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सत्यमेव जयते

The Gujarat Government Gazette

EXTRAORDINARY

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Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

PART IV-A

Rules and Orders (Other than those published in Parts I, I-A, and I-L) made by the Government of Gujarat under the Central Acts

HOME DEPARTMENT

NOTIFICATION

Sachivalaya, Gandhinagar, 26th April, 2019.

CODE OF CRIMINAL PROCEDURE, 1973

No.GG/47/2019/SB.2/COM/132018/663:- In exercise of the powers conferred by section 357A of the Code of Criminal Procedure, 1973 (2 of 1974) and in supersession of all the notifications issued in this behalf, the Government of Gujarat hereby makes the following Scheme for providing funds for compensation to the victims or the dependent(s)/guardian/parents of the victims who have suffered loss or injury on account of an offence against body and who require rehabilitation, namely:-

1. Short title, commencement and application.-

(1) This Scheme may be called the Gujarat Victim Compensation Scheme, 2019.

(2) It shall come into force on the date of its publication in the Official Gazette.

(3) It shall apply to the victims and their dependent(s)/guardian/parents who have suffered loss or injury, as the case may be, as a result of the offence committed and who require rehabilitation.

2. Definition.- (1) In this Scheme, unless the context otherwise requires,-

(a) **"Act"** means The Poisons Act, 1919(12 of 1919)

(b) **"Code"** means The Code of Criminal Procedure, 1973 (2 of 1974);

(c) **"Central Fund"** means funds received from Central Victim Compensation Fund, (CVCF) Scheme, 2015.

(d) **"Dependent"** includes husband, father, mother, grandparents, unmarried daughter and minor children of the victim as determined by the State Legal Services Authority or District Legal Services Authority, as the case may be, on the basis of the report of the Sub- Divisional Magistrate of the concerned area/Station House Officer/Investigating

Officer or on the basis of material placed on record by the dependents by way of affidavit or on its own enquiry.

(e) **"District Legal Services Authority"** means the District Legal Services Authority (DLSA) constituted for the concerned district under section 9 of the Legal Services Authorities Act, 1987 (39 of 1987);

(f) **'Form'** means form appended to this Scheme.

(g) **"Government"** means The Government of Gujarat.

(h) **"Injury"** means any harm caused to body or mind of a person on account of crime against the person.

(i) **"Minor"** means a child who has not completed the age of 18 years.

(j) **"Offence"** means offence punishable under the Indian Penal Code, 1860 (45 of 1860) or any other law for time being in force,

(k) **"Rehabilitation"** means a process of helping the victim, who has suffered physical or mental injury as a result of an offence, to restore lost skills and regain maximum self-sufficiency in every walks of life.

(l) **"Schedule"** means schedule appended to this Scheme.

(m) **"State Legal Services Authority"** means the Gujarat State Legal Services Authority (GSLSA), constituted for under section 6 of the Legal Services Authorities Act, 1987 (39 of 1987);

(n) **"Sexual Assault Victims"** means female who has suffered mental or physical injury or both as a result of sexual offence including an offence covered under Sections 376 (A) to (E), Section 354 (A) to (D) and Section 509 of the Indian Penal Code, 1860 (45 of 1860).

(o) **"Victim Compensation Fund"** - means the Victim Compensation Fund constituted under clause 3;

(p) **"Victim"** means any person who has suffered physical or mental injury as a result of any offence specified in the Schedule appended to this Scheme including Offences covered under Section 304B, Section 326A and Section 498A of the Indian Penal Code, 1860(45 of 1860) for woman victim of other crime (in case of physical injury of the nature specified in the schedule) including the attempts and abetment.

(2) Words and expressions used herein and not defined, but defined in the Code of Criminal Procedure, 1973 (2 of 1974) or in the General Clauses Act, 1897(10 of 1897) or in the Indian Penal Code,1860(45 of 1860) have the same meaning respectively as assigned to them in the above referred statutes.

2. Victims Compensation Fund—

(1) There shall be a Fund, constituted to be known as ' the Victims Compensation Fund' from which the amount of compensation, as decided by the State Legal Services Authority or District Legal Services Authority, as the case may be, shall be paid to the victim or dependent(s)/guardian/parents of the victim who has suffered loss or injury as a result of an offence and who require rehabilitation.

