

# The Constitution And Compensatory Jurisprudence

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## ABSTRACT

The roots of justice can be traced back to the components of social harmony, the collaboration between liberty and inherent dignity. The revival of the doctrine of natural rights in the context of human rights across the country is a significant development in the field of jurisprudence in the modern period. Compensation for victims is an accepted concept of law being implemented by ordinary civil courts. Under the law of torts, victims can seek compensation for the injuries to the individual or property they have experienced. It takes years and years for the victims to seek an order for damages or compensation in the civil courts, which is causing them too much suffering. The advent of countervailing jurisprudence in the light of human rights theory is a hopeful sign that the judiciary has undertaken the mission of preserving the right to life and personal liberty of all individuals, irrespective of the absence of any express constitutional provisions.

**Keywords:** Justice, Constitution, Jurisprudence, Human Rights, Victim

## INTRODUCTION

*“A stiff apology is a second insult. The injured party does not want to be compensated because he has been wronged; he wants to be healed because he has been hurt<sup>1</sup>.”*

The word “compensation” means an amendment to the continued loss. Compensation is something that is given to make it equivalent, a thing that is given to make amends for loss, recompense, remuneration or forfeiture. It is a counterbalancing of the victim’s pain and loss arising from victimization. The justification or reason for compensation may be as follows:

- As an alternative form of social insurance scheme
- Another facet of the Government/Public Aid of the Unprivileged as a welfare measure.
- A way of fulfilling the Government's neglected duty to all people.

Although the idea is new, the structure does not exist and these rights have been recognized since decades that have become part of the constitutional framework of many countries. India has acknowledged these rights under Part III of the Constitution, which provides for remedies for the protection of those rights. Article 32 of the Indian Constitution reads as follows:

“32. Remedies for enforcement of rights conferred by this Part

(1) The right to move the Supreme Court by appropriate proceedings for the enforcement of the rights conferred by this Part is guaranteed.

(2) The Supreme Court shall have power to issue directions or orders or writs, including writs in the nature of habeas corpus, mandamus, prohibition, quo warranto and certiorari, whichever may be appropriate, for the enforcement of any of the rights conferred by this Part”.

Article 32(1) provides for the right to transfer the Supreme Court by means of an effective method for the protection of constitutional rights. The Supreme Court, in accordance with Article 32(2) of the Constitution

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<sup>1</sup> G. K. Chesterton (1874-1936), British author. The Common Man’s “The Real Dr. Johnson” (1950)

of India, is free to formulate any procedure for the protection of fundamental rights and has the power to initiate any process required in that case. In the light of that constitutional clause, the Supreme Court can also offer remedial assistance, which may require reimbursement in “appropriate circumstances”.

Compensatory jurisprudence adopted by the Supreme Court of India, invoking the powers granted by Article 32 of the Constitution of India, has acquired immense significance in recent years due to a spike in instances of political anarchy, custodial torture, police lawlessness, arbitrary detention, crimes against women, imprisonment and other critical human rights abuses. Pecuniary compensation is a judicially-recognized and well-recognized way of exercising the basic rights of the courts to serve the legitimate rights of individuals to be victimized by crimes-offences-abuses of human rights.

### **Statement of problem**

The lack of victim-oriented jurisprudence is the key cause of the degradation of the situations of the victim and of the family members. Also, In India, law is not victim oriented rather it is offender oriented and suffering of victims often immeasurable, and are entirely overlooked in misplaced sympathy for the offender. Denial of any role of the victim is not only denial of justice to the victims but also would tantamount to negate the Rule of law, the fundamental of democracy and constitutionalism. The researcher will find out about the establishment of the Compensatory Jurisprudence under the Constitution of India through the case laws that determined to compensate victims along with other remedies as it has been observed that the administration of justice remained largely unsatisfactory from the viewpoint of the victims.

### **Objective of the study**

The aim of this research is to examine all aspects of the Compensatory Jurisprudence with in Constitution of India and to examine its current status in India and to establish an understanding of the need for compensation for infringements of fundamental rights as well as constitutional rights and the expansion of the jurisdiction of the courts to award compensation, therefore the primary objective of the research are as follows:

- To study the expansion of compensatory jurisprudence under the constitution.
- To identify the gaps under the present compensatory jurisprudence as provided under the constitution.
- To analyze the concept of compensation under the Constitution of India and thereafter to draw a conclusion about the topic.

