



2024:DHC:9084



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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

*Date of Decision: 06.11.2024*

+ **W.P.(C) 2804/2019**

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.....Petitioner

Through: Ms. Sanjana Srikumar, Adv.

versus

GOVERNMENT OF NCT OF DELHI AND ORS. ....Respondents

Through: Ms. Hetu Arora Sethi, ASC with  
Mr. Arjun Basra, Adv. for R-1&2.  
Mr. Aayush Agarwala, Advocate  
for R-4

**CORAM:**

**HON'BLE MS. JUSTICE TARA VITASTA GANJU**

**TARA VITASTA GANJU, J.: (Oral)**

**PREFACE:-**

1. The grievance of the Petitioner as articulated in the prayers in the present petition reads as follows:

*“(a) Direct the Respondents herein to pay the petitioner an interim compensation of Rs 3,00,000;*

*(b) Direct Respondent No 3 herein to pay the petitioner an amount of Rs 1,00,000 under the Prime Minister National Relief Fund;*

*(c) Direct Respondent No 4 to conduct the case of the petitioner in a fast and just manner;”*

2. At the outset, learned Counsel for the Petitioner, on instructions, submits that prayer (b) and (c) are not being pressed and the Petitioner is



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confining her relief in the present Petition to Prayer (a) alone.

3. By way of the present Petition the Petitioner, a doctor by profession, is praying for directions to the Respondent to make minimum payment of interim compensation of Rs. 3,00,000/- in terms of the Delhi Victim Compensation Scheme, 2015 [hereinafter referred to as the “Scheme”].

### **BRIEF FACTS**

4. The Petitioner is a doctor and a senior citizen who agreed to sell her property to a third party in July, 2017. It is the case of the Petitioner that an agreement to sell was entered into by the Petitioner with one Mr. Rakesh Tanwar. Due to dispute between the parties, the Agreement did not go through and it resulted in litigation between the parties. During the pendency of the litigation, the said Mr. Rakesh Tanwar along with some associates came into her home on 18.02.2018 and assaulted her as and threw acid at the Petitioner. It is the contention of the Petitioner that to escape the assailants she ran into bathroom and climbed out on top of the toilet seat to protect her face. In the process, the acid fell on her legs, feet and her clothes. During this process, a heating rod in the bathroom caught fire and the said Mr. Rakesh Tanwar and his allies fled from the premises. The Petitioner was taken to Deen Dayal Upadhyay Hospital where she was given first treatment and MLC No. 1520/2018 was also registered.

5. Subsequently, an FIR was registered on 19.02.2018 being FIR No. 38/2018, PS, Naraina, New Delhi. The Petitioner applied to the to the District Magistrate, Naraina for interim compensation under the Scheme



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on 12.10.2018 requesting for release of interim compensation in the sum of Rs. 3 lakhs.

6. Aggrieved by the inaction of the Respondent, the Petitioner filed the present Petition. Subsequent, to the filing of the present Petition an interim compensation in the sum of Rs. 30,000/- was disbursed to the Petitioner by Respondent.

7. It is the case of the Respondent that upon receipt of the complaint of the Petitioner, the Respondent No.4 constituted a Criminal Injuries Compensation Board, which comprised of (i) District & Sessions Judge (Chairman); (ii) District Magistrate; (iii) Assistant Commissioner of Police; (iv) Inspector; (v) Chief District Medical Officer; (vi) Head of Department, Burns & Plastic Surgery Department, DDU Hospital; and (vii) Resident Doctor, DDU Hospital; and the said Board examined the victim/Petitioner, and it was determined by the Board that the sum of Rs.30,000/- would be the interim compensation due to the victim in terms of the Scheme.

7.1 Learned Counsel for Respondent No.4 further submits that, thereafter, payment was made to the Petitioner under the Scheme.

8. In essence, the Petitioner impugns compensation as awarded by the Criminal Injuries Compensation Board [hereinafter referred to as 'CICB'] which gave its decision on 15.07.2019 and decided to award interim compensation in the sum of Rs. 30,000/- to the Petitioner based on its observation/finding that the compensation of Rs. 30,000/- shall be suitable in the *'backdrop of magnitude of injuries which is reported to be '5-6%*



*superficial burns over legs”.*

### **Contentions of the Petitioner**

9. Learned Counsel for the Petitioner has raised two essential contentions. She submits that the Respondent No.4 does not have the authority to award compensation less than the mandatory minimum as the per Scheme. Reliance in this regard is placed on Clauses 8, 10 and 13 of the Scheme and the Schedule to the Scheme. It is contended that the reliance placed on the extent of physical injury cannot be used to evade the mandatory minimum compensation under the Scheme.