(2) The 'Victims Compensation Fund' shall comprise the following: -

(a) Contribution received from Central Victim Compensation Fund, (CVCF) Scheme, 2015.

(b) Budgetary allocation in the shape of Grants-in-aid to State Legal Service Authority for which necessary provision shall be made in the Annual Budget by the Government;

(c) Any amount ordered by Civil/Criminal Tribunal.

(d) Amount of compensation recovered from the victim as a fine under Clause 9(8) and from the wrong doer/accused under Clause 14 of this Scheme;

(e) Donations/contributions from International/ National/ Philanthropist/ Charitable Institutions/ Organizations and individuals permitted by State or Central Government.

(f) Contributions from companies under CSR (Corporate Social Responsibility).

(3) The Legal Department shall be the Nodal Department for regulating and monitoring this Scheme.

(4) The State Legal Services Authority shall furnish periodical returns including utilization certificate of the Funds distributed to them by the Government through the Nodal Department.

(5) The Victim Compensation Fund distributed by the Nodal Department to the State Legal Services Authority shall be operated by the Member Secretary, Gujarat State Legal Services Authority.

(6) The payment with regard to the amount of compensation as decided by the State Legal Services Authority or, as the case may be, District Legal Services Authority, shall be made by concerned Authority

4. Eligibility for Compensation - A victim or, as the case may be, the dependent(s)/ guardians/ parents of the victim shall be eligible for grant of compensation from multiple schemes applicable to him/her. However, the compensation received by him/her in the other schemes with regard to Section 357- B of the Code, shall be taken into account while deciding the quantum in the subsequent application

5. Procedure for Making Application before the State Legal Services Authority (SLSA) or District Legal Services Authority (DLSA) —

(1) Mandatory Reporting of FIRs: - The SHO/SP/DCP shall mandatorily share soft/hard copy of FIR immediately after its registration, to the State Legal Services Authority or District Legal Services Authority qua commission of offences covered in this Scheme which include Sections 326A, 354A to 354D, 376A to 376E, 304B, 498A of the Indian Penal Code, 1860(45 of 1860) (in case of physical injury specified in the Schedule), so that the said authority can, in deserving cases, may *suo-moto* initiate preliminary verification of facts for the puipose of grant of interim compensation.

Provided that Copy of the FIR may be obtained through E-Gujcop, by the State Legal Services Authority or, as the case may be, District Legal Services Authority and thereafter the said authority may initiate proceeding to grant compensation on the basis of media reports.

(2) An application for the award of interim/ final compensation can be filed by the Victim or as the case may be, his/ her Dependent(s)/guardian/parents or the SHO of the area before the State Legal Services Authority or, as the case may be, District Legal Services Authority. It shall be submitted in Form 'I' along with a copy of the First Information Report (FIR) or criminal complaint of which cognizance is taken by the Court and if available Medical Report, Death Certificate, wherever applicable, copy of judgment/ recommendation of court if the trial is over.

Provided that, at any time after commission of the offence, Member Secretary, SLSA or Secretary, DLSA may *suo-moto* or after preliminary verification of the facts proceed to grant interim relief as may be required in the circumstances of each case.

6. JURISDICTION:—

(1) The application/recommendation for compensation shall be submitted either to the State Legal Services Authority or as the case may be, to District Legal Services Authority. The application/recommendation may also be submitted online on a portal which shall be created by the said authorities.

(2) The Secretary of the District Legal Service Authority (DLSA) with the help of minimum two officers from amongst, District Magistrate, Superintendent of Police /Police Commissioner, Civil Surgeon/Chief Medical Officer shall decide the application/ recommendation submitted before him/her in accordance with the provisions of this Scheme.

(3) In case of acid attack, the deciding authority shall be Criminal Injury Compensation Board (CICB) which shall consist of the Sessions Judge, District Magistrate, Superintendent of Police/Police Commissioner, Civil Surgeon/Chief Medical Officer of the district.

7. **Reliefs awarded by the State or District Legal Services Authority.** – The State Legal Services Authority or, as the case may be, District Legal Services Authority may award compensation to the victim or his/her dependent(s)/guardian/ parents to the extent as specified in the schedule appended to the Scheme.

