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PART-IIA

GOVERNMENT OF MEGHALAYA

ORDERS BY THE GOVERNOR

NOTIFICATIONS

The 8th August, 2014.

No.POL.191/2004/Pt-I/281 - In exercise of the powers conferred by section 357-A of the Code of Criminal Procedure, 1973 (2 of 1974) and the spirit thereof, the Governor of Meghalaya is pleased to institute the following scheme to provide Fund for the purpose of awarding compensation to the victim or his dependent(s) who have suffered loss or injury or require rehabilitation as a result of the offence:

1. Short titles extent and commencement:-

- i) This scheme shall be called The Meghalaya Victim Compensation Scheme, 2014
- ii) It shall extend to the whole of the State of Meghalaya
- iii) It shall come into force at once.

2. Objectives of the Scheme :

The Scheme aims at providing:

- a) Financial assistance to the victim; and
- b) Support services such as shelter, counselling, medical aid, legal assistance, education and vocational training depending upon the needs of the victim.
- c) The 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 crime and who require rehabilitation.

3. Beneficiaries:

The Scheme shall cover the victim and in case of death of the victim, his dependants or the member (s) of the family of the victim who have suffered atrocity resulting from the crime.

4. Definition:

In the scheme, unless the subject or context otherwise requires:-

- a) "State" means State of Meghalaya;
- b) 'Government' means Government of Meghalaya;
- c) "Act" or "Code" means the Code of Criminal Procedure, 1973 (2 of 1974);
- d) "Fund" means the Victim Compensation Fund;
- e) 'Victim Compensation' means the amount payable to the victim and in the case of the death of the victim, to the dependents or legal heirs of the victim;
- f). Authority means "the District Legal Services Authority" and "the State Legal Services Authority" and it shall respectively mean the District Legal Services Authority and the State Legal Services Authority constituted under section 9 and section 6 of the Legal Services Authority Act, 1987 respectively;
- g.) "Schedule" means the Schedule appended to this Scheme;
- h) "Loss or Injury" means the loss or injury as defined in Column 2 of the Schedule;
- i) The pronoun "he" and its derivatives as used in this Scheme include any person, whether male or female;
- j) "Victim" means a person who has suffered loss or injury caused by reason of the act or omission for which the accused person has been charged and the expression 'victim' includes in case of death of the victim , the guardian or legal heir;

5. Victim Compensation Fund

- i. There shall be constituted a fund to be named the "Victim Compensation Fund" from which the amount of compensation awarded under this scheme shall be paid to the victim or his guardian or legal heir who have suffered loss or injury as a result of the crime and who require rehabilitation. The compensation as decided by the Meghalaya State Legal Services Authority or the District Legal Services Authority as the case may be, shall be paid to the victim or his guardian or legal heir who have suffered loss or injury and require rehabilitation as a result of the crime.

- ii. The Fund shall be operated by the Secretary, State Legal Services Authority and shall be constituted out of the following funds.
- a. Grants from the Central Government, State Government or any local authority;
 - b. Subscriptions, donations and contributions received from any individual or bodies, whether incorporated or not, or international, national, philanthropist, charitable institutions or organizations;
 - c. Money received in compliance to any court order;
 - d. Budgetary allocation for which necessary provision has been made in the annual budget by the Government;
 - e. Fines imposed under Section 357 of the Code of Criminal Procedure, 1973 (1 of 1974) and ordered to be deposited by the courts in the Victim Compensation Fund;
 - f. Amount of compensation recovered from the wrongdoer or accused under the provisions of this Scheme.

6. Conditions for compensation:

- (i) Victim shall be eligible for the grant of compensation if ordered by the Court.
- (ii) Under this Scheme, the victim or guardian or legal heir, as the case may be, shall be entitled to financial assistance and restorative support services if one of the following criteria is satisfactorily fulfilled:-
 - (a) If the offender is not traced or identified, the victim may also apply for grant of compensation under sub-section (4) of section 357-A of the Act to meet expenses for physical and mental rehabilitation.
 - (b) The victim or claimant must report the crime to the officer-in-charge of the local Police Station or to the Magistrate having jurisdiction before making claim for compensation or suo moto cognizance taken of the crime by the police under whose jurisdiction the offence was committed.
 - (c) The victim or claimant (in the case of death of victim) shall fully cooperate with the police and prosecution from the stage of investigation till conclusion of trial of the case. Turning hostile or refusing to depose or failure to appear during trial shall be considered to be non cooperation.
 - (d) The crime must be one in which the victim sustains mental or bodily injury or dies.
 - (e) The death or permanent incapacitation of the victim was not the result of suicide or self-infliction of bodily or mental injury or a result of the victim's own wrong doing.
 - (f) The victim has not been compensated for the loss or injury under any other scheme of the Central or the State Government or Insurance Company or any other institutions.