### **Research Questions:**

In the light of the statement of problem and to achieve the objectives of the research the following would be the research question which will provide a direction to frame and conclude the research paper:

- What is scope of compensatory justice under the Constitution of India?
- Why there is need of compensatory justice under the Constitution?
- How the compensatory jurisprudence is expanding under the constitution of India through the courts?

### **Hypothesis**

- Compensatory justice is the need for an hour to provide full justice whose fundamental rights or constitutional rights are violated or impaired.
- While there is no clear law, the spectrum of compensatory justice is being extended every day by the courts to provide the people with the requisite justice.

### **Research Methodology**

The researcher used the qualitative mode of research to understand and examine the compensatory jurisprudence under the Constitution of India, and subsequently the researcher used the doctrinal approach to collect the relevant data, such as,

- Primary data: judicial decisions, books, journals and
- Secondary data: news articles and reports.

And thereafter through this method the researcher analyzed the paper titled “Constitution and Compensatory jurisprudence”.

### Literature Review

The primary source of information was "M P Jain, Indian Constitutional Law, 8<sup>th</sup> edition, 2018." This book helped the researcher to gather general information about the topic and to understand in a best way about the constitution and compensatory justice as the book is a thematic presentation of the complex and multi-dimensional topic of constitutional law in a lucid, detailed and systematic manner.

Thereafter the researcher referred to the paper by Sushila Rao titled "Constitutional Rights Violations and Compensatory Jurisprudence in India and U.S.A.: Justifications and Critique, Student Bar Review, 2006, Vol. 18, No. 1, pp. 93-111, 2006." In which the author speaks about justice for violations of constitutional rights in the U.S.A. and India. Where the researcher referred, in particular, to the Indian aspects where the author deals with traces of the genesis and creation of an analogous device in India pursuant to Article 32 of the Constitution for the Remediation of Victims of State Excesses, by reviewing judicial statements on the same issue.

And then the researcher referred to Dr. D. Rangaswamy's, "EVALUATING A NEED OF CONSTITUTIONALISATION OF VICTIM'S RIGHT TO COMPENSATION" Bharati Law Review, October-December, 2018. In his work the author deals with the recent trends of criminal justice system towards rights of victims followed by the emerging need of constitutionalised system for Victim's right to compensation and concludes the paper by explaining the need of the constitutional recognition so as to balance the interest of the victim as equal as of the accused of the crime. The researcher particularly utilised the information provided by the author where he talks about the gravity of the problem and need of recognition of Victim's right to compensation under constitutional jurisprudence.

And further the researcher utilised the information provided by Prof. (Dr.) Vijay Kumar Singh in his work titled, "Compensatory Justice Jurisprudence in INDIAN Public Law – An Analysis, Published in NLUA Law and Policy Review, Volume 3, No. 2, 2018." The paper analyses the post-rural growth of the principle of providing compensation by the Supreme Court. There are a number of judgments addressed in the paper by the author which have enhanced the power of the Supreme Court and the High Courts to compensate the victims or their dependents for the injustices of the State machinery or for the failure of the Government to take care of the victims in the event of a duty put on them to pursue due care.

### RELEVANT PROVISION WHICH PROVIDES FOR EXPANSION OF COMPENSATORY JURISPRUDENCE IN THE CONSTITUTION

Article 32 of the Constitution of India confers power on the Supreme Court to issue directions or orders or writs, including writs of habeas corpus, mandamus, injunction, quo warranto and certiorari, as necessary, for the exercise of any of the rights granted by Section III of the Constitution. The right to move the Supreme Court by means of an effective procedure for the protection of the rights conferred by Part III is "guaranteed" i.e. the right to move the Supreme Court under Article 32 to exercise any of the right granted by Part III of the Constitution is indeed a fundamental right.

Dr. Ambedkar in Constitutional Assembly debates observed about Article 32 as follows: "If I was asked to name any particular Article in this constitution as the most important, an Article without which this Constitution would be a nullity, I could not refer to any other Article except this one. It is the very soul of the Constitution and the very heart of it."<sup>2</sup>

Until there is adequate machinery for the protection of rights, there is no point in the establishment of fundamental rights. It's a solution that makes the rights real. There is also no right at all if there is no remedy. It was therefore deemed fitting, after mentioning a wide range of fundamental rights, by our constitutional framers, that there should also be some efficient remedy for the protection of those rights. The founders of the constitution therefore decided to offer an appropriate solution for the application of these provisions in compliance with Article 32 of the Constitution. Article 32 is a constitutional right in itself. Article 226 further empowers all High Courts to issue writs for the purposes of the protection of fundamental rights.

