

**MEGHALAYA STATE LEGAL SERVICES AUTHORITY: SHILLONG**  
**(Established under the Legal Services Authorities Act, 1987)**

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**MEGHALAYA VICTIM COMPENSATION SCHEME, 2019**

**GENERAL GUIDELINES AND PROCEDURE ADOPTED FOR EFFECTIVE IMPLEMENTATION OF MEGHALAYA VICTIM COMPENSATION SCHEME, 2019**

The Meghalaya Government in exercise of the power conferred section 357-A of the Code of Criminal Procedure 1973 and the spirit thereof was pleased to notify Meghalaya Victim Compensation Scheme 2011 on 20<sup>th</sup> March 2012. The scheme of 2011 was repealed by Notification dated 8th August 2014 and Meghalaya Victim Compensation Scheme 2014 was introduced. The Government of Meghalaya was pleased to modify Meghalaya Victim Compensation Scheme 2014 in order to bring it in conformity with the provision of the Central Victim Compensation Funds guidelines issued by the Government of India in the Ministry of Home Affairs. The modification to the Meghalaya Victim Compensation Scheme 2014 was made vide Notification dated 1<sup>st</sup> March 2019 by introducing Meghalaya Victim Compensation Scheme, 2019 (herein after referred as "Scheme, 2019")

The responsibility of supervising the effective implementation of the Meghalaya Victim Compensation Scheme, 2019 has been conferred on the Meghalaya State Legal Services Authority. To maintain uniformity in the implementation of the Scheme in the State, need has been felt to frame guidelines by the Meghalaya State Legal Service Authority.

**1. PROVISION OF Code of Criminal Procedure (herein after referred as "Cr. P. C"):**

- 1.1 This Compensation Scheme, 2019 is framed under the amended provisions of 357-A Cr. P. C. In implementing the Scheme the provisions of Sec. 357-A Cr. P. C. has connotation, as such in event of any ambiguity reference may be made to the enabling section, for easy reference it is reproduced:

**General Guideline and Procedure Adopted for  
effective implementation of Meghalaya Victim  
Compensation Scheme 2019**

Page | 2

CODE OF CRIMINAL PROCEDURE, 1973

Section 357A - Victim compensation scheme-1[(1) Every State Government in co-ordination with the Central Government shall prepare a scheme for providing funds 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.

- (2) Whenever a recommendation is made by the Court for compensation, the District Legal Service Authority or the State Legal Service Authority, as the case may be, shall decide the quantum of compensation to be awarded under the scheme referred to in sub-section (1).
- (3) If the trial Court, at the conclusion of the trial, is satisfied, that the compensation awarded under section 357 is not adequate for such rehabilitation, or where the cases end in acquittal or discharge and the victim has to be rehabilitated, it may make recommendation for compensation.
- (4) Where the offender is not traced or identified, but the victim is identified, and where no trial takes place, the victim or his dependents may make an application to the State or the District Legal Services Authority for award of compensation.
- (5) On receipt of such recommendations or on the application under sub-section (4), the State or the District Legal Services Authority shall, after due enquiry-award adequate compensation by completing the enquiry within two months.
- (6) The State or the District Legal Services Authority, as the case may be, to alleviate the suffering of the victim, 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 the Officer-in-charge of the police station or a Magistrate of the area concerned, or any other interim relief as the appropriate authority deems fit]

[1. *Inserted Vide*

*Code of Criminal Procedure (Amendment) Act, 2008 to be effective from 31.12.2009 vides Notification No. S.O. 3313(E) dated 30.12.2009.]*



**General Guideline and Procedure Adopted for  
effective implementation of Meghalaya Victim  
Compensation Scheme 2019**

Page | 3

**2. OBJECTIVE AND BENEFICIARIES OF THE SCHEME**

- 2.1 For granting the compensation to victim or to his dependent(s) the objectives of the Scheme has to be taken into consideration by giving much emphasis on the words "who have suffered loss or injury as a result of crime and who require rehabilitation". The Scheme covers the victim and in case of death of the victim, his dependent or member(s) of the family of the victim who have suffered atrocity resulting from the crime. {Reference Clause (3) of the Compensation Scheme, 2019}
- 2.2 The term "Loss or Injury" mean loss or injury as defined in Column 2 of the Schedule of the Compensation Scheme, 2019.
- 2.3 The pronoun "he" and its derivatives as used in the Compensation Scheme, 2019 includes any person whether male or female.
- 2.4 That while considering interim compensation emphasis has to be laid on the **immediate** need of the victim(s) and factors enumerated in Clause (6) of the Compensation Scheme, 2019.