- (g) Perpetrators of the crime or his dependent will not be eligible to any compensation under the scheme

[Explanation: The victim shall inform the authority the details of claims for compensation made under any other scheme or from any other source. The victim may exercise option to choose another scheme of Government, if the same is more beneficial to him. The victim will not be entitled to lay claim to both benefits and part benefit from one scheme and part from another.]

7. Procedure for grant of compensation

- i) Wherever a recommendation is made by the Court or an application is made by any victim or his dependent under sub-sections (2) or (3) of section 357-A of the Cr.P.C., 1973, to the District Legal Services Authority, it shall examine the claim and verify the contents of the same with regard to the loss or injury caused to the victim arising out of the reported criminal activity and shall also call for medical report, FIR and related records, copy of Final Form of the investigation or any other information necessary in order to determine the claim. Such information may relate to the loss caused to the victim, medical expenses to be incurred on treatment, minimum sustenance amount required for rehabilitation including such incidental charges as funeral expenses.
- ii) On being satisfied after due inquiry, the District Legal Services Authority shall determine the quantum of compensation within two months, within the ceiling of compensation fixed in the Schedule :

Provided that if the compensation awarded by the court exceeds the maximum limit, the amount of compensation so awarded shall be paid irrespective of maximum ceiling provided in the Schedule.

8. Mode of payment:

- i) Compensation under this Scheme shall be paid subject to the condition that if the trial court while passing judgment at a later date, orders the accused persons to pay any amount by way of compensation under sub-section (3) of section 357 of the CrPC, the victim or claimant (in the case of death of victim) shall remit an amount ordered equal to the amount of compensation, or the amount ordered to be paid under the said sub-section (3) of section 357 of the code, whichever is less. An undertaking to this effect shall be given by the victim or claimant (in the case of death of victim) before the disbursement of the compensation amount.

9. Basis of quantum of compensation

- (i) The quantum of compensation to be awarded to the victim or his dependents will be considered on the basis of loss caused to the victim, medical expenses to be incurred on treatment, minimum sustenance amount required for rehabilitation including incidental charges such as funeral expenses:
- (ii) The compensation shall not exceed the amount specified in the Schedule.

- (iii) Compensation received by the victim or dependent from the State in relation to the crime in question, namely, insurance, ex-gratia and / or payment received under any other Act or State-run scheme, shall be considered as part of the compensation amount under these schemes. The victim or claimant who has received compensation amount from collateral sources mentioned above shall be deemed to be compensatory under the scheme. If the eligible compensation amount exceeds the payment received by the victim or dependent from the aforementioned sources, the balance amount shall be paid from the Fund.
- (iv) The cases covered under the Motor Vehicle Act, 1988 (59 of 1988) wherein compensation is to be awarded by the Motor Accident Claims Tribunal and cases covered under existing schemes/facilities shall not be covered under this Scheme.
- [Explanation: amount of compensation given to the victim or his dependents under schemes such as extremist violence, die-in-harness scheme shall not fall under the purview of this Scheme. If, however, the amount of compensation received under the schemes falls short of the amount specified under the
- (v) The Meghalaya State Legal Services Authority or the District Legal Services Authority may, in order to alleviate the suffering of the victim, order for immediate first aid facility or medical treatment to be made available free of cost on the certificate of the Officer-in-charge of the Police Station or Magistrate of the area concerned.
- (vi) 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 the Scheme. In case such employment is given after release of compensation under the scheme, the assistance would not be withdrawn or amount realized, if paid already.

10. Order to be placed on record

A copy of the order of compensation passed under this Scheme shall be mandatorily placed before the trial court to enable the court to pass order of compensation under sub-section (3) of section 357 of the code.

11. Authorities responsible for implementation of the Scheme:

i) District Legal Services Authority:

The District Legal Services Authority in every district will have the exclusive jurisdiction to deal with applications for compensation under the Scheme .

ii) Functions of the District Legal Services Authority:

The District Legal Services Authority shall perform the following functions:-

- (a) To consider the claims and provide financial assistance and support services, as the case may be, in accordance with the procedures prescribed under the scheme.

- (b) To recommend for psychological, medical, educational and legal assistance to the affected persons, by the concerned authorities.
- (c) To arrange for counseling support to the affected woman including counseling of the spouse in case the affected woman is married.
- (d) To arrange shelter for the affected person for such period as may be required and in this regard issue directions to the appropriate authorities to provide protection to the affected persons whenever deemed necessary.
- (e) To recommend to the State Legal Services Authority the quantum of compensation to be awarded to a victim and the amount that shall be recommended shall not exceed the maximum limit as per the Schedule.
- (f) The amount of compensation as allotted to the District Legal Service Authority by the State Legal Services Authority from the fund shall be disbursed to the victim.