8. **Factors to be considered while awarding Compensation** - While deciding a matter, the State Legal Services Authority or, as the case may be, District Legal Services Authority may take into consideration the following factors relating to the loss or injury suffered by the victim:

(a) Gravity of the offence and severity of mental or physical harm or injury suffered by the victim;

(b) Expenditure incurred or likely to be incurred on the medical treatment for physical and/or mental health including counselling of the victim, funeral, travelling during investigation/ inquiry/ trial (other than diet money);

(c) Loss of educational opportunity as a consequence of the offence, including absence from school/college due to mental trauma, bodily injury, medical treatment, investigation and trial of the offence, or any other reason;

(d) Loss of employment as a result of the offence, including absence from place of employment due to mental trauma, bodily injury, medical treatment, investigation and trial of the offence, or any other reason;

(e) The relationship of the victim to the offender, if any;

(f) Whether the abuse was a single isolated incidence or whether the abuse took place over a period of time;

(g) Whether victim became pregnant as a result of the offence, whether she had to undergo Medical Termination of Pregnancy (MTP)/ give birth to a child, including rehabilitation needs of such child;

(h) Whether the victim contracted a sexually transmitted disease (STD)/ human immunodeficiency virus (HIV) as a result of the offence;

(i) Any disability suffered by the victim as a result of the offence;

(j) Financial condition of the victim against whom the offence has been committed so as to determine victim's need for rehabilitation and reintegration needs of the victim,

(k)In case of death, the age of deceased, monthly income, number of dependents of the victim, life expectancy, future promotional/growth prospects, educational opportunities of child of victim etc.

However the victim shall not be entitled to get compensation in the case covered under the Fatal Accident Act, 1855 (3 of 1951), the Employee's Compensation Act,1923(8 of 1923) and Motor Vehicles Act,1988(59 of 1988) and Railways Act,1989(24 of 1989).

(l) Any other factor which the State Legal Services Authority or, as the case may be, District Legal Services Authority may consider just and sufficient.

9. Procedure for Grant of Compensation— (1) Wherever, a recommendation is made by the court for compensation under sub-sections (2) and/or (3) of Section 357A of the Code, or an application is made by any victim or dependent(s)/Vguardian/parents of the victim, under sub-section (4) of Section 357A of the Code, to the State Legal Services Authority or, as the case may be, District Legal Services Authority, for interim compensation it shall prima-facie satisfy itself qua compensation needs and identity of the victim. As regards the final compensation, it shall examine the case and verify the contents of the claim with respect to the loss/injury and rehabilitation needs as a result of the crime and may also call for any other relevant information necessary for deciding the claim.

Provided that in deserving cases and in all acid attack cases, at any time after commission of the offence, the State Legal Services Authority or, as the case may be, District Legal Services Authority may *suo-moto* or after preliminary verification of the facts proceed to grant interim relief as may be required considering the circumstances of each case.

(2) The inquiry as contemplated under sub-section (5) of Section 357A of the Code, shall be completed expeditiously and the period in no case shall exceed beyond sixty days from the receipt of the claim/petition or recommendation:

Provided that in cases of acid attack an amount of Rs. One lakh shall be paid to the victim within 15 days of the matter being brought to the notice of the District Legal Services Authority. The order granting interim compensation shall be passed by the District Legal Services Authority within 7 days of the matter being brought to its notice and the State Legal Service Authority shall pay the compensation within 8 days of passing of such order. Thereafter, an amount of Rs. 2 lakhs shall be paid to the victim as expeditiously as possible within two months of the first payment.

(3) Victims of Acid attack shall also be entitled to additional compensation of Rs. 1 lac under the 'Prime Minister's National Relief Fund' and shall also be entitled to additional special financial assistance up to Rs. 5 lacs who need treatment expenses over and above the compensation paid by the Government, in accordance with the provisions of the Central Victim Compensation Fund Guidelines-2015.

Provided that the victim may also be paid such further amount as is admissible under this Scheme.