**3. PREREQUISITE**

**3.1 NO PREVIOUS COMPENSATION UNDER ANY SCHEME**

The claimant/ Victim should not have been compensated for such loss or injury under any scheme of the government or any institution. The claimant/Victim should make full disclosure of any compensation received under any other Government Scheme. In event of any compensation received by the Claimant/ Victim under any other Scheme is insufficient, compensation under the Victim Compensation Scheme, 2019 may be consider, subject to adjustment, not exceeding the Maximum limit prescribed under the schedule of the Compensation Scheme, 2019.

**3.2 LOSS OF INCOME**

Such loss or injury should have nexus with the crime resulting loss of income of the family making it difficult to meet their both ends without the financial aid or has to spend beyond his or her means on medical treatment of the victim.

**General Guideline and Procedure Adopted for  
effective implementation of Meghalaya Victim  
Compensation Scheme 2019**

Page | 4

**3.3. OFFENDER**

In cases where perpetrator of heinous crime is not traceable or goes unpunished after trial and victim has to incur expenses on physical and mental rehabilitation under sub-section (4) of 357-A. (or) where no trial takes place and offender is not traced or identify but victim is identify such victim may also apply under sub-section (4) of 357-A Cr.P.C. for the grant of Compensation.

**3.3 CO-OPERATION BY THE VICTIM/ CLAIMANT**

The victim/claimant must cooperate with the police and prosecution during the investigation and the trial of the case. That while considering the grant of compensation to the victim, co-operation of the victim with investigation and participation in trial may be considered as an important component.

**3.4 LIMITATION**

Delay in reporting the crime to the Police or the Judicial Magistrate of the concern area shall be a relevant factor for grant of Compensation.

That under the Scheme no application under section 357-A (4) of Cr.P.C shall be entertained after a period of twelve months from the date of occurrence of the crime. This bar shall not come on the way of the courts recommending *suo motto* interim compensation during the course of inquiry, investigation trial or final compensation at the conclusion of trial {Section 357-A (2) (3) of Cr.P.C}

The provision of Limitation Clause 17 of the Compensation Scheme, 2019 shall be taken into consideration before entertaining an application for grant of compensation to the victim(s).

**4. INITIATION OF PROCEEDINGS**

**4.1 PROCEDURE AND STAGES FOR GRANT OF COMPENSATION:-**

That keeping in mind the Scheme being a welfare beneficial Scheme with an object to alleviate pain and suffering of victim of crime. The procedure safeguard of the scheme should be interpreted liberally, so as to advance to achieve the goal and object of the Compensation Scheme, 2019.



**General Guideline and Procedure Adopted for  
effective implementation of Meghalaya Victim  
Compensation Scheme 2019**

Page | 5

**5. RECOMMENDATION OF THE COURT-**

5.1 Whenever a recommendation is made by the Court under sub-section (2) of 357-A Cr.P.C. While pronouncing judgment the Court directs for compensation to the victim. A copy of judgment should be sent to the DLSA office for implementing the order of compensation.

5.2 As per sub-section (3) of 357-A Cr.P.C., if the trial Court at the conclusion of the trial, is satisfied that the compensation awarded under Sec. 357-A is not adequate for such rehabilitation or where the cases end in acquittal or discharge and the victim has to be rehabilitated it may make recommendation for compensation.

**6. BY RECOMMENDATION OF MAGISTRATE OR OFFICER-IN-CHARGE (SHO) OF POLICE STATION**

As per sub-section 4 of Section 357-A Cr.P.C., where the offender not traced or identified but victim is identified and where no trial takes place or the accused die, during investigation or trial. The Officer-in-Charge (SHO) or the Magistrate of concern area may be received for Compensation.

**7. ON RECEIVING INFORMATION THROUGH PRINT/ELECTRONIC/SOCIAL MEDIA OR OTHER SOURCES**

Looking to the welfare object of the scheme and involvement of humanitarian elements it is always welcomed that whenever any information received in the legal service institution through print/electronic/social media, the Secretary of DLSA may initiate the proceeding of compensation suo motu. If need arises PLVs are involved in the process and they ensure proper documentation such as crime details with injury or PMR report, income details, family & residence details etc.

