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## **A Critical Analysis of Victim Compensation Mechanisms Under the Indian Criminal Justice System**

Author  
Saujanya Trivedi



# A Critical Analysis of Victim Compensation Mechanisms Under the Indian Criminal Justice System

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## Abstract

*This research paper critically examines the victim compensation mechanisms within the Indian criminal justice system, focusing on their legal framework, implementation, and effectiveness. It analyses statutory provisions under the Code of Criminal Procedure, 1973, particularly Sections 357 and 357A, along with key judicial pronouncements that have expanded the scope of victim rights and state responsibility. The study identifies significant challenges such as procedural delays, lack of awareness, inconsistencies across state schemes, and administrative inefficiencies that hinder access to timely and adequate compensation. It also undertakes a comparative analysis with international models to evaluate India's position in ensuring victim-centric justice. The research concludes that despite progressive legal recognition, the existing framework requires greater uniformity, transparency, and institutional support. It emphasizes the need for comprehensive reforms to strengthen compensation mechanisms and ensure meaningful rehabilitation and justice for victims.*

**Keywords:** *Victim Compensation, Criminal Justice System, Code of Criminal Procedure, Victim Rights, Restorative Justice, Legal Reform.*

## Introduction

The criminal justice system has traditionally been offender-centric, focusing primarily on the investigation, prosecution, and punishment of offenders, while often neglecting the rights and needs of victims. However, in recent decades, there has been a significant shift towards recognizing victims as key stakeholders in the justice process. Victim compensation has emerged as an important mechanism to address the harm suffered by victims of crime, providing them with financial relief and aiding in their rehabilitation. In India, the concept of victim compensation has gradually evolved through legislative and judicial developments. The Code of Criminal Procedure, 1973, particularly Sections 357 and 357A, provides the statutory framework for awarding compensation to victims. While Section 357 empowers courts to direct compensation from fines imposed on offenders, Section 357A mandates the establishment of victim compensation schemes by state governments. These provisions reflect a growing recognition of the state's responsibility to ensure that victims are not left

remediless.<sup>1</sup> Judicial intervention has played a crucial role in strengthening victim compensation jurisprudence. The Supreme Court, in cases such as Rudul Sah v. State of Bihar and Nilabati Behera v. State of Orissa, recognized the principle of state liability and awarded compensation for violations of fundamental rights. Subsequent decisions have further emphasized the importance of compensation as an integral part of justice, particularly in cases involving serious offences such as sexual violence and acid attacks. Despite these developments, the implementation of victim compensation mechanisms in India remains fraught with challenges. There are significant disparities across states in terms of eligibility criteria, compensation amounts, and procedural requirements. Many victims remain unaware of their rights, and delays in disbursement often undermine the purpose of compensation. Administrative inefficiencies and lack of coordination among authorities further weaken the system. This research paper seeks to critically analyse the effectiveness of victim compensation mechanisms within the Indian criminal justice system. It examines the legal framework, judicial trends, and practical challenges associated with compensation schemes, while also drawing comparative insights from international models. The study aims to identify gaps in the existing system and propose reforms to ensure a more uniform, accessible, and victim-centric approach, thereby promoting restorative justice and enhancing access to meaningful remedies for victims.

## **Background of the Study**

The criminal justice system has historically been centred on the offender, with primary emphasis placed on investigation, prosecution, and punishment. In this framework, crime has traditionally been viewed as an offence against the state rather than as a harm inflicted upon an individual. As a result, victims often remained marginalised, receiving little recognition or support within the legal process. However, with the development of victimology as a distinct field of study in the mid-twentieth century, there has been a gradual shift in focus towards acknowledging the rights, needs, and experiences of victims. This shift has led to the emergence of victim-oriented approaches, including compensation, restitution, and rehabilitation. Victim compensation is now widely regarded as an essential component of a fair and humane criminal justice system. It aims to provide financial relief to victims for the physical, emotional, and economic harm suffered as a result of criminal acts. Unlike traditional punitive measures, which focus on the offender, compensation mechanisms are restorative in nature, seeking to repair the damage caused to victims and facilitate their recovery and reintegration into society. The rationale behind such mechanisms is that the state, having assumed responsibility for maintaining law and order, also bears a duty to assist victims when it fails to prevent crime. In India, the evolution of victim