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<sup>2</sup> Constitutional Assembly Debate Volume VII at 953.

The jurisdiction of the Supreme Court to diverge from traditional concepts and to lay down new rules for the granting of meaningful relief for contraventions of fundamental rights can be traced back to Article 32. As regards the framework of Article 32(1), Bhagwati, J. Observed in *Bandhua Mukti Morcha*:<sup>3</sup>

“There is no limitation in regard to the kind of proceeding envisaged in Article 32(1) except that the proceeding must be appropriate and this requirement of appropriateness must be judged in the light of the purpose for which the proceeding is to be taken, namely, enforcement of a fundamental right. The Constitution-makers deliberately did not lay down any particular form of proceeding for enforcement of a fundamental right. They did not stipulate that such proceeding should conform to any rigid pattern or straitjacket formula as in England. They knew that in a country like India where there is so much of poverty, ignorance, illiteracy, deprivation and exploitation, any insistence on a rigid formula of proceeding for enforcement of a fundamental right, would become self-defeating and it would place enforcement of fundamental rights beyond the reach of common man. The entire remedy for enforcement of fundamental rights which the Constitution-makers regarded as so precious and invaluable, and elevated to the status of fundamental right, would become a mere rope of sand so far as the large masses of the people of this country are concerned.”

### DEVELOPMENT OF COMPENSATORY JURISPRUDENCE IN INDIA UNDER THE CONSTITUTION OF INDIA

For the first time in the case of *Khatri v. State of Bihar*<sup>4</sup> Supreme Court faced the dispute related to compensation. In this case the petitioners in the case were blinded in police custody and pleaded for compensation for infringement of their right to life under Article 21.

And Justice Bhagwati held that “The Court should be prepared to forge new tools and formulate new remedies to justify the constitutional right to life and personal liberty. Without setting out the law on that point, however, the Court ordered the government to cover the cost

Consequently, in *Sant Bir v. State of Bihar*,<sup>5</sup> where a criminal lunatic was illegally imprisoned for 16 years after he regained his health. Bhagwati, J., did not rule out the idea of compensation for State surpluses. However, no definitive decision on this point has been made. However, in *Veena Sethi v. Bihar State*<sup>6</sup>, Bhagwati, J. Selected to remain silent on the question as to whether compensation are allowable for wrongful detention. The achievement was established in *Devaki Nanda v. State of Bihar*.<sup>7</sup> In this, the pension of the petitioner had been deferred for twelve years. Without too much debate in the judgment, “exemplary costs” have been awarded to the petitioner for “intentional, deliberate and motivated” abuse of the petitioner, although no clear breach of the rights has been cited.

In *Thangarajan v. Union of India*<sup>8</sup>, the judgment of the High Court of Madras indicated that compensation could also be given in accordance with Article 32 of the Constitution. Everything considered, the divisional seat of the High Court of Madras retained, “As pointed out by the Supreme Court in, there is hardly any justification for the State to claim immunity especially after India has become a democratic republic and a Constitution had been enacted. It is cruel to tell the injured boy who has suffered grievous injuries and was in hospital for over six months incurring considerable expenditure and been permanently incapacitated that he is not entitled to any relief as he had the privilege of being knocked down by a lorry which was driven in exercise of sovereign functions of the State. Considering the circumstances of this case, we would strongly recommend to the Union Government to make an ex gratia payment of Rs. 10,000, to the appellant herein.”

In *Rudul Sah v. State of Bihar*<sup>9</sup>, the protection guaranteed under Article 32 was particularly utilised to protect the infringement of Fundamental Rights. Rudul Sah’s case was a case of public interest (PIL) brought before the Supreme Court pursuant to Article 32 of the Indian Constitution in which the Supreme Court can be approached exclusively where fundamental rights have been violated. The petition demanded the release of Rudul Sah from unlawful custody, as well as ancillary relief, such as rehabilitation and compensation. It is

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<sup>3</sup> *Bandhua Mukti Morcha v. Union of India*, (1984) 3 SCC

<sup>4</sup> 36 A.I.R. 1981 S.C. 928

<sup>5</sup> 8 A.I.R. 1982 S.C. 1470

<sup>6</sup> 1982, 2 SCC 583

<sup>7</sup> AIR 1983 SC 1134

<sup>8</sup> AIR 1975 Mad 32

<sup>9</sup> (1983) 4 SCC 141

considered especially significant in that it has contributed to the development of compensatory jurisprudence on the infringement of fundamental rights under the Constitution. It is significant in this context that there is no explicit mechanism in the Indian Constitution for the grant of compensation and that this judgment was based on an understanding by the Court of Justice of the scope of its remedial powers.