(4) As per direction given by Hon'ble Supreme Court in Writ Petition(Civil) No. 754/2016, dated 17th July,2018 in the cases of mob violence/ lynching 30% of the amount of compensation decided as per schedule, by State Legal Service Authority or, as the case may be, the District Legal Service Authority shall be paid to the victim or dependent(s)/guardian/parents of the victim within 30 days of the matter being brought to the notice of said authority

Provided that in the cases of mob violence / lynching, SHO/SP/DCP shall mandatorily share soft/hard copy of FIR immediately after its -registration to the State Legal Services Authority or, as the case may be, the District Legal Services Authority.

(5) If the victim is minor, the limit of compensation shall be deemed to be 50% higher than the amount mentioned in the Schedule appended to this Scheme.

(6) The State Legal Services Authority or, as the case may be, District Legal Services Authority may call from any record or take assistance from any Authority /Establishment /Individual/ Police/Court concerned or expert for smooth implementation of the Scheme.

(7) After consideration of the matter, the State Legal Services Authority or, as the case may be, the District Legal Services Authority, on being satisfied, shall decide the quantum of compensation to be awarded to the victim or dependent(s)/guardian/parents of the victim taking into account the factors enumerated in Clause 8 of the Scheme, as per schedule appended to this scheme. However, in deserving cases, for reasons to be recorded, the upper limit may be exceeded.

(8) In case trial/appellate court gives findings that the criminal complaint and the allegation were false, then the District Legal Services Authority may initiate proceedings for recovery of compensation, if any, granted in part or full under this Scheme, before the Trial Court for its recovery as if it were a fine

The amount, so recovered shall be deposited in Victim Compensation Fund.

(9) Nothing in this Scheme shall prevent Victim or dependent(s)/guardian/parents of the Victim from instituting any Civil Suit or Claim against the perpetrator of offence or any other person indirectly responsible for the same.

10. The Order to be placed on Record—The copy of the order of interim or final compensation passed under this Scheme shall be placed on record of the trial Court so as to enable the trial Court to pass an appropriate order of compensation under Section 357 of the Code. A true copy of the order shall be provided to the Investigation Officer in case the matter is pending for investigation and also to the victim or his/her dependent(s)/ guardian/parents, as the case may be.

11. Method of disbursement of Compensation—

(1) The amount of compensation so awarded shall be disbursed by the State Legal Services Authority or, as the case may be, District Legal Services Authority by depositing the same

in a Bank in the joint or single name of the victim/dependent(s). In case the victim does not have any bank account, the District Legal Services Authority would facilitate for opening of a bank account in the name of the victim and in case the victim is a minor along with a guardian or in case, minor is in a child care institution, the bank account shall be opened with the Superintendent of the Institution as Guardian. However, in case the victim is a foreign national or a refugee, the compensation may be disbursed by way of cash cards.

(2) Interim amount shall be disbursed in full. However, as far as the final compensation amount is concerned, 75% (seventy five percent) of the same shall be put in a fixed deposit for a minimum period of three years and the remaining 25% (twenty five percent) shall be available for utilization and initial expenses by the victim or his/her dependent(s), as the case may be.

(3) In the case of a minor, 80% of the amount of compensation so awarded, shall be deposited in the fixed deposit account and shall be withdrawn only on attainment of the age of maturity, but not before three years of the deposit.

Provided that in exceptional cases, amounts may be withdrawn for educational or medical or other pressing and urgent needs of the beneficiary at the discretion of the State Legal Service Authority or, as the case may be, the District Legal Service Authority.

(4) The interest on the sum, if lying in FDR form, shall be credited directly by the bank in the savings account of the victim/dependent(s)/guardian/parents, on monthly basis which can be withdrawn by the beneficiary.

12. Interim relief to the victim—

The State Legal Services Authority or, as the case may be, the District Legal Services Authority, may order for immediate first-aid facility or medical benefits to be made available free of cost or any other interim relief (including interim monetary compensation) as deemed appropriate, to alleviate the suffering of the victim on the certificate of a police officer, not below the rank of the officer-in-charge of the police station, or a Magistrate of the area concerned or on the application of the victim/ dependent(s)/guardian/parents or suo-moto.

Provided that as soon as the application for compensation is received by the State Legal Service Authority or, as the case may be, the District Legal Service Authority, a sum of Rs.5000/- or as the case warrants up to Rs. 10,000/-shall be immediately disbursed to the victim through preloaded cash card from a Nationalized Bank by the Secretary of the District Legal Service Authority or Member Secretary, State Legal Service Authority.