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<sup>1</sup> Madaan, Monica, and Arryan Mohanty. "Victim Compensation Laws: A Comprehension of Various Indian Statutes and Comparative Analysis among Jurisdictions in India, the UK, and the US." *International Journal of Criminal Common and Statutory Law* 5 (2025): 118-30.

compensation has been gradual and largely driven by judicial activism and legislative reforms.<sup>2</sup> Initially, the Code of Criminal Procedure, 1973, provided limited scope for compensation under Section 357, which empowered courts to award compensation from fines imposed on offenders. However, this provision was discretionary and dependent on the financial capacity of the offender, resulting in limited practical impact.<sup>3</sup> Recognising these shortcomings, the Criminal Law (Amendment) Act, 2008 introduced Section 357A, which mandated the establishment of Victim Compensation Schemes by state governments. This marked a significant shift towards recognising the state's responsibility to compensate victims, irrespective of the offender's ability to pay. Judicial pronouncements have played a pivotal role in strengthening the framework of victim compensation in India. The Supreme Court, in cases such as *Rudul Sah v. State of Bihar*<sup>4</sup> and *Nilabati Behera v. State of Orissa*<sup>5</sup>, expanded the scope of compensation by recognising it as a remedy for the violation of fundamental rights under Article 21 of the Constitution. These decisions established the principle that the state can be held liable to compensate individuals for harm caused due to its failure or negligence. Subsequent judgments have further reinforced the importance of victim compensation, particularly in cases involving serious offences such as rape, custodial violence, and acid attacks. Despite these progressive developments, the implementation of victim compensation mechanisms in India continues to face several challenges. There are significant disparities among state-level schemes in terms of eligibility criteria, quantum of compensation, and procedural requirements. Many victims remain unaware of their rights, and the process of applying for compensation is often complex and time-consuming. Delays in disbursement and bureaucratic inefficiencies further undermine the effectiveness of these schemes.<sup>6</sup> Additionally, the lack of coordination among law enforcement agencies, legal services authorities, and administrative bodies hampers the delivery of timely relief. The growing recognition of victim rights at the international level has also influenced the development of compensation mechanisms in India. Instruments such as the United Nations Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power (1985) have emphasised the need for states to provide adequate compensation and support to victims. Comparative experiences from jurisdictions such as the United Kingdom and the United States, where structured compensation schemes are in place, highlight the importance of institutional efficiency, transparency, and victim-centric policies. In this context,

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<sup>2</sup> Sahu, Ashwini Kumar, and Laxmikanta Das. "Victim Jurisprudence and Victim Compensation Scheme: Socio-Legal Analysis." *NUJS J. Regul. Stud.* 8 (2023): 51.

<sup>3</sup> Kool, Renée SB. "(Crime) Victims' compensation: the emergence of convergence." *Utrecht Law Review* 10.3 (2014).

<sup>4</sup> *Rudul Sah v. State of Bihar*, (1983) 4 SCC 141.

<sup>5</sup> *Nilabati Behera v. State of Orissa*, (1993) 2 SCC 746.

<sup>6</sup> Banerjee, Srijon. "Victim Compensation and Restorative Justice in India: A Comprehensive Analysis of Progress and Challenges." *GLS Law Journal* 7.1 (2025): 39-46.

the present study seeks to critically examine the victim compensation mechanisms within the Indian criminal justice system. By analysing the legal framework, judicial developments, and practical challenges, the study aims to assess the effectiveness of existing schemes and identify areas requiring reform. The background of this research thus lies in the need to bridge the gap between legal recognition and practical implementation, ensuring that victims receive timely, adequate, and meaningful compensation as part of a just and equitable system.