Hon'ble Justice Chandrachud, when he shared his worries about the candidate who had been confined for a long period of time, even after the acquittal in his trial, raised his concern, "It is true that Article 32 cannot be used as a substitute for the enforcement of rights and obligations which can be enforced efficaciously through the ordinary processes of Courts, Civil and Criminal. A money claim has therefore to be agitated in and adjudicated upon in a suit instituted in a court of lowest grade competent to try it. But the important question for our consideration is whether in the exercise of its jurisdiction under article 32, this Court can pass an order for the payment of money if such an order is in the nature of compensation consequential upon the deprivation of a fundamental right. The instant case is illustrative of such cases. The petitioner was detained illegally in the prison for over fourteen years after his acquittal in a full-dressed trial. He filed a Habeas Corpus petition in this Court for his release from illegal detention. He obtained that relief, our finding being that his detention in the prison- after his acquittal was wholly unjustified. He contends that he is entitled to be compensated for his illegal detention and that we ought to pass appropriate order for the payment of compensation in this Habeas Corpus petition itself." The Hon'ble justice continued: "In these circumstances, the refusal of this Court to pass an order of compensation in favour of the petitioner will be doing mere lip-service to his fundamental right to liberty which the State Government has so grossly violated. Article 21 which guarantees the right to life and liberty will be denuded of its significant content if the power of this Court were limited to passing orders to release from illegal detention. One of the telling ways in which the violation of that right can reasonably be prevented and due compliance with the mandate of Article 21 secured, is to mulct its violators in the payment of monetary compensation. Administrative sclerosis leading to flagrant infringements of fundamental rights cannot be corrected by any other method open to the judiciary to adopt. The right to compensation is some palliative for the unlawful acts of instrumentalities which act in the name of public interest and which present for their protection the powers of the State as a shield. If civilization is not to perish in this country as it has perished in some others too well-known to suffer mention, it is necessary to educate ourselves into accepting that, respect for the rights of individuals is the true bastion of democracy. Therefore, the State must repair the damage done by its officers to the petitioner's rights. It may have recourse against those officers."

The path-breaking pronouncement in Rudul Sah was welcomed with bouquets and brickbats. The judgment was embraced as the Court rightly sought to punish the inert and callous executive and tried to impose compliance with the provisions of the Constitution. The irresolute essence of the decision was, however, evident. The justification for the award of "damages" in Rudul, as opposed to "exemplary costs" in Devaki's case, was not clarified, and the Court had expressly defined the award as a mere "palliative," although the author felt that the tone and tenor of the judgment, resulting in the award of monetary relief, seemed to constitute a case for the award of "compensation."

The jurisprudential indifference of the Court of First Instance was again evident in Sebastian *Hongray v. Union of India*,<sup>10</sup> where the habeas corpus writ was issued for the release of two men under military detention, but never executed. The Court mandated the reimbursement of 'exemplary costs' to their wives as the men were dead by that time. Obviously, the Court was not yet entirely at ease with the emerging solution of compensation, as it used the word "exemplary costs" when, in reality, it seemed that the award had been given in view of the torture, suffering and mental oppression that the wives of the deceased had to suffer and was more similar to the principle of "damage" or "compensation."

In *Bhim Singh v. Jammu and Kashmir*,<sup>11</sup> the Supreme Court eventually held that it had "the right to award monetary compensation by way of exemplary costs or otherwise." In this case, which included habeas corpus; the Court followed Rudul Sah and Sebastian and ordered the State to pay compensation. In addition, deviating from the rule that habeas corpus is remedial and not punitive, the Commission noted that in

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<sup>10</sup> AIR 1984 SC 1026

<sup>11</sup> 1985 4 SCC 677

appropriate situations, where the mere release of the victim does not wipe away the misdemeanour committed, the victim should be compensated by providing appropriate monetary compensation.

