



GOVERNMENT OF JAMMU AND KASHMIR
HOME DEPARTMENT
Civil Secretariat
Srinagar/ Jammu

NOTIFICATION
Srinagar, the 11th July, 2019

SRO 442.—In exercise of the powers conferred by sub-section (1) of section 545-A of the Code of Criminal Procedure Samvat, 1989 (Act No. XXIII of 1989), the Government hereby makes the following scheme for providing funds for the purpose of compensation to the victims or their dependents who have suffered loss or injury as a result of the crime and who require rehabilitation; namely,—

1. **Short title and commencement.**— (1) This scheme may be called the Jammu and Kashmir Victim Compensation Scheme, 2019.

(2) The Scheme shall be deemed to have come into force w.e.f. 02.10.2018.

2. **Extent and application.**— (1) This scheme shall apply to the victims and their dependent(s) who have suffered loss, injury, as the case may be, as a result of the offence committed and who require rehabilitation.

(2) This scheme shall also apply to the child who has suffered mental or physical trauma and is entitled to compensation under sub-section (8) of section 34 of the Jammu and Kashmir Protection of Children from Sexual Violence Act, 2018 with a modification that compensation may be awarded by the Special Court till any compensation scheme is framed under the said Act.

3. **Definitions.**—In this scheme, unless the context otherwise requires:—

- (a) “Code” means the Code of Criminal Procedure, Svt., 1989;
- (b) “Criminal Injury Compensation Board” shall mean a Board which includes District Judge and such other co-opted persons who the District Judge feels will be of assistance particularly the District Magistrate, the Superintendent of Police, and the Chief Medical Officer/Civil Surgeon of that District or their nominee.
- (c) “Dependent” includes husband, wife, father, mother, grandparents, unmarried daughter and minor children of the victim as determined by the State Legal Services Authority or District Legal Services Authority on the basis of the report of the Sub-Divisional Magistrate of the concerned

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- 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;
- (d) **"District Legal Services Authority"** means the District Legal Services Authority (DLSA) constituted under section 9 of the Jammu and Kashmir Legal Services Authorities Act, 1997 (Act No. XXXIII of 1997);
 - (e) **"Form"** means form appended to this notification;
 - (f) **"Fund"** means Victim Compensation Fund constituted under clause (4);
 - (g) **"Central Fund"** means funds received from Central Victim Compensation Fund (CVCF) Scheme 2015;
 - (h) **"Government"** means 'State Government' wherever the State Victim Compensation Scheme or the State Victim Compensation Fund is in context and 'Central Government' wherever Central Government Victim Compensation Fund Scheme is in context;
 - (i) **"Injury"** means any harm caused to body or mind of a person;
 - (j) **"Minor"** means a child who has not completed the age of 18 years;
 - (k) **"Offence"** means offence committed against the victim punishable under RPC or any other law applicable in the State for the time being in force;
 - (l) **"Penal Code"** means the Ranbir Penal Code, Svt., 1989;
 - (m) **"Schedule"** means schedule applicable to this Chapter/Part of the scheme;
 - (n) **"State Legal Services Authority"** means the State Legal Services Authority (SLSA), as defined in Section 3 of the Jammu and Kashmir Legal Services Authorities Act, 1997 (Act No. XXXIII of 1997);
 - (o) **"Sexual Assault Victims"** means victims who has/have suffered mental or physical injury or both as a result of sexual offence including sections 376 (A) to (E), section 354 (A) to (D), and section 509 Ranbir Penal Code; and
 - (p) **"Victim/ survivor of other crime"** means a person who has suffered physical or mental injury as a result of any offence mentioned in the Schedule including sections 304 B, section 326A, section 498A Ranbir Penal Code (in case of physical injury of the nature specified in the schedule) including the attempts and abetment.

(2) Words and expressions used herein but not defined shall have the same meaning as assigned to them in the Code of Criminal Procedure, Samvat 1989, the Ranbir Penal Code, Samvat 1989 and any other relevant law governing the subject.