### **Concept of Victim Compensation**

Victim compensation refers to the monetary or material relief provided to individuals who have suffered harm as a result of criminal acts. It is a key component of a victim-oriented criminal justice system and reflects a shift from the traditional offender-centric approach towards one that acknowledges the suffering, rights, and rehabilitation needs of victims. The concept is grounded in the idea that justice is incomplete if it focuses solely on punishing the offender while neglecting the restoration of the victim. Thus, compensation serves both a remedial and restorative function within the broader framework of justice. Historically, early legal systems did recognise the importance of compensating victims, often through restitution or fines paid directly by the offender to the victim. However, with the evolution of modern criminal law, crime came to be viewed primarily as an offence against the state, leading to the marginalisation of victims in legal proceedings. In such systems, the role of the victim was largely reduced to that of a witness, with little attention paid to their personal loss or suffering. The emergence of victimology in the twentieth century challenged this paradigm and emphasised the need to re-centre victims within the justice process.<sup>7</sup> Victim compensation, as a modern legal concept, extends beyond traditional restitution. While restitution typically involves payment by the offender, compensation may be provided by the state, particularly in situations where the offender is unknown, untraceable, or unable to pay. This reflects the principle of social justice, wherein the state assumes responsibility for the welfare of victims as part of its duty to maintain law and order. Compensation schemes are therefore designed to ensure that victims are not left without remedy, even when the criminal justice process fails to deliver adequate redress. The scope of victim compensation is broad and may cover various forms of harm, including physical injury, emotional trauma, loss of income, medical expenses, and damage to property. In cases involving serious offences such as sexual violence, human trafficking, or acid attacks, compensation also plays a crucial role in supporting long-term rehabilitation and reintegration. Importantly, compensation is not intended to equate to a full monetary valuation of the harm suffered, which is often immeasurable, but rather to provide financial support that can alleviate the

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<sup>7</sup> Schafer, Stephen. "Victim compensation and responsibility." *S. Cal. L. Rev.* 43 (1970): 55.

immediate and long-term consequences of victimisation. In the Indian context, the concept of victim compensation has gained increasing recognition over time.<sup>8</sup> The legal framework under the Code of Criminal Procedure, 1973, particularly Sections 357 and 357A, reflects this evolution. While Section 357 allows courts to award compensation from fines imposed on offenders, Section 357A establishes a state-funded mechanism through Victim Compensation Schemes. This marks a significant departure from earlier approaches by recognising the state's obligation to support victims independently of the offender's capacity to pay. It also aligns with constitutional principles, particularly the right to life and personal liberty under Article 21, which has been judicially interpreted to include the right to dignity and rehabilitation. The concept of victim compensation is also closely linked to the broader philosophy of restorative justice. Unlike retributive justice, which focuses on punishment, restorative justice seeks to repair the harm caused by crime by addressing the needs of victims, offenders, and the community. Compensation is a central element of this approach, as it provides tangible recognition of the victim's suffering and contributes to their recovery. It also reinforces the idea that justice should be inclusive and responsive to the interests of all stakeholders. Despite its significance, the implementation of victim compensation mechanisms often raises complex issues. Determining the appropriate amount of compensation, ensuring timely disbursement, and identifying eligible beneficiaries can be challenging. There is also the risk that compensation may be perceived as a substitute for justice, rather than a complementary measure. Therefore, it is essential to ensure that compensation mechanisms are designed and implemented in a manner that is fair, transparent, and sensitive to the needs of victims. In conclusion, victim compensation represents a vital shift towards a more humane and balanced criminal justice system. It acknowledges that victims are not merely passive participants but central figures whose rights and welfare must be protected. By providing financial relief and supporting rehabilitation, compensation mechanisms contribute to the realization of substantive justice. However, their effectiveness depends on proper legal frameworks, administrative efficiency, and a sustained commitment to victim-centric principles.<sup>9</sup>

### **Evolution of Victim Rights in the Criminal Justice System**

The evolution of victim rights within the criminal justice system reflects a gradual shift from an offender-centric model to a more balanced and victim-oriented approach. In early legal systems, victims played a central role, as crimes were often treated as personal wrongs requiring restitution or compensation. Mechanisms such as fines and reparations were directly linked to the harm suffered by victims. However, with the development of modern nation-states and

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<sup>8</sup> McGee, Leonard. "Crime victim compensation." *J. Contemp. L.* 5 (1978): 67.