In *Nilabati Behera v. State of Orissa*,<sup>12</sup> this could truly be seen as a landmark case in the interpretation of the law in this region. Within this case, the Supreme Court avoided any hesitation and declared in concrete terms that Article 32 placed a duty on the Court to “to forge such new tools as may be necessary for doing complete justice and enforcing fundamental rights.” Justice Verma enunciated that, “the reward referred to in Articles 32 or 226 is a remedy which is available in public law on the grounds of strict liability for violations of constitutional rights to which the concept of sovereign immunity does not extend, even though it may be available as a defence in private law in an action in tort.”<sup>13</sup>

The Court ruled that it was the appropriate explanation of Rudul Sah and that it was also the basis for judicial pronouncements. A previously overlooked but highly important factor has also been discussed in this case. The Court referred to Article 9(5)<sup>14</sup> of the International Covenant on Civil and Political Rights, 1966 (I.C.C.P.R.), in order to affirm its opinion that the grant of compensation is not foreign to the principle of the protection of a basic human right. Reference has again been made to Article 9(5) in the case of *D.K. Basu v Union of India*,<sup>15</sup> by the Supreme Court, in which it was held that the Indian Government's reservation to the I.C.C.P.R. on the principle that the Indian legal system may not acknowledge the right to compensation had lost its validity in the light of the law laid down by the Supreme Court. It was in *D.K. Basu*, the Supreme Court also reiterated that pecuniary compensation was an adequate, successful and often the only appropriate remedy for restitution for infringements of rights and, therefore, leaving the aggrieved to the mercy of remedies available in civil law would impair the Court's position as defender and guarantor of the inalienable rights of people to an intolerable degree.

In *Shri Bodhisattwa Gautam v. Miss Subhra Chakraborty*<sup>16</sup>, the following were the facts, the accused not only deceived the plaintiff and cohabited with her, giving her a false promise of marriage, but also fraudulently secured such marriage ceremonies, understand perfectly well that the marriage was invalid. The accused also committed the miscarriage crime by pressuring the plaintiff to commit abortion twice against her free will. The way the accused abused and deserted the complainant is nothing but an act of serious cruelty that has caused serious harm and a threat to the welfare of the complainant, both physically and psychologically.

Thereafter the Supreme Court held that “Right to Life would, therefore, include all those aspects of life which go to make a life meaningful, complete and worth-living.” And then stated that, “Unfortunately, a woman, in our country, belongs to a class or group of society who are in a disadvantaged position on account of several social barriers and impediments and have, therefore, been the victim of tyranny at the hands of men with whom they, fortunately, under the Constitution enjoy equal status. Women also have the right to life and liberty; they also have the right to be respected and treated as equal citizens. Their honour and dignity cannot be touched or violated. They also have the right to lead an honourable and peaceful life. Women, in them, have many personalities combined. They are Mother, Daughter, Sister and Wife. They must have the liberty, the freedom and, of course, independence to live the roles assigned to them by Nature so that the society may flourish as they alone has the talents and capacity to shape the destiny and character of men anywhere and in every part of the world.”

Herein, the Court noted that the power to pay compensation on an interim and final basis must be regarded as part of the overall jurisdiction of the Courts for the offenses of rape, which constitute an offense against fundamental human rights, as well as the Fundamental Rights of Personal Liberty and Life. The interim award

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<sup>12</sup> 1993 AIR 1960, 1993 SCR (2) 581

<sup>13</sup> This reasoning was forcefully reiterated in *P.U.C.L. v. Union of India*, AIR 1997 S.C. 1203, 1204-05. See also *Consumer Education and Research Centre v. Union of India*, A.I.R. 1995 S.C. 922, 941, where the Court held that there was no question of this defence being available against a constitutional remedy, which was a practical and inexpensive mode for redressal of contravention of rights.

<sup>14</sup> Article 9(5), I.C.C.P.R. provides: Anyone who has been the victim of unlawful arrest or detention shall have an enforceable right to compensation. It is pertinent to note that the Government of India at the time of the ratification of I.C.C.P.R., in 1979, had made a specific reservation to the effect that the Indian legal system does not recognise a right to compensation for victims of unlawful arrest or detention.

<sup>15</sup> AIR 1997 SC 610, 624

<sup>16</sup> 1996 AIR 922, 1996 SCC (1) 490

of Rs. 1,000 per month was given to the claimant from the date of the filing of the case to the date of the criminal trial.

It upheld the decision of the *Delhi Domestic Working Women's Forum v UOI*<sup>17</sup> and held that, "this decision acknowledges the right of the victim to compensation by ensuring that, subject to the completion of the scheme by the Central Government, it is granted by the Court on the conviction of the offender. If the Court of First Instance has jurisdiction to offer compensation at the final stage of the violation, there is no justification to refuse the Court of First Instance the right to grant temporary compensation which should also be provided for in the scheme."