12. Procedure for payment:

- i) The amount of compensation shall be deposited in a Nationalized Bank branch or in a scheduled Commercial Bank or in a Post Office in the joint or single name of the victim or dependent(s) as the case may be. The payment from the Victim Compensation Fund will be made by Account Payee Cheque or electronic money transfer into the account of the payee.
- ii) The compensation awarded shall be paid in two phases, the first half being within any time during the inquiry or investigation launched under the provisions of CrPC or before commencement of trial and the balance on conclusion of the trial.

Provided that in case of a victim of acid attack, out of the compensation awarded, a sum of Rs. 1 Lakh shall be paid within 15 days from the date of occurrence of such incident and the balance amount of Rs. 2 lakh shall be paid as expeditiously as may be possible and positively within two months thereafter.

13. Budget Allocation.

Govt. shall make necessary budget provisions for making contribution into the fund

14. Maintenance of Accounts :-

The Deputy Commissioner/District Legal Service Authority and the State Legal Service Authority shall maintain accounts for receipt and expenditure as per the financial procedure of the State Government.

15. Audit of Accounts:-

The accounts of the District Legal Service Authority and the State Legal Service Authority shall be audited by the local audit and by the Accountant General.

16. Recovery of compensation awarded to the victim or dependent(s) :-

Subject to the provisions of sub-section(3) of section 357A of the Code, the Meghalaya Legal Service Authority, in proper cases, may institute proceedings before the competent court of law for recovery of the compensation granted to the victim or his dependent(s) from person(s) responsible for causing loss or injury as a result of the crime committed by him.

17. Limitation

Under the Scheme, no claim made by the victim or his dependent(s) under sub-section (4) of section 357A of the Code, shall be entertained after a period of twelve months from the date of occurrence of the crime.

18. Appeal

Any victim aggrieved by an order of denial of compensation by the District Legal Service Authority may file an appeal before the State Legal Service Authority within a period of ninety days.

Provided that the State Legal Services Authority, if it is satisfied, and for the reasons to be recorded in writing, may condone the delay in filing the appeal.

19. Supersession

The Meghalaya Victim Compensation Scheme, 2011 as notified vide Notification No. Pol 191/2004/pt/135 dated 20th March, 2012 hereby stands repealed from the date of the notification of this Scheme in the Meghalaya Gazette.

Notwithstanding such repeal, any order issued, action taken or anything whatsoever done under the provisions of the Scheme so repealed shall be deemed to have been made, issued, taken or done under the corresponding provisions of this Scheme.

J. LYNGDOH,

Commissioner & Secretary to the Govt. of Meghalaya,
Political Department.

Sr. No.	Particular of Loss or Injury	Maximum Age Limit of Compensation	
		3	4
1.	Loss of Life	a. Age 40 years or below 40 years. b. Age above 40 years and up to 60 years. c. Age above 60 years	Rs. 3.00 lacs Rs 2.00 lacs Rs.1.00 lac
2.	Loss of any limb or part of body above 40%	a. Age 40 years or below 40 years. b. Age above 40 years and up to 60 years. c. Age above 60 years.	Rs. 2.00 lacs Rs. 1.00 lac Rs. 50,000/-
3.	Loss of any limb or part of body below 40%	a. Age 40 years or below 40 years. b. Age above 40 years and up to 60 years. c. Age above 60 years.	Rs. 1.00 lac Rs. 50,000/ Rs. 25,000/-
4.	Rape		Rs.3.00 Lacs
5.	Acid Attack*		Rs.3.00 Lacs
6.	Loss or injury causing severe mental agony to women and child victims in cases like human trafficking, kidnapping and molestation etc.		Rs. 50,000/-
7	The following expenses shall be payable in addition to compensation outlined above.		
	(i) Funeral expenses		Rs.10000/-
	(ii) Medical Expenses - Actual expenses incurred before death or on account of injury supported by bills/vouchers but not exceeding Rs.15,000/-		

Scheduled I

***Explanation:** The minimum compensation of Rs. 3 lacs has been fixed for acid attack victims as per the order and judgment dated 18.7.2013 of the Hon'ble Supreme Court of India in Laxmi -vrs- Union of India and others (Writ petition (CRL) No. 129 of 2006) to enable the victim to meet the cost related to after care and rehabilitation. Of this amount, a sum of Rs. 1 lakh shall be paid to such victim within 15 days of occurrence of such incident (or being brought to the notice of the State Govt./Union Territory) to facilitate immediate medical attention and expenses in this regard. The balance sum of Rs. 2 lakhs shall be paid as expeditiously as may be possible and positively within two months thereafter.