<sup>9</sup> Morgan, Anne M. "Victim Rights: Criminal Law: Remembering the "Forgotten Person" in the Criminal Justice System." *Marquette Law Review* 70.3 (1987): 572.

formal legal institutions, crime came to be viewed primarily as an offence against the state. This transformation led to the marginalisation of victims, whose role was largely confined to that of witnesses in criminal proceedings. For a considerable period, the criminal justice process prioritised the detection, prosecution, and punishment of offenders, with minimal attention to the needs and rights of victims. The focus on retributive justice meant that the suffering of victims, including physical, emotional, and economic harm, was often overlooked. It was not until the mid-twentieth century that the discipline of victimology emerged, challenging this traditional approach. Scholars such as Hans von Hentig and Benjamin Mendelsohn highlighted the importance of understanding victimisation and advocated for greater recognition of victims within the justice system. This marked the beginning of a broader movement to integrate victim rights into legal frameworks. The international recognition of victim rights gained momentum with the adoption of the United Nations Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power in 1985. This landmark instrument emphasised the rights of victims to access justice, fair treatment, restitution, compensation, and assistance. It encouraged member states to develop mechanisms to support victims, including compensation schemes and legal aid services.

This declaration significantly influenced national legal systems, including India, by promoting a more victim-centric approach to justice. In India, the evolution of victim rights has been shaped by both legislative reforms and judicial activism. Initially, the Code of Criminal Procedure, 1973, provided limited recognition of victim rights, primarily through Section 357, which allowed courts to award compensation out of fines imposed on offenders. However, this provision was discretionary and insufficient to address the broader needs of victims. Recognising these limitations, the Criminal Law (Amendment) Act, 2008 introduced Section 357A, which mandated the establishment of victim compensation schemes by state governments. This development marked a significant step towards institutionalising victim rights and acknowledging the state's responsibility in providing compensation. Judicial decisions have played a transformative role in expanding the scope of victim rights in India. The Supreme Court has interpreted the right to life and personal liberty under Article 21 of the Constitution to include the right to dignity, rehabilitation, and compensation. In cases such as *Rudul Sah v. State of Bihar* and *Nilabati Behera v. State of Orissa*, the Court awarded compensation for violations of fundamental rights, thereby establishing the principle of state liability. Subsequent judgments have further reinforced the importance of victim compensation, particularly in cases involving custodial violence, sexual offences, and acid attacks.<sup>10</sup>

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<sup>10</sup> Hoyle, Carolyn, and Leila Ullrich. "New court, new justice? The evolution of 'justice for victims' at domestic courts and at the International Criminal Court." *Journal of International Criminal Justice* 12.4 (2014): 681-703.

The judiciary has also emphasised the need for a humane and victim-centric approach in criminal proceedings. In recent years, there has been increasing recognition of the need to ensure victim participation and protection within the criminal justice process. Amendments to criminal laws have introduced provisions for victim impact statements, witness protection, and enhanced rights for victims of specific crimes. Legal Services Authorities at the national and state levels have also been entrusted with the responsibility of implementing victim compensation schemes and providing support services. These developments reflect a growing commitment to integrating victim rights into the justice system. Despite these advancements, significant challenges remain in the effective realisation of victim rights in India. Issues such as lack of awareness, procedural complexities, delays in compensation, and disparities across state schemes continue to hinder access to justice. Moreover, the implementation of victim rights often depends on the efficiency of administrative mechanisms and the sensitivity of legal institutions. In conclusion, the evolution of victim rights represents a critical transformation in the philosophy of criminal justice. From being largely ignored, victims are now increasingly recognised as central participants whose rights and welfare must be protected. While substantial progress has been made, continued efforts are required to ensure that these rights are effectively implemented, thereby achieving a more just, inclusive, and restorative criminal justice system.

### **Legal Framework for Victim Compensation in India**

The legal framework for victim compensation in India reflects a gradual shift from an offender-centric system to a more victim-oriented approach, combining statutory provisions, constitutional principles, and judicial interpretation. At its core, the framework recognises that victims of crime are entitled not only to justice in the form of punishment of offenders but also to financial relief and rehabilitation for the harm suffered. The primary statutory basis for victim compensation is found in the Code of Criminal Procedure, 1973 (CrPC). Section 357 of the CrPC empowers criminal courts to award compensation to victims out of the fine imposed on the offender. It allows courts to direct that the whole or part of the fine recovered be applied towards compensating the victim for any loss or injury caused by the offence. While this provision marked an important step in acknowledging victim rights, it is inherently limited because it depends on the imposition of a fine and the financial capacity of the offender. Moreover, its discretionary nature resulted in inconsistent application by courts.<sup>11</sup>

