

15th August, 2012

NOTIFICATION

In exercise of the powers conferred by section 357-A of the Code of Criminal Procedure, 1973 (Act 2 of 1974), the Governor of Tripura hereby frames the following scheme for providing fund 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:

1] Short title & Commencement

- (i) This scheme may be called the Tripura Victim Compensation Scheme, 2012
- (ii) It shall come into effect from 15th August, 2012

2] Definition

- (i) In this scheme, unless the context otherwise required,
 - a) "Act" means the Code of Criminal Procedure, 1973 (2 of 1974);
 - b) "Schedule" means Schedule appended to this Scheme;
 - c) "State" means State of Tripura;
 - d) "Dependent" means any of spouse, dependent children upto age of 21 years (including legally adopted children) and dependent parents
 - e) "Victim" means a person who has suffered any loss or injury caused by reason of the act or omission for which the accused person has been charged and the expression 'victim' includes his or her guardian or legal heir.
- (ii) All other words and expressions used herein and not defined but defined in the Scheme shall have the same meaning assigned to them in the Scheme.

3] Victim Compensation Fund

There shall be constituted a fund namely "Victim Compensation Fund" from which amount of compensation under this scheme shall be paid to the victim or his dependents who have suffered loss or injury as a result of the crime and who require rehabilitation.

- a) The scheme shall be implemented through the Inspector General of Prisons.
- b) The balance fund in Victim Compensation Fund created under the "Victim Compensation Rules, 2007" shall form the initial corpus under the present scheme.
- c) The Victim Compensation Fund shall be credited with 20% of the wages deducted from the convicted prisoners and such other contribution and or grants as the State or Central Government or any other organization or individual may make from time to time.
- d) The fund deducted from wages of convicted persons shall be credited into the Personal Deposit Account (PDA) opened at District Level by the Superintendent of Prison and a separate Personal Deposit Account at the State Level by the Inspector General of Prisons.
- e) The fund collected in the PDA at district level will be transferred by the Superintendent of Prison to PDA maintained by Inspector general of Prisons at the end of every month.

II Eligibility for compensation

- i) Victim shall be eligible for the grant of compensation if ordered by the Court.
- j) Victim shall be eligible for the grant of compensation if,
 - a) The offender is not traced or identified, but the victim is identified and the victim has to incur a lot of expenses on physical and mental rehabilitation, such victim may also apply grant of compensation under sub-section (4) of section 357 A of the Act provided they satisfy the conditions laid down in clause (b) to (j);
 - b) The victim or claimant must report the crime to the officer-in-charge of the local Police Station under whose jurisdiction the offence was committed or to the Judicial Magistrate having jurisdiction before making claim for compensation;
 - c) The victim or claimant (in the case of death of victim) cooperates with the Police and prosecution during the investigation and trial of the case. Turning hostile, refusing to depose or turn up during trial shall be considered to be non cooperation.
 - d) The crime must be one in which the victim sustains mental or bodily injury or dies.

- (i) The death or permanent incapacitation of the victim was not the result of victim's own wrong doing or own substantial provocation.
- (ii) The victim suffers substantial loss of income as a result of the crime or is unable to take care of expenses of medical treatment for injury caused on account of crime.
- (g) Due to death of the victim as a result of the crime, dependents may claim compensation if the family becomes destitute and there is no earning member in the family who will support the dependents.
- (h) The compensation would be admissible to the victim in the event of loss of property worth Rs.1.0 lakh or more and in the event of death or permanent incapacitation of the victim because of act of crime.
- (i) Perpetrators of crime or his/her dependent will not be eligible to any compensation under the scheme.

Procedure for grant of compensation

Wherever a recommendation is made by the Court or an application is made by any victim or his dependent under sub section (2) of section 357 A of the Cr. P.C. 1973, to the District Legal Services Authority, it shall then examine the claim and verify the contents of the same with regard to the loss or injury caused to victim arising out of the reported criminal activity and may call for medical report, FIR and related papers, copy of charge sheet/final report of the investigating officer or any other relevant information necessary in order to determine genuineness of the claim. After due inquiry and being satisfied of the commission of the offence, District Legal Services Authority shall determine compensation within two months, in accordance with provisions of this Scheme appended in the schedule and forward it to the Inspector General of Prisons for payment.

The quantum of compensation to be determined under the Scheme shall be disbursed by Inspector General of Prison to the victim or his dependents as directed by the Court or the Legal Services Authority, as the case may be, either on personal appearance of the victim in the Office of the Inspector General of Prisons or by other mode of payment, but the payment must be made on an urgent basis.

iii) 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 code, the victim or claimant (in the case of death of 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 code, whichever is less. An undertaking to this effect shall be given by the victim / claimant (in the case of death of victim) before the disbursement of the compensation amount.

6] **Quantum of compensation**

- i) 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 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, but shall not exceed the amount specified in the schedule.
- ii) Compensation received by the victim or dependent 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, shall be considered as part of the compensation amount under these scheme and 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 Fund.
- iii) The case covered under Motor Vehicle Act, 1988 (59 of 1988) wherein compensation is to be awarded by the Motor Accident Claims Tribunal and cases covered under existing schemes/facilities e.g. extremist violence scheme, die-in-harness scheme etc, shall not be covered under the scheme.
- iv) The District Legal Services Authority, to alleviate the suffering of the victim, may order for immediate first aid facility or medical treatment 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 Magistrate of the area concerned, or any other interim relief as it may deem fit.
- v) In case employment is given to any family member of victim of crime, the family would not be eligible to assistance under the scheme. However, in case such employment is given after release of compensation under the scheme, the assistance would not be withdrawn.

7] Order to be placed on record

Copy of the order of compensation passed under this Scheme shall be mandatorily 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.

8] 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 of the crime.

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

9] Appeal

Any victim aggrieved of the denial of compensation 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 the reasons to be recorded in writing, may condone the delay in filing the appeal

10] Power to remove difficulties

If any difficulty arises in giving effect to provisions of this scheme, the Government may, as occasion arises, by order, do anything not inconsistent with the provisions of this scheme, which appears to be necessary to remove difficulty.

11] Repeal

The Tripura Victim Compensation Fund Rules, 2007 stand repealed from the date of 15th August, 2012.

Notwithstanding such repeal, any order issued, action taken or anything whatsoever done under the Rules so repealed shall be deemed to have been made, issued, taken or done under corresponding provisions of these scheme and the provision of Tripura General Clauses Act, 1966 will apply in determining the effect of such repeal.

By order of the Governor,


(R.P. Datta)
Deputy Secretary to the
Government of Tripura

S C H E D U L E

(I) Loss of Life:

Maximum limit of compensation shall not exceed Rs.1,00,000/- (Rupees one Lakh only)

(II) Loss of Limb/ Permanent Disability in Acid Attack:

Maximum limit of compensation shall not exceed Rs.75,000/- (Rupees seventy five thousand only)

(III) Loss of Limb/Permanent Disability in cases other than acid attack:

Maximum limit of compensation shall not exceed Rs.50,000/- (Rupees fifty thousand only).

(IV) Rape:

The compensation shall be Rs.50,000/- of which Rs.5,000/- shall be paid after preliminary verification of the complaint and the balance amount shall be sanctioned on filing of charge sheet.

(V) Loss or injury causing severe mental agony in Child abuse/Human Trafficking cases:

Maximum limit of compensation shall not exceed Rs.20,000/- (Rupees twenty thousand only)

(VI) Grievous Hurt or Loss of property in Communal Violence/Riot:

Maximum limit of compensation in such cases shall not exceed Rs.20,000/- (Rupees twenty thousand only)