Provided further that the interim relief so granted shall not be less than 25 percent of the maximum compensation awardable as per schedule appended to this Scheme, which shall be paid to the victim in total.

Provided also that in cases of acid attack provision made in clause 9(2), and in cases of mob lynching/offence the provision made in clause 9(4) of this Scheme shall be followed.

13.Medical Relief:- The benefits of the 'Mukhyamantri Amrutam Scheme' shall be applicable to the Victim. Free medical treatment shall be given to the victim as per guideline of the said scheme.

14. Recovery of compensation awarded to the victim or dependent(s)/ guardian/ parents of the victim —

Subject to the provisions of sub-section (3) of Section 357A of the Code, the State Legal Services Authority or, as the case may be, the District Legal Services Authority in proper cases, may institute proceedings before the competent court of law for recovery of the interim/final compensation granted to the victim or dependent(s)/guardian/parents of the victim or from person(s) responsible for causing loss or injury as a result of the crime committed by him/her.

However, while instituting proceeding before the competent court, the court-fee shall not be required to be paid by the State Legal Service Authority or, as the case may be, the District Legal Service Authority.

The amount, so recovered, shall be deposited in Victim Compensation Fund.

15. Dependency Certificate—

The authority empowered to issue the dependency certificate shall issue the same within a period of fifteen days and, in no case, this period shall be extended:

Provided that the State Legal Service Authority or, as the case may be, the District Legal Service Authority, in case of non-issuance of Dependency Certificate, after expiry of 15 days, may proceed on the basis of an affidavit to be obtained from the claimant.

16. Minor victims -

1. That in case the victim is an orphaned minor without any parent or legal guardian, the immediate relief or the interim compensation shall be disbursed to the Bank Account of the child, opened under the guardianship of the Superintendent, Child Care Institutions where the child is lodged or in absence thereof, to the bank account of the child, opened under the guardianship of DDO/SDM/SDO, as the case may be.
2. Any minor victim or dependents of the minor victim shall be entitled to claim compensation under this Scheme, provided that if, the interim/final compensation had been ordered to be paid by the Special Court under the Protection of Children from Sexual Offences Act,2012 (32 of 2012) and Protection of Children from Sexual Offences Rules,2012 in favour of the minor victim or guardian/parents of the minor victim is, less than the minimum interim/final compensation prescribed under this Scheme, the State Legal Service Authority or, as the case may be, the District Legal Service Authority. shall pass an order to pay the deficit minimum interim/final compensation in favour of such minor victim or guardian/parents of the minor victim.

17. Limitation-

No claim made by the victim or dependent(s)/ guardian/parents of the victim, under sub-section (4) of Section 357A of the Code, shall be entertained after a period of 3 years from the date of occurrence of the offence or conclusion of the trial.

However, in deserving cases, on an application made in this regard, for reasons to be recorded, the delay beyond three years may be condoned by the State Legal Services Authority or, as the case may be the District Legal Service Authority.

18. Appeal: (1) In case the victim or dependent(s)/guardian/parents of the victim are not satisfied with the quantum of compensation awarded by the Secretary of the District Legal Service Authority under clause 6(2), they may file an appeal within 30 days from the date

of receipt of such order before the Chairperson, District Legal Services Authority. (2) In the case of acid attack victim or dependent(s)/guardian/parents of such victim are not satisfied with the quantum of compensation awarded by the Criminal Injury Compensation Board under clause 6(3), they may file an appeal within 30 days from the date of receipt of such order before the Member Secretary, Gujarat State Legal Service Authority.

Provided that, delay in filing appeal may be condoned by the Appellate Authority, for reasons to be recorded, in deserving cases, on an application made in this regard.

19. Repeal and Saving -

(1) Any award of compensation passed under the Gujarat Victim Compensation Scheme,2016 shall not be reopened in any case.

(2) All pending applications on the date of coming into force of this Scheme shall be decided on the basis of provisions made under this Scheme.