**8. INTERIM RELIEF / COMPENSATION**

8.1 **Provision of immediate Medical Aid or interim relief:** - As per sub-section 6 of Section 357-A Cr.P.C. and sub-clause-(v) of clause-9 of the Scheme, the State Authority and District Authority are empowered to pass an order for the immediate first Aid facility or medical benefits to be made available free of cost in the Government Hospital on the certificate of S.H.O. or the Magistrate of area concerned.

**General Guideline and Procedure Adopted for  
effective implementation of Meghalaya Victim  
Compensation Scheme 2019**

Page | 6

- 8.2 In cases where the victim needs continuous or multiple medical treatment/ surgical intervention the DLSA shall forward the case, at the earliest to the Government of Meghalaya, which shall ensure free of cost treatment to the victim from any Government Hospital, as the case may be. The DLSA shall follow up the matter and facilitate grant of Compensation to the victim.
- 8.3 **Interim compensation:-** Interim relief as it may deem fit, may be granted in this regard by the Authorities any time, during inquiry, after the registration of the FIR, during the course of Investigation, or trial. The provision of interim compensation is made to alleviate immediate suffering of the victim, therefore, in cases where delay would defeat the purpose of granting compensation it may be considered at the time of making an application as *suo motto*.
- 8.4 The Compensation shall be paid in two phases, the first phase is the interim compensation paid any time during the course of inquiry, investigation, trial and the second phase is at the conclusion of trial. Interim compensation cannot exceed half of the Maximum compensation prescribed in the schedule of the Scheme, save an except in exceptional cases for reason to be recorded.
- 8.5 Provided that in case of a Victim of acid attack, out of the compensation awarded a sum of ₹ 1 Lakh ( Rupees One Lakh) only be paid within 15 days from the date of occurrence of such incident and the balance amount of ₹ 2 Lakhs shall be paid as expeditiously as may be possible and positively within two months thereafter.
- 8.6 That while considering interim compensation, immediate need of victim shall be brief recorded justifying the grant of interim compensation to the victim(s).
- 8.7 Any interim compensation granted to the victim should be informed and place in the record of the trial Court, so as to enable the trial court to pass appropriate order u under section 357 (3) of Cr.P.C.



**General Guideline and Procedure Adopted for  
effective implementation of Meghalaya Victim  
Compensation Scheme 2019**

Page | 7

**9. EXAMINATION AND VERIFICATION OF THE CLAIM**

Strict and meticulous examination should be undertaken to thwart false claim. At the same time it should be borne in mind that sentiments of genuine claimants/ victims is not offended. The provisions of examining, verifying the contents of claim and inquiry as well as the calling of any relevant information to determine genuineness of loss injury caused to victim are prescribed Clause-6 of the Scheme.

**10. COMPENSATION FROM OTHER SOURCES:**

10.1 Compensation (Absolute or partial) received by the victim from the State or other Institution or under any other Act or provision is also taken into consideration as per the spirit of the Scheme. For the purpose a report should be called from Social Welfare Department/District Administration office to check double disbursement to the victim. The report is made part of the claim file and is kept for consideration before the meeting of District Legal Service Authority at the time of granting compensation.

10.2 In case employment is given to any family member of a victim of crime on compensatory ground, no assistance will be given to the dependent from Scheme [ Clause (9) (vi) of the Scheme 2019].

**11. QUANTUM OF COMPENSATION:**

The basis of determining the quantum of compensation, elements to be taken into consideration are laid down in sub-clause-2 of clause- 5, in which (a) medical expenses incurred on the treatment, (b) minimum amount required for rehabilitation including such incidental charges as funeral expenses etc. Therefore, the compensation may vary from case to case depending on the facts and circumstances of each case examined on the anvil of factors envisaged under the Scheme.

**12. OTHER POINTS OF CONSIDERATION**

**12.1 BAR ON COMPENSATION IN MOTOR ACCIDENT CLAIM CASES:**

Motor Accident Claim Tribunal jurisdictional cases will not be covered under the scheme.

**General Guideline and Procedure Adopted for  
effective implementation of Meghalaya Victim  
Compensation Scheme 2019**

Page | 8

**13. MAXIMUM LIMIT OF COMPENSATION:**

In no case, quantum of compensation will exceed from the maximum limit as per given Schedule in the scheme, however in an event of court grants compensation exceeding the maximum limit, the same shall be paid.

**14. UNDERTAKING AND FORMAT FOR INFORMATION:-**

An Undertaking with regard to following contents in a specific form prepared by District Authorities will also be taken along with the application.