4. Victims Compensation Fund.— (1) There shall be constituted a Fund, to be called the Victims Compensation Fund from which the amount of compensation, as decided by the State Legal Services Authority or District

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Legal Services Authority, shall be paid to the victim or the dependent(s) who have 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 Scheme, 2015;
- (b) budgetary allocation in the shape of Grants-in-aid to SLSA for which necessary provision shall be made in the Annual Budget by the Government;
- (c) any cost amount ordered by Civil/Criminal Court/Tribunal to be deposited in this Fund;
- (d) amount of compensation recovered from the wrong doer/accused under clause 14 of the Scheme;
- (e) donations/contributions from International/ National/ Philanthropist/ Charitable Institutions/ Organizations and individuals permitted by State or Central Government; and
- (f) contributions from companies under CSR (Corporate Social Responsibility).

(3) The Fund shall be operated by the State Legal Services Authority (SLSA).

5. Eligibility for compensation.— A victim or the dependent (s) as the case may be, shall be eligible for grant of compensation under this scheme. However, the compensation received by them in the other schemes shall be taken into account while deciding the quantum of compensation.

6. Procedure for making application before the State Legal Services Authority or District Legal Services Authority.— (1) The concerned Station House Officer/ Superintendent of Police shall mandatorily share soft/hard copy of FIR immediately after its registration with State Legal Services Authority/District Legal Services Authority qua commission of offences covered in this Scheme which include Sections 326A, 354A to 354D, 376A to 376E, 304B, 498A (in case of physical injury covered in this Schedule), so that the State Legal Services Authority/ District Legal Services Authority can, in deserving cases, may suo-moto initiate preliminary verification of facts for the purpose of grant of interim compensation.

(2) An application for the award of interim/ final compensation can be filed by the Victim or the dependents or the SHO of the area before concerned District Legal Services Authority in Form appended to this notification 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 shall also be appended.

7. Place of filing of application.— The application/recommendation for compensation can be moved either before the State Legal Services Authority

or the concerned District Legal Services Authority or it can be filed online on a portal which shall be created by the State and all the District Legal Services Authorities. The Chairperson of the respective District Legal Services Authority shall decide the application/ recommendation moved before him/her as per the Scheme:

Provided that in case of acid attack victim the decision making authority shall be Criminal Injury Compensation Board as directed by Hon'ble Supreme Court in Laxmi vs. Union of India W.P.CRML 129/2006 order dated 10.04.2015.

8. Reliefs that may be awarded by the District Legal Services Authority.—The District Legal Services Authority may award compensation to the victim or the dependents to the extent as specified in the scheduled appended herewith.

9. Factors to be considered while awarding compensation.— While deciding a claim, the 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 counseling 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/female child 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) as a result of the offence;
- (i) whether the victim contracted human immunodeficiency virus (HIV) as a result of the offence;
- (j) any disability suffered by the victim as a result of the offence;
- (k) financial condition of the victim against whom the offence has been committed so as to determine her need for rehabilitation and re-integration needs of the victim;

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- (l) in case of death, the age, the monthly income of deceased, number of dependents, life expectancy, future promotional/growth prospects etc. and
- (m) any other factor which the DLSA may consider just and sufficient.

10. 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 545-A of the Code, or an application is made by any victim or the dependent(s), under sub-section (4) of Section 545-A of the Code, to the 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 District Legal Services Authority 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.

(2) The inquiry as contemplated under sub-section (5) of Section 545-A 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 rupees one lakh shall be paid to the victim within 15 days of the matter being brought to the notice of District Legal Services Authority. The order granting interim compensation shall be passed by District Legal Services Authority within 7 days of the matter being brought to its notice and the State Legal Services Authority shall pay the compensation within 8 days of passing of the order. Thereafter, an amount of rupees two lakhs shall be paid to the victim as expeditiously as possible and positively within two months of the first payment:

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

(3) After consideration of the matter, the District Legal Services Authority, upon its satisfaction, shall decide the quantum of compensation to be awarded to the victim or the dependent(s) taking into account the factors enumerated in clause 9 of the Scheme, as per schedule appended to this notification.