FORM -I

(Clause 5(2))

Before the District Legal Service Authority

District:_____

APPLICATION FOR THE INTERIM/FINAL AWARD OF COMPENSATION UNDER THE VICTIM COMPENSATION SCHEME – 2019

1.	Name, Address and Phone Number of the Victim	
2.	Name, Address and Phone Number of the Applicant (In case of Minor, the application is to be filled by his/her parents /guardian)	
3(A).	Age of the Victim at the time of filling Application	
3(B).	Age of Victim at the time of offence	
4.	Details of Police Station and FIR No.	
5.	Sessions/Criminal/POCSO Case No. (If any)	
6.	Whether any Criminal Case is Pending relating to the alleged offence? (If Yes, Please give details)	
7.	Particulars of alleged Offence (mention sections)	
8.	Whether the victim has taken Medical treatment? If Yes, whether Indoor or Outdoor treatment has been taken? Mention the name and particulars of Hospital.	

9.	Particulars of expenses incurred for Mental and Physical rehabilitation. (Enclose true copy of the bills, if any)	
10.	Particulars of Bank Account of the Victim/Applicant (attach copy of passbook)	
11.	Particulars of the evidence of identity: (attach any one from Aadhar Card / Driving License/ Election card/ Passport)	
12.	Whether the victim has received any amount of compensation from accused in connection with the alleged offence? If yes give detail	
13.	Whether the victim has received any amount from Government Beneficial Scheme as compensation in connection with the alleged offence ? If yes give details.	
14.	Any other Details	

VERIFICATION

I _____, resident of _____, do hereby declare that, the particular mentioned in this application is true and correct, as per best of my knowledge and belief.

Date:
Place:

Signature of the Applicant

SCHEDULE

APPLICABLE TO VICTIM OF CRIMES

(Clause 2(p))

Sr. No.	Particulars of loss or injury	Minimum Limit of Compensation	Upper Limit of Compensation
1	Loss of Life	Rs. 5 Lakh	Rs. 10 Lakh
2	Gang Rape	Rs. 5 Lakh	Rs. 10 Lakh
3	Rape	Rs. 4 Lakh	Rs. 7 Lakh
4	Unnatural Sexual Assault	Rs. 4 Lakh	Rs. 7 Lakh
5	Loss of any Limb or part of body resulting in 80% permanent disability or above	Rs. 2 Lakh	Rs. 5 Lakh
6	Loss of any Limb or part of body resulting in 40% and below 80% permanent disability	Rs. 2 Lakh	Rs. 4 Lakh
7	Loss of any limb or part of body resulting in above 20% and below 40% permanent disability	Rs. 1 Lakh	Rs.3 Lakh
8	Loss of any limb or part of body resulting in below 20% permanent disability	Rs. 1 Lakh	Rs. 2 Lakh

Sr. No.	Particulars of loss or injury	Minimum Limit of Compensation	Upper Limit of Compensation
9	Grievous physical injury or any mental injury requiring rehabilitation	Rs. 1 Lakh	Rs. 2 Lakh
10	Loss of Foetus i.e. Miscarriage as a result of Assault or loss of fertility.	Rs. 2 Lakh	Rs. 3 Lakh
11	In case of pregnancy on account of rape.	Rs.3 Lakh	Rs.4 Lakh
12	Victims of Burning:		
a.	In case of disfigurement of case	Rs. 7 Lakh	Rs. 8 Lakh
b.	In case of more than 50%	Rs. 5 Lakh	Rs. 8 Lakh
c.	In case of injury less than 50%	Rs. 3 Lakh	Rs. 7 Lakh
d.	In case of less than 20%	Rs. 2 Lakh	Rs. 3 Lakh
13	Victims of Acid Attack-		
a.	In case of disfigurement of face.	Rs. 7 Lakh	Rs. 8 Lakh
b.	In case of injury more than 50%.	Rs. 5 Lakh	Rs. 8 Lakh
c.	In case of injury less than 50%.	Rs. 3 Lakh	Rs. 5 Lakh
d.	In case of injury less than 20%	Rs. 3 Lakh	Rs. 4 Lakh
14.	Rehabilitation of Victim of Human Trafficking	Rs. 50,000	Rs. 1 Lakh

Note: If a woman victim of sexual assault/acid attack is covered under one or more category of the Schedule, she shall be entitled to be considered for combined value of the compensation.

By order and in the name of the Governor of Gujarat,

DHARMESH PARMAR,
Section Officer to Government.

Government Central Press, Gandhinagar.