- (i) That he or she has not been compensated for the loss or injury under any other scheme of the Central/ State Government or under any other Act or from any other Institution.
- (ii) If applicant has already received the compensation in any other scheme for the same offence/crime for which he is claiming, he has to disclose the facts in his application.
- (iii) Undertaking is also taken that if the disbursement is found to be illegal/irregular, the Authority after inquiry deems it fit to pass an order of repayment.
- (iv) He/she will assist during investigation and prosecution.

**15. APPEAL**

15.1 The victim (s)/ dependent on being denied interim or final compensation by the District Legal Services Authority shall be supplied free of cost true copy the order at the earliest and shall also be informed that appeal can be preferred before the State Legal Services Authority with 90 days of the receipt of the order.

15.2 That in appropriate cases the Victim(s)/Dependent may be provided Legal Aid Counsel or PLVs may be engage to enable the aggrieved person to prefer appeal.

**16. DOCUMENTS REQUIRED**

- Proper 1D Proof with full address
- Aadhar Card/ any other valid / legal ID proof
- Bank Account detail
- Affidavit
- Undertaking



**General Guideline and Procedure Adopted for  
effective implementation of Meghalaya Victim  
Compensation Scheme 2019**

Page | 9

- Court's Order
- Relatives', siblings' detail and proof thereof

In case victim lack proper ID proof or not having Bank account because of his social, economic deprivation, the District Authority with the help of PLV and District Administration would assist in procuring a valid ID proof. But in no case the compensation is disbursed without having valid documentation on record.

**17. MEETING OF DLSA**

Generally DLSA conduct its meeting once in a month for the purpose of granting victim compensation depending of pending application. But in severe and sensitive cases where the victim or claimants need immediate relief, special meetings should be held on the discretion of the authority. The best interest and help of the victim and his/her family is the paramount consideration.

**18. RECORD OF THE PROCEEDINGS**

District Authority should maintain proper record and register along with the budget received and utilized and submit the report to the State Legal Services Authority.

**19. MONITORING BY MEGHALAYA STATE LEGAL SERVICES AUTHORITY**

Without strict monitoring effective implementation cannot be ensured. Secretary DLSAs are free to communicate with Member Secretary on any hurdle they find in the process be it budgetary allocation or any other issue on administrative side. Data is kept at SLSA and directions shall be issued as per need.

**20. REPORTING TO MSLSA / PERIODIC RETURNS**

- The DLSA shall submit monthly report of recommendation/application received and decision taken.
- The DLSA shall also submit quarterly report of the compensation amount disbursed to the victim(s)/Dependent.

**21. ROLE OF ADVOCATES**

Though they are not absolutely barred in participating in the proceeding but their participation shall be in the nature of assisting and not litigating. The assistance

**General Guideline and Procedure Adopted for  
effective implementation of Meghalaya Victim  
Compensation Scheme 2019**

Page | 10

of Advocate in the meeting of the DLSA's, ordinarily is not encouraged. It should ensure that the compensation amount is credited in the account of the beneficiary and the same is monitored by the DLSA, so that it is not misused.

**22. APPEARANCE OF VICTIM/CLAIMANT/S**

Meghalaya State Legal Services Authority believes and feels that pious obligation is shouldered upon it to make things better for sufferer. DLSA office shall ensure that the victim may not be traumatized or harassed again and again. The victim is least required in the office except in utmost need. In appropriate cases PLV extends their support and contact with them. Victim is required in the office or during meeting only as a last recourse.

**23. TIME BOUND DISPOSAL OF COMPENSATION APPLICATION**

Directions are issued to all DLSA time to time. Timely disposal of claim and timely disbursement of compensation in the account of victim/s may be strictly observed. Two month period (maximum) is prescribed for DLSAs to complete the entire process. This period is strictly monitored by the State Authority by regularly asking returns.

- ❖ That the NALSA (Compensation Scheme for Women Victims/Survivors of Sexual Assault/Other Crimes), 2018 shall be a supplement to the Meghalaya Victim Compensation Scheme, 2019. That in case the NALSA (Compensation Scheme for Women Victims/Survivors of Sexual Assault/Other Crimes), 2018 is silent on any issue pertaining to Victim Compensation to Women, the provisions of the Meghalaya Victim Compensation Scheme, 2019 would be applicable.
- ❖ This guideline is to bring uniformity and advance the object of Meghalaya Victim Compensation Scheme, 2019. Any provisions of the guidelines which is not in conformity with the Compensation Scheme, 2019, the provisions of the Scheme shall prevail.

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