, to be withdrawn only on attainment of his

majority. In exceptional cases, the amount of compensation can be withdrawn for educational or medical needs of the beneficiary by the competent person as decided by the District Legal Services Authority/ Appeal Authorities.

(3) In case of acid attack a sum of ₹ 1 lakh (one Lakh) shall be paid to such victim within 15 days of such incidents.

7. *Rejection, withholding or reduction of compensation.*—The District Legal Services Authority may reject, withhold or reduce the award of compensation where the Authority considers that:—

(a) the applicant failed to inform the crime to the Police Officer without reasonable delay;

(b) the applicant failed to co-operate with the police officer or other authority to bring the accused before justice;

(c) the applicant failed to give all reasonable assistance to the District Legal Services Authority or other related authorities in connection with the application;

(d) the eligibility of the victim as shown by the facts and circumstances of the case does not justify award of compensation.

8. *Dependency Certificate.*—The dependency shall be decided by the Legal Services Authority within a period of fifteen days from the date of receipt of the application.

9. *Limitation.*—No claim made by the victim or his dependent under sub-section (4) of section 357A of the Code shall be entertained after a period of one hundred and eighty days from the occurrence of the crime. The District Legal Services Authority, if satisfied, for reasons to be recorded in writing, may condone the delay in filing the said claim.

10. *Appeal.*—(1) Any victim or his dependents aggrieved by the rejection of his claim by the District Legal Services Authority may file an appeal before the State Legal Services Authority within a period of ninety days:

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

(2) A decision made by the District Legal Services Authority and accepted by the applicant will normally be considered as final. The State Legal Services Authority may, however, subsequently re-open a case where there has been such a material change in the medical condition of the victim that injustice would occur if the original assessment of compensation were allowed to stand, or where the victim has died in consequence of the injury.

SCHEDULE

COMPENSATION TO VICTIMS FOR INJURY/LOSS

<i>Sl. No.</i>	<i>Description of Injury/loss</i>	<i>Minimum Amount of compensation</i>
(1)	(2)	(3)
1	Death	₹ 2 lakhs
2	Culpable homicide not amounting to murder	₹ 1.5 lakhs
3	Causing death by negligence	₹ 2 lakhs
4	Dowry related violence	₹ 2 lakhs
5	Permanent Disability (80% or more)	₹ 2 lakhs
6	Partial Disability (40% to 80%)	₹ 1 lakhs
7	Burns affecting greater than 25% of the body (excluding acid attacks)	₹ 2 lakhs
8	Burns affecting less than 25% of the body (excluding acid attacks)	₹ 2 lakhs
9	Loss of foetus	₹ 50,000
10	Physical abuse of minor	₹ 2 lakhs

(1)	(2)	(3)
11	Rape	₹ 3 lakhs
12	Sexual assault (excluding rape)	₹ 50,000
13	Fracture/dislocations	₹ 1.5 lakhs
14	Injury resulting in surgery/serious damage to vital organs	₹ 2 lakhs
15	Loss of fertility	₹ 1.5 lakhs
16	Major injuries not specified otherwise	₹ 1 lakh
17	Minor injuries not specified otherwise	₹ 50,000
18	Acid Attack (Disfigurement of greater than 40%)	₹ 3 lakhs
19	Acid Attack (Disfigurement of less than 40%)	₹ 1 lakh
20	Rehabilitation (in addition to 1 to 19 above)	₹ 1 lakh
21	Rehabilitation of victim of Human Trafficking	₹ 1 lakh
22	Woman victims of cross border firing:	
	(a) Death or Permanent Disability (80% or more)	₹ 2 lakhs
	(b) Partial Disability (40% to 80%)	₹ 1 lakh

Note:—If the victim is 14 years or less, the compensation shall be increased 50% more than specified above.

By order of the Governor,

SUBRATA BISWAS,

Additional Chief Secretary to Government.

Explanatory Note

(This does not form part of the notification, but is intended to indicate its general purport.)

As per notification issued under G. O. (Ms.) No. 37/2014/Home, dated 24th February, 2014 and published as S. R. O. No. 167/2014 in the Kerala Gazette Extraordinary No. 731 dated 25th February, 2014, the Government of Kerala have implemented the Victim Compensation Scheme in exercise of powers conferred by section 357A of the Code of Criminal Procedure for providing funds for the purpose of compensation to the victims or his dependents who have suffered loss or injury as a result of crime and who require rehabilitation. With the implementation of the Scheme, the Member Secretary, KELSA, the operational Authority under the Scheme have put forward certain legal infirmities that impeded the proper implementation of the Scheme. Meanwhile, the Ministry of Home Affairs, Government of India have forwarded a copy of Central Victim Compensation Fund Scheme's Guidelines with a request to modify State Victim Compensation Scheme accordingly. Since various amendment proposals were put forward for amending the existing scheme, it is decided to formulate a new Scheme by superseding the existing Scheme.

The notification is intended to achieve the above object.