Moreover, in case 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 chapter. The victims of Acid attack are also entitled to additional compensation of rupees one lakh under Prime Minister's National Relief Fund vide memorandum no. 24013/94/Misc./2014-CSR-III/GoI/MHA

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dated 09.11.2016 (copy attached) . The victims of Acid Attack are also entitled to additional special financial assistance up to Rs. 5 lacs who need treatment expenses over and above the compensation paid by the respective State/UTs in terms of Central Victim Compensation Fund Guidelines-2016, no. 24013/94/Misc/ 2014-CSR.III, MHA/Gol.

(4) The State Legal Services Authority/ 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.

(5) In cases where the court gives findings that the criminal complaint and the allegation were false, then State/ 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.

11. 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 545-A of the Code. A true copy of the order shall be provided to the Investigating Officer in case the matter is pending investigation and also to the victim/dependent as the case may be.

12. Method of disbursement of compensation— (1) The amount of compensation so awarded shall be disbursed by the State 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 concerned would facilitate opening of a bank account in the name of the victim and in case the victim is a minor then in the name of the 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 can be disbursed by way of cash cards.

(2) The 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/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 drawn only on attainment of the age of majority, 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 Services Authority/ District Legal Services 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), on monthly basis which can be withdrawn by the beneficiary.

13. Interim relief to the victim— 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/dependents or suo moto:

Provided that as soon as the application for compensation is received by the District Legal Services 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, District Legal Services Authority or Member Secretary, State Legal Services Authority:

Provided further that the, interim relief so granted shall not be less than 25 per cent of the maximum compensation awardable as per schedule applicable to this Chapter, which shall be paid to the victim in totality:

Provided also that in cases of acid attack a sum of Rs. One lakh shall be paid to the victim within 15 days of the matter being brought to the notice of 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 Services Authority shall pay the compensation within 8 days of passing of order. Thereafter an additional sum of Rs. 2.00 lakhs shall be awarded and paid to the victim as expeditiously as possible and positively within two months.

14. Recovery of compensation awarded to the victim or the dependent(s)— Subject to the provisions of sub-section (3) of section 545-A of the Code, the State Legal Services Authority, in proper cases, may institute proceedings before the competent court of law for recovery of the compensation granted to the victim or the dependent(s) from person(s) responsible for causing loss or injury as a result of the crime committed by him/her. The amount, so recovered, shall be deposited in Victims 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 Services Authority/ District Legal Services 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. Compensation to Orphaned Minor victims.— 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, District Magistrate, Sub-Divisional Magistrate (SDM) or District Social Welfare Officer, as the case may be.

17. Limitation.— Under this scheme, no claim made by the victim or the dependent(s), under sub-section (4) of Section 545-A 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 can be condoned by the State Legal Services Authority /District Legal Services Authority.

18. Appeal.— In case the victim or their dependents are not satisfied with the quantum of compensation awarded by the District Legal Services Authority, they can file an appeal within 30 days from the date of receipt of order before the State Legal Services 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 savings.— (1) The Jammu and Kashmir Victim Compensation Scheme, 2013 is hereby repealed.

(2) Notwithstanding any such repeal anything done or any action taken or any order issued under the scheme so repealed shall be deemed to have been taken under the provisions of this scheme.

(3) All pending cases for grant of compensation before coming into force of the Jammu and Kashmir Victim Compensation Scheme, 2019 shall be decided as per the provisions of the Jammu and Kashmir Victim Compensation Scheme, 2013

By order of the Government of Jammu and Kashmir.

Sd/-
(Shaleen Kabra)
Principal Secretary to Government
Home Department.

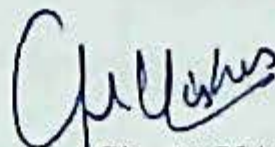
No.Home/OWP/134/2016-Part-III

Dated:- 11 -07-2019

Copy to the:-

1. All Financial Commissioners.
2. Financial Commissioner to the Hon'ble Governor, J&K.
3. Director General of Police, J&K, Srinagar

4. All Principal Secretaries to Government,
5. Principal Resident Commissioner, J&K, Government, New Delhi
6. All Administrative Secretaries to the Government.
7. *Divisional Commissioner, Kashmir/Jammu.*
8. All Heads of the Departments/Managing Directors of PSUs.
9. All Deputy Commissioners.
10. All District Superintendents of Police,
11. Director Information & Public Relations, J&K.
12. Director Archives, Archaeology and Museums, J&K.
13. General Managing, Government, Press, Jammu/Srinagar.
14. OSD with Hon'ble Advisors .
15. Pvt. Secy. to the Chief Secretary.
16. Pvt. Secy. to Principal Secretary to Government, Home Department.
17. I/C Website, Home Department.
18. Government Order file/Stock file.