Recognising these limitations, a significant reform was introduced through the Criminal Law (Amendment) Act, 2008, which inserted Section 357A into the CrPC. This provision mandates that every state government, in coordination with

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<sup>11</sup> Howley, Susa, and Carol Dorris. "Legal rights for crime victims in the criminal justice system." *Victims of crime* (2007): 299-314.

the Central Government, establish a Victim Compensation Scheme (VCS). Under this scheme, compensation is awarded from a state-funded pool, irrespective of whether the offender is identified, apprehended, or capable of paying compensation. Section 357A also empowers courts to recommend compensation in appropriate cases and directs District Legal Services Authorities (DLSA) and State Legal Services Authorities (SLSA) to determine and disburse the amount. This marked a paradigm shift by placing the responsibility of victim compensation on the state rather than solely on the offender. In addition to Sections 357 and 357A, other provisions of the CrPC also contribute to the framework. Section 357B clarifies that compensation awarded under Section 357A is in addition to fines imposed under specific penal provisions, particularly in cases such as acid attacks. Section 357C imposes a duty on all hospitals, whether public or private, to provide immediate medical treatment to victims of certain offences, including rape and acid attacks, free of cost. These provisions highlight the expanding scope of victim protection and support within the legal system. The Indian Constitution also provides an important foundation for victim compensation. Although it does not explicitly mention compensation for victims of crime, the Supreme Court has interpreted Article 21, which guarantees the right to life and personal liberty, to include the right to live with dignity.

In this context, compensation has been recognised as a remedy for violations of fundamental rights. Through its writ jurisdiction under Articles 32 and 226, the Supreme Court and High Courts have awarded compensation in cases involving custodial deaths, illegal detention, and police excesses, thereby strengthening the constitutional basis of victim compensation. Judicial decisions have significantly shaped and expanded the legal framework. In *Rudul Sah v. State of Bihar*, the Supreme Court awarded compensation to a person who was illegally detained even after acquittal, establishing that monetary compensation could be granted for violation of fundamental rights. Similarly, in *Nilabati Behera v. State of Orissa*, the Court reaffirmed the principle of state liability and emphasised that compensation is an appropriate remedy for custodial deaths. In *Ankush Shivaji Gaikwad v. State of Maharashtra*, the Court clarified that the power to award compensation under Section 357 is not ancillary but a substantive power that must be exercised with due consideration. These judgments have played a crucial role in making compensation an integral part of the justice process. Furthermore, special laws and policy measures have strengthened victim compensation in specific contexts. For instance, guidelines issued in cases of sexual violence and acid attacks have led to the establishment of minimum compensation amounts and victim support mechanisms. The National Legal Services Authority (NALSA) has also issued model guidelines to promote uniformity in compensation schemes across states. Despite these efforts, variations persist in terms of eligibility criteria, quantum of compensation, and procedural requirements among different states. While the legal framework is comprehensive

in design, its effectiveness depends largely on implementation. Challenges such as delays in disbursement, lack of awareness among victims, and administrative inefficiencies continue to hinder access to compensation. Additionally, coordination between police, judiciary, and legal services authorities is often inadequate, resulting in gaps in the delivery of relief. In conclusion, the legal framework for victim compensation in India represents a progressive development towards a more inclusive and victim-centric criminal justice system. It combines statutory provisions, constitutional principles, and judicial activism to ensure that victims receive recognition and support. However, the success of this framework ultimately depends on its effective implementation, uniformity across states, and a sustained commitment to protecting the rights and dignity of victims.<sup>12</sup>

