

Kerala Victim Compensation Scheme, 2014

1. *Short title and commencement.* (1) *This scheme may be called the Victim Compensation Scheme, 2014.*

(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 applied 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" means a person who has suffered any loss or injury caused by reason of the act or omission on the part of the accused and who requires rehabilitation under this scheme and includes the guardian or legal heir of such person, but does not include a person who is responsible for injury to such person;
- (j) "Dependent" includes wife, husband, father, mother, unmarried daughter and minor children of victim as determined by the authority empowered to issue dependency certificate or any other authority authorized by Government in this regard;
- (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.

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- (b) receipt of amount of fines imposed under section 357 of the Code:
- (c) donations and contributions received from International or National Charitable Institutions, organizations and individuals.

(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 be accountable for its functions under the scheme and for furnishing periodical returns of the amounts allotted to tem by the State Government through the Nodal Department.

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) of sub-section (3) of section 357 A of the Code.

(b) where the trial Court makes a recommendation, on conclusion of the trial, when it is satisfied that the compensation awarded under section 357 of the Code is not adequate for such rehabilitation or where the case ends in acquittal or discharge and the victim has to be rehabilitated;

(c) 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.

(d) Employees of Central or State Government, Boards, Corporation, Public Sector Undertakings and those whose family income exceeds the

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creamy layer limit fixed by the respective Governments from time to time will not be eligible;

(e) 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 357A of the Code, the State or 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 informations 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 or a competent medical officer of the area concerned or any other interim relief as deemed fit by the Authority.

(4) The amount of compensation 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 installments 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 357 A 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.

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(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) If the trial court, while passing judgment at a date later than the award of compensation, order the accused person to pay any amount by way of compensation under sub-section (3) of section 357 of the Code, the accused person shall remit an amount equal to the amount of compensation or the amount ordered to be paid under sub-section (3) of section 357 of the Code, whichever is less. An undertaking to this effect shall be given by the victim or his claimant before the disbursal of the compensation amount.

(10) The amount of compensation decided under the scheme shall be disbursed to the victim or his dependent from the Victim Compensation Fund. Compensation received by the victim from the State in relation to crime in question, namely, insurance, ex-gratia or payment received under any other Act or any other State scheme, shall be considered as part of the compensation amount under this scheme. The victim or his dependent who has received compensation amount from collateral sources mentioned above shall be deemed separate compensation under this scheme. If the eligible compensation amount exceeds the payments received by the victim from collateral sources mentioned above, the balance amount shall be paid out of the Fund.

(11) 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.

(12) Copy of the order of compensation passed by the District Legal Services Authority under this scheme shall be placed on record of the trial court to enable the court to pass an order of compensation under sub-section (3) of section 357 of the Code.

(13) 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 accused if found ineligible later.

6. *Disbursement of compensation*—(1) Disbursement of compensation shall be done through the Aadhar linked bank account.

(2) In the case of 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.

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(3) In case of acid attack a sum of Rs.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 officers 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 Tahsildar concerned or the authority designated as competent authority by the Government from time to time, shall issue Dependency Certificate 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/her claim by the District Legal Services Authority within a period of ninety days;

(2) A second appeal shall lie to Government in Home Department against the decision of 1st Appeal Authority, viz. State Legal Services Authority within a period of 30 days from the date of decision of the first Appeal Authority and the decision of second Appeal Authority shall be final;

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

(3) 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/Government may, however, subsequently re-open a case where there has been such a material change in the medical condition of the victim that injustice

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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

Sl.No.	Description of injury/loss	Amount of compensation
(1)	(2)	(3)
1	Death	Maximum up to Rs.5 lakhs
2	Culpable homicide not amounting to murder	Maximum up to Rs.3 lakhs
3	Causing death by negligence	Maximum up to Rs.2 lakhs
4	Dowry related violence	Maximum up to Rs.2 lakhs
5	Permanent Disability (80% or more)	Maximum up to Rs.3 lakhs
6	Partial Disability (40% to 80%)	Maximum up to Rs.1 lakh
7	Burns affecting greater than 25% of the body	Maximum up to Rs.2 lakhs
8	Burns affecting less than 25% of the body	Maximum up to Rs.20,000
9	Loss of foetus	Maximum up to Rs.50,000
10	Physical abuse of minor	Maximum up to Rs.50,000
11	Rape	Maximum up to Rs.3 lakhs
12	Sexual assault	Maximum up to Rs.50,000
13	Fracture/dislocations	Maximum up to Rs.1.5 lakhs
14	Injury resulting in surgery/serious damage to vital organs	Maximum up to Rs.2 lakhs
15	Loss of fertility	Maximum up to Rs.1.5 lakhs
16	Major injuries not specified otherwise	Maximum up to Rs.50,000
17	Minor injuries not specified otherwise	Maximum up to Rs.25,000
18	Acid Attack (Disfigurement of greater than 40%)	Maximum up to Rs.3 lakhs

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19	Acid Attack (Disfigurement of less than 40%)	Maximum up to Rs.1 lakh
20	Rehabilitation (in addition to 1 to 19 above)	Maximum up to Rs.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,

L.Radhakrishnan,
Principal Secretary to Government

Explanatory Note

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

For the purpose of implementing section 357 A of the Code of Criminal Procedure, 1973, Government have decided to make the Kerala Victim Compensation Scheme, 2014 in co-ordination with the Central Government for providing funds for the purpose of giving compensation to the victims or his dependent, who have suffered loss or injury as a result of the crime and who require rehabilitation.

The notification is intended to achieve the above object.