(Gurpreet Singh) KAS
Deputy Secretary to the Government,
Home Department



Schedule to Notification SRO _____ dated _____

S. No	Particulars of loss or injury	Minimum limit of compensation	Upper limit of compensation
1.	Loss of life.	Rs 5.00 lacs	Rs.10.00 lac
2.	Death by torture in police custody	Rs 8.00 lacs	Rs.10.00 Lacs
3.	Gang Rape/Custodial Rape	Rs 5.00 lacs	Rs.10.00 lac
4.	Rape	Rs 4.00 lacs	Rs.7.00 lac
5.	Unnatural Sexual Assault	Rs 4.00 lacs	Rs.7.00 lac
6.	Loss of any limb or part of body resulting in 80% permanent disability or above.	Rs 2.00 lacs	Rs.5.00 lac
7.	Loss of any limb or part of body resulting 40% and below 80% permanent disability	Rs 2.00 lacs	Rs.4.00 lac
8.	Loss of any limb or part of body resulting in above 20% and below 40% permanent disability.	Rs 1.00 lacs	Rs.3.00 lac
9.	Loss of any limb or part of body resulting in below 20% permanent disability.	Rs 1.00 lacs	Rs.2.00 lac
10.	Grievous physical injury or any mental injury required in rehabilitation	Rs 1.00 lacs	Rs.2.00 lac
11.	Loss of Foetus i.e. Miscarriage as a result of Assault or loss of fertility.	Rs 2.00 lacs	Rs.3.00 lac
12.	In case of pregnancy on account of rape	Rs 3.00 lacs	Rs.4.00 lacs
13.	Injury causing severe mental agony to women and child victims in case like Human Trafficking	Rs 5.00 lacs	Rs. 8.00 lacs
14.	Victims of burning		
(a)	In case of	Rs 7.00 lacs	Rs.8.00 lacs

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	disfigurement of face		
(b)	In case of more than 50%	Rs 5.00 lacs	Rs.8.00 lacs
(c)	In case of injury less than 50%	Rs 3.00 lacs	Rs.7.00 lacs
(d)	In case of less than 20%	Rs 2.00 lacs	Rs.3.00 lacs
13.	Victims of Acid Attack		
(a)	In case of disfigurement of face.	Rs 7.00 lacs	Rs.8.00 lacs
(b)	In case of injury more than 50%	Rs5.00 lacs	Rs.8.00 lacs
(c)	In case of injury less than 50%	Rs 3.00 lacs	Rs.5.00 lacs
(d)	In case of injury less than 20%	Rs 3.00 lacs	Rs.4.00 lacs

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.

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Form to Notification SRO _____ dated _____

Application for the award of compensation under the Jammu and Kashmir compensation scheme for victims including child/ survivors of sexual assault/other crimes – 2019 for interim/final relief.

1.	Name of the Applicant Victim(s) or the Dependent(s)	
2.	Age of the Victim(s) or the Dependent(s)	
3.	a) Father's Name b) Mother's Name c) Spouse's Name	
4.	Address of the Victim(s) or their Dependent(s)	
5.	Date and time of the Incident	
6.	Whether FIR has been lodged?	
7.	Whether medical examination has been done? If yes, enclose Medical Report/ Death Certificate /P.M. Report.	
8.	Status of trial, if pending. If over, enclose copy of judgment and order on sentence	
9.	Has the applicant been awarded any compensation by the trial court or any other Govt. agency. If, yes give details	
10.	Give details of financial expenditure/ loss incurred	
11.	If yes give details.	

Signature of the Victim/Dependent