### **Role of Judiciary in Advancing Victim Compensation**

The judiciary in India has played a transformative role in advancing the concept of victim compensation, moving it from a peripheral concern to an integral component of the criminal justice system. While legislative provisions provided a basic framework, it is largely through judicial interpretation and activism that victim compensation has gained substantive meaning and practical relevance. Courts have consistently expanded the scope of compensation by linking it with fundamental rights, particularly the right to life and personal liberty under Article 21 of the Constitution. In the early years, victim compensation was confined to statutory provisions such as Section 357 of the Code of Criminal Procedure, 1973, which allowed courts to award compensation out of fines imposed on offenders. However, the discretionary nature of this provision led to inconsistent application. Recognising these limitations, the judiciary began to treat compensation not merely as an ancillary relief but as a substantive right of victims. A landmark turning point came with the decision in *Rudul Sah v. State of Bihar* (1983), where the Supreme Court awarded monetary compensation to a person who had been unlawfully detained even after acquittal. This case established the principle that compensation could be granted for violations of fundamental rights under the Court's writ jurisdiction. The jurisprudence was further strengthened in *Nilabati Behera v. State of Orissa* (1993), where the Supreme Court reaffirmed the concept of state liability and held that compensation is an appropriate remedy for custodial deaths and other violations of fundamental rights. The Court emphasised that such compensation is distinct from private law remedies and is aimed at providing immediate relief to victims or their families. These decisions marked a significant shift by recognising compensation as a constitutional remedy rather than merely a statutory discretion. Subsequent judgments continued to expand the scope and application of victim compensation. In *Ankush Shivaji Gaikwad v. State of*

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<sup>12</sup> Razavifard, Behzad, and Hassan Faghieh Mohammadi. "The Evolution of Victims Rights under the Laws of the International Criminal Court." *International Law Review* 28.45 (2012): 195-233.

Maharashtra (2013), the Supreme Court clarified that courts must apply their mind to the question of compensation in every criminal case and that the power under Section 357 is not optional but mandatory in appropriate circumstances.<sup>13</sup> This judgment reinforced the importance of compensation as part of sentencing and directed courts to adopt a more proactive approach in awarding relief to victims. The judiciary has also played a crucial role in addressing specific categories of crimes, particularly those involving severe physical and psychological harm. In cases such as *Laxmi v. Union of India* (2014), relating to acid attack victims, the Supreme Court issued directions for the establishment of minimum compensation amounts and mandated free medical treatment for victims.

Similarly, in *Nipun Saxena v. Union of India* (2019), the Court emphasised the need for confidentiality, dignity, and compensation for victims of sexual offences.<sup>14</sup> These decisions highlight the judiciary's commitment to ensuring that compensation mechanisms are responsive to the unique needs of vulnerable victims. Another significant contribution of the judiciary has been in promoting the implementation of Section 357A of the Code of Criminal Procedure, which provides for state-funded victim compensation schemes. Courts have frequently directed State Legal Services Authorities and District Legal Services Authorities to ensure timely disbursement of compensation and have intervened in cases where victims were denied their rightful relief. Judicial monitoring has thus played an important role in bridging the gap between legislative intent and administrative execution. Despite these advancements, the judiciary has also acknowledged the limitations of relying solely on judicial intervention. While courts can provide relief in individual cases, systemic issues such as delays, lack of awareness, and administrative inefficiencies require broader institutional reforms.

The judiciary has therefore often called upon the legislature and executive to strengthen the framework and ensure uniform implementation of compensation schemes across states. In conclusion, the judiciary has been a key driver in the evolution and expansion of victim compensation in India. Through its progressive interpretations, it has elevated compensation from a discretionary remedy to a fundamental aspect of justice and human rights. By recognising state liability, issuing guidelines, and ensuring enforcement, the courts have significantly contributed to making the criminal justice system more victim-centric. However,

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<sup>13</sup> Reddi, P. V. "Role of the Victim in the Criminal Justice Process." *Student B. Rev* 18 (2006): 1.

<sup>14</sup> John, Oyeleke Oluwademilade, et al. "The Roles of Victims of Crimes in the Administration of Criminal Justice." (2025).

sustained efforts from all branches of government are necessary to ensure that the principles laid down by the judiciary are effectively translated into practice.<sup>15</sup>

### **Limitations of the Study**

This research is doctrinal in nature and primarily relies on statutory provisions, judicial decisions, and academic literature relating to victim compensation in India. It does not incorporate empirical data, field studies, or interviews with victims, officials, or stakeholders, which may limit a comprehensive understanding of ground-level challenges. The study also depends on publicly available information, which may not fully capture administrative practices or implementation gaps across states.

