

**COMPENSATION TO VICTIM OF CRIME- RECENT TRENDS OF
JUDICIAL DECISIONS AND APPROACH EXPECTED FROM TRIAL
COURTS. (SEC. 357, 358, 359 AND 250 OF CR.P.C.)**

The courts can order an offender to pay compensation to the victim of crime under section 357 of the Said Code.

The legislature considering the difficulty or incapacity of offenders to pay the compensation or incases where the offender may not be traced and in such circumstances in order to compensate or rehabilitate the victim/dependents enacted section 353A in the Said Code where the state governments are required to frame a scheme in coordination with central government for providing funds for compensation to victim / dependants who suffered loss or injury as a result of crime and who require rehabilitation.

The plight of victim in criminal cases was highlighted in Malimath committee which carries the following record.' **Very early in the deliberations of the committee it was recognised that victims do not get at present the legal rights and protection they deserve to play their just role in criminal proceedings which tend to result in disinterestedness in the proceedings and consequent distortions in criminal justice administration. In every interactions the committee held with police, the judges, the prosecution and defence lawyers, jail officials and general public ,this concern for victims was quite pronounced and view was canvassed that unless justice to victim is put as one of the focal points of criminal proceedings, the system in unlikely to restore the balance as a fair procedure in the pursuit of truth .'**

Some statutes in civil law make provisions for immediate relief and final compensation to the victim of accident and industrial disasters and they are; The Workmen's Compensation Act, 1923, The Motor Vehicle Act 1988, The Railway Act 1989, The Public Liability (Insurance) Act 1991 and The National Green Tribunal Act 2010.

Under criminal law, the Said Code also lays down provisions for victim compensation. Section 357 of the Said Code is an effective provision where section (1) (b) and (c) provide for apportioning compensation from fine imposed by the court to the victim. Section 357 (3) of the said Code provides unbound discretion to judges to balance the right of victims for compensation and save them from resorting to the cumbersome process of civil court as it does not put any limitation over the quantum of compensation.

The judicial contribution for the effective use of section 357 of the Said Code is seen in the case of **Sarwan Singh v/s State of Punjab [(1978) 4 SCC 111]**, where 5 persons committed death of another relative in an agricultural field and before the lower court fine was ordered to be paid to the widow of the deceased victim. It was held by the Hon'ble Supreme Court that if it is found by the court that compensation should be paid, then the capacity of the accused to pay the compensation has to be determined and that if accused has the capacity to pay there could be no reasons to court not directing such compensation.

In ruling of **Palaniappa Gounder v/s State of Tamil Nadu [(1977) 2 SCC 634]** where victim's children filed an application under section 482 of Said Code to pay compensation for death of their father. The Hon'ble High Court had ordered to pay fine of ₹. 20,000/-. It was observed by the Hon'ble Supreme Court that courts should ensure that fine must not be excessive and should have regard to all circumstances of the case, the motivation of offence, the pecuniary

gain likely to have been made by the offender by committing the offence and his means to pay the fine.

In the case of **Hari Singh v/s Sukhbir Singh [(1988) 4 SCC 551]**, the Hon'ble Supreme Court urged all courts to exercise their power under section 357 of the Said Code liberally to safe guard the interest of victim and also laid down principles which court should consider regarding assessment of amount of compensation and mode of its payment.

The Hon'ble Supreme Court in the case of **Rachhpal Singh v/s State of Punjab [AIR 2002 SC 2710]** stress is given on sec 357(3) of Said Code and held that it is open to the Court to award compensation to the victim or his family.

Similarly in case of **K. Baskaran v/s sankaran Vaidhyan balan [AIR 1999 SC 3762]** where the Hon'ble supreme court again gave importance to section 357 of the said Code in the case of dishonour of cheque.