Further in the case of *The Chairman, Railway Board and Others v. Mrs. Chandrima Das and Other*<sup>18</sup> the facts of the case are Ms. Chandrima Das, who filed the petition pursuant to Article 226 of the Indian Constitution, was an advocate in the High Court of Calcutta, where the case was first heard in 1998. She lodged a lawsuit on behalf of the aggrieved Smt. Hanuffa Khatoon, a Bangladeshi national who has been raped by railway staff at Howrah Station of the Eastern Railway. An amount of Rs.10 lakhs was given as compensation to the Hanuffa Khatoon, as the High Court held that, "the rape was not merely a violation of the ordinary human right, but a violation of the fundamental right and Article 21.

And then the expansion of compensatory jurisprudence can be observed in the recent case of, *Ankush Shiwaji Gaikwad v. The State of Maharashtra*<sup>19</sup> court shifted the paradigm towards providing the compensation to the victim and also to provide social justice to the society. Therefore it was held in this case that, "the legislative intent of the provisions relating to victim compensation was to reassure the victim that he is not a forgotten party in the criminal justice system."

Compensation for victims of gang abuse, victims of misuse of arrest and general police powers, etc., and how the state compensation schemes can be used effectively to comfort the victims, have been a controversial topic. This can be observed in case of *Dr. Rini Johar v. Madhya Pradesh State*<sup>20</sup>, wherein Justice Dipak Misra and Justice Shiva Kirti Singh penalized police officers for misusing their arrest powers and for holding the petitioner in custody for no cause. This utter disregard for law and personal liberty led to a judgment by the courts in favour of the petitioners and to the granting of a combined settlement of 10 lacs. The recent police brutality in Jamia Millia Islamia has led to calls for compensation for the victims of such savage attacks. In mid-2019, the Goa State Government has announced plans to grant compensation to victims of riot violence and mob lynching on the scale of Rs. 2 lacs from their compensation schemes, which prompted other states such as Jharkhand and Uttar Pradesh to follow the same path.

Thereafter in another landmark decision in the case of *Suresh v. State of Haryana*<sup>21</sup> the court awarded the victim with an interim compensation and the state was also ordered to provide a compensation to the victim's family of 10 lakh rupees who were abducted and then killed. Thereafter the court set out the following directions:

- The courts must adequately determine problems such as the identification of a criminal offence, the presence of concrete proof of the commission of the crime, the proper identity of the victim and the immediate financial circumstance and conditions of the victim.
- If the courts are satisfied, they must award compensation on a temporary basis while the final decision remains pending. The survivor in the criminal case would not need to make a submission for such interim awards.
- It is obligatory on the part of the court to comply with the rules on compensation and to register their reasons, regardless of the decision taken.
- The financial requirements of the victim and the gravity of the case in question can be the deciding factors for such awards. Additional variables may also have a role to play in deciding the prize.

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<sup>17</sup> 1995 (1) SCC 14

<sup>18</sup> Decided on 28 January, 2000

<sup>19</sup> AIR 2013 SC 2454

<sup>20</sup> Decided on 3<sup>rd</sup> June, 2016.

<sup>21</sup> 2015 Cri LJ 661

## CONCLUSION

Despite the presence of these provisions in our Constitution, the Law Commission of India claimed in its 41st report that the courts were still reluctant to use this tool, which led to an amendment to the Cr.P.C. in 2009 and expressly recognised the victim's right to compensation. The law now specifies that if a court imposes a sentence or a fine, the victim can be liable for the whole or part of the fine recovered from the defendant. The clause also stipulates that each state government should set up a scheme to compensate the victims and their dependents, which would entail rehabilitation due to the loss or damage sustained.

All interference by the courts indicates that the legislature has not done the best job of describing the definition in a simple and correct way that needs to be discussed. How much a victim should be charged and the methods used seem very vague, since they may compensate losses due to permanent or temporary injury, agony, impact on earnings, medical expenses, etc. The problem of exaggerated and false statements seems to be absent again, making the estimate even more complicated. A grassroots-level system needs to be defined in plain terms, dealing with all the rights relevant to the measurement.

The researcher suggests that it is time for a proper and detailed piece of legislation, straight to the point and open to the general public in terms of language, to eliminate all the obscurity of a case law-dominated clause that could become a little difficult for a layman to understand.

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