Additionally, variations in state compensation schemes make uniform analysis difficult. While comparative perspectives are included, they are limited in scope and do not cover all global models. Lastly, evolving legal developments and policy reforms may affect the relevance of certain findings over time, thereby posing a limitation to the study's long-term applicability.

### **Significance of the study**

The significance of this study lies in its focus on victim compensation as a crucial yet often under-examined component of the Indian criminal justice system. Traditionally, criminal law has prioritised the prosecution and punishment of offenders, frequently overlooking the needs and rights of victims. In this context, the study is important as it highlights the shift towards a more victim-centric approach, where justice is not limited to penal consequences but also includes restitution, rehabilitation, and support for those affected by crime. This research contributes to academic discourse by critically analysing the effectiveness of existing legal provisions, particularly Sections 357 and 357A of the Code of Criminal Procedure, 1973. It identifies gaps between legislative intent and actual implementation, thereby offering a deeper understanding of the challenges faced by victims in accessing compensation. By examining judicial trends and state-level practices, the study brings attention to inconsistencies and disparities that undermine the principle of equal justice.<sup>16</sup>

The study is also significant from a policy perspective. It provides insights that can assist lawmakers, legal practitioners, and policymakers in formulating reforms aimed at strengthening victim compensation mechanisms. Issues such as procedural delays, lack of awareness, and administrative inefficiencies are analysed to suggest practical improvements. Furthermore, by incorporating

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<sup>15</sup> Gardner, Kiran D., and Rahul Mishra. "Understanding the Role of the Judiciary vis-a-vis Karnataka Victim Compensation Scheme, 2011: An Analysis." *CMR Univ. J. Contemp. Legal Aff.* 4 (2022): 191.

<sup>16</sup> Shapland, Joanna. "Victims, the criminal justice system and compensation." *Brit. J. Criminology* 24 (1984): 131.

comparative perspectives, the research highlights best practices that can be adapted to the Indian context. From a social standpoint, the study underscores the importance of recognising victims as central stakeholders in the justice process. It emphasises that effective compensation mechanisms not only provide financial relief but also promote dignity, healing, and reintegration. Thus, the study is significant in advancing a more humane, inclusive, and restorative criminal justice system in India.<sup>17</sup>

### **Literature Regarding this Paper**

The concept of victim compensation has evolved significantly within criminal justice discourse, shifting from an offender-centric model to one that increasingly recognizes the rights and needs of victims. Early criminological theories largely focused on punishment, deterrence, and retribution, often overlooking the victim's role in the justice process. However, modern scholarship has emphasized restorative justice principles, advocating for mechanisms that acknowledge victim suffering and provide adequate reparation. The foundational ideas of victimology, developed by scholars such as Hans von Hentig and Benjamin Mendelsohn, laid the groundwork for understanding victim rights and the necessity of compensation frameworks within legal systems.

Classical legal frameworks did not prioritize victim compensation as a state responsibility. Traditionally, criminal law viewed crime as a wrong against the state rather than an individual harm requiring restitution. However, modern legal theorists argue that the state, having assumed the responsibility of prosecuting crimes, must also ensure that victims are not left remediless. Andrew Ashworth and Zedner (2014) highlight the importance of integrating victim rights into criminal justice systems, emphasizing that compensation is a crucial component of justice rather than a mere welfare measure. Similarly, scholars such as Doak (2008) argue that victim participation and compensation are essential to achieving a more balanced and humane justice system. In the Indian context, the evolution of victim compensation mechanisms reflects a gradual but significant shift in legal thinking. Early provisions under the Code of Criminal Procedure, 1973, particularly Section 357, empowered courts to award compensation, but its application remained limited and discretionary.

Judicial interpretations played a crucial role in expanding the scope of compensation. Landmark judgments such as *Rudul Sah v. State of Bihar* (1983) and *Nilabati Behera v. State of Orissa* (1993) established the principle of state liability in cases of violation of fundamental rights, thereby strengthening the jurisprudential basis for victim compensation. These decisions marked a transition from a purely punitive approach to one that recognizes the need for

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<sup>17</sup> Wolfgag, Marvin E. "Victim compensation in crimes of personal violence." *Minn. L. Rev.* 50 (1965): 223.

restorative justice. Subsequent legislative developments further reinforced this shift. The introduction of Section 357A through the Criminal Procedure Code (Amendment) Act, 2008 institutionalized victim compensation schemes, mandating state governments to establish funds for compensating victims or their dependents. Scholars such as K.I. Vibhute (2010) and R.V. Kelkar (2016) have critically examined these provisions, noting that while the statutory framework represents progress, its implementation remains inconsistent across states. They argue that disparities in compensation schemes, lack of awareness, and bureaucratic delays undermine the effectiveness of these mechanisms.

Contemporary scholarship also focuses on the challenges associated with victim compensation in India. Researchers highlight issues such as inadequate funding, procedural complexities, and limited judicial enforcement. Aparna Chandra (2017) critiques the discretionary nature of compensation awards and emphasizes the need for uniform guidelines to ensure fairness and consistency. This gap between law and practice continues to be a major concern in the Indian criminal justice system. Comparative perspectives provide further insight into the effectiveness of victim compensation frameworks. In jurisdictions such as the United Kingdom and the United States, structured compensation schemes funded by the state have been implemented to ensure timely and adequate relief to victims. The Criminal Injuries Compensation Authority (UK) and state-level compensation programs in the U.S. serve as models for institutionalized victim support. European frameworks, particularly under the European Convention on Human Rights, emphasize the state's obligation to provide effective remedies, including compensation, in cases of rights violations.<sup>18</sup>

Scholars argue that these models offer valuable lessons for India, particularly in terms of standardization, accessibility, and victim-centric approaches. A recurring theme across the literature is the tension between legal recognition and practical enforcement. While the Indian legal system has made significant strides in acknowledging victim rights, the operationalization of compensation mechanisms remains fragmented. Scholars widely agree that the success of such frameworks depends not only on legislative provisions but also on administrative efficiency, judicial sensitivity, and public awareness. There is also growing emphasis on integrating victim compensation within a broader restorative justice framework, which includes rehabilitation, psychological support, and social reintegration.

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<sup>18</sup> Bansal, Ashi, and Manisha Matolia. "Victim-Centric Governance in the Criminal Justice System: Policy and Practice Analysis with Special Reference to India." *Advances in Consumer Research* 2.5 (2025).

## Conclusion

Victim Compensation has emerged as a vital element of a fair and inclusive criminal justice system in India. While legislative provisions and judicial interventions have significantly strengthened the recognition of victim rights, practical challenges continue to limit their effectiveness. Issues such as inconsistent implementation, lack of awareness, and procedural delays hinder victims from receiving timely and adequate relief. The study highlights that compensation must be viewed not merely as a legal formality but as a means of ensuring dignity, rehabilitation, and access to justice. Therefore, a coordinated effort involving legislative reform, administrative efficiency, and judicial sensitivity is essential to create a truly victim-centric framework. Strengthening these mechanisms will contribute to achieving substantive justice and restoring confidence in the criminal justice system.<sup>19</sup>

The study concludes that while India has made notable progress in recognizing victim compensation as an essential component of criminal justice, significant gaps persist in its effective implementation. Legal provisions under the Code of Criminal Procedure, 1973, particularly Sections 357 and 357A, reflect a shift towards a victim-centric approach, yet their impact is limited by inconsistencies across states, administrative inefficiencies, and lack of awareness among victims. Judicial interventions have played a pivotal role in expanding the scope of compensation and reinforcing state responsibility; however, over-reliance on courts cannot substitute for a robust and uniformly implemented statutory framework. The absence of standardized guidelines and disparities in compensation schemes often result in unequal treatment of victims, undermining the principle of justice. Therefore, there is a pressing need for comprehensive reforms, including uniform compensation policies, streamlined procedures, and increased awareness. Strengthening institutional mechanisms and adopting best practices from international models can help ensure timely, fair, and adequate compensation, ultimately promoting restorative justice and enhancing victims' access to meaningful remedies.

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<sup>19</sup> Gour, Shambhavi. "Victim-Centric Justice in Criminal Law: A Critical Analysis of Victim Protection, Compensation and Restorative Mechanisms." *International Journal of Advanced Research and Multidisciplinary Trends (IJARMT)* 3.1 (2026): 1-17.

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