10. It is averred that as per the Schedule to the Scheme, the only discretion available to the Respondents is between Rs. 3 lakhs and 5 lakhs which is at Serial Number 14 of the Schedule and where there is a minimum compensation is set out at Rs. 3 lakhs or 5 lakhs and the maximum compensation ranges between Rs. 5 lakhs and 7 lakhs depending on the injury.

11. It is the contention of the learned Counsel for the Petitioner that the discretion available to the Respondent since the injury was less than 50%, if any, would have been between Rs. 3 lakhs and 5 lakhs alone. Reliance on the Judgments *Nipun Saxena & Anr v. UOI & Ors.*<sup>1</sup> and *Laxmi v. UOI & Ors.*<sup>2</sup> cases, it is contended by the learned Counsel for the Petitioner that in cases of Acid attacks that the legislature and the Court have specifically set out special provisions for compensation which include the directions to various authorities *qua* the sale of Acid in

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<sup>1</sup> (2020) 18 SCC 499



different States.

12. In addition, reliance has been placed on the *Laxmi v. UOI & Ors.*<sup>3</sup> and *Parivartan Kendra v. UOI & Ors.*<sup>4</sup> case more specifically paragraph 19 and 21 of the *Parivartan* case to submit that the discretion available with the Respondent cannot be exercised in the manner as has been sought to be done by the Respondents. It is contended that the compensation awarded is not based on the Schedule for acid attack victims and that the Petitioner has been awarded compensation based on simple injury alone, which cannot be done.

### **Contentions of the Respondents**

13. Learned Counsel for the Respondent Nos. 1 and 2 submits that the discretion has been exercised by the Respondent No.4. He further submits that it is the Respondent No.4 who has the power to decide the quantum of compensation once Applications are submitted by victims or their dependents. Furthermore, the Scheme provides that the Respondent No.4/DSLISA has the discretion to consider various factors when determining the compensation amount and, in specific cases, may choose to decline compensation as well.

14. Learned Counsel for the Respondent No. 4 has raised three contentions. In the first instance, it is contended that so far as concerns the Scheme, it defines victim and offence under Section 2(g) and 2(k) respectively and that no distinction has been drawn for acid attack victims

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<sup>2</sup> (2016) 3 SCC 669

<sup>3</sup> (2014) 4 SCC 427

<sup>4</sup> (2016) 3 SCC 571



in this definition. Relying on the minutes of meeting of the CICB which was held on 06.02.2019 and 15.07.2019 for evaluating the case of the Petitioner it is stated that the case was only involving an allegation of an Acid attack and it was not proved that an acid attack in fact took place.

15 He further submits that the word used in the Scheme is ‘*Acid attack*’ and not ‘*Acid burn*’ and the Petitioner only received acid burns. Thus, discretion was exercised awarding interim compensation in the sum of Rs. 30,000/-, since there were only superficial burns over the legs.

16. Learned Counsel for the Respondent No.4 also relies on Clauses 8 and 9 of the Scheme to submit that the discretion is available to the Respondent No.4 in deciding the compensation by giving adequate reasons in writing. Respondent No.4 relying on the Police closure report, that ultimately the FIR did not result in a finding that the Petitioner was a victim of an Acid attack, exercised discretion to award a lesser compensation.

17. Learned Counsel for the Respondent further seeks to rely upon the Judgment in the case of *Tirath Singh v. Bachittar Singh & Ors.*<sup>5</sup> to submit that if a holistic reading of the statutes leads to a manifest contradiction and absurdity or inconvenience, a construction which modifies the meaning of the word or even the structure of sentence should be given.

18. In Rejoinder, learned Counsel for the Petitioner submits that the Police closure Report was not available at the time the decision for interim compensation was made by Respondent No.4, so it could not have been



relied upon.

19. In addition, it is contended that there is a protest petition has been filed by the Petitioner *qua* the closure report which is pending adjudication before the learned Criminal Courts.

### **Analysis and findings**

20. It is apposite here to extract the Clauses 8 and 9 of the Scheme, which will be applicable to the present case and reads as follows:

**“8. FACTORS TO BE CONSIDERED WHILE AWARDING COMPENSATION** - While deciding a matter, the Delhi State Legal Services Authority/District Legal Services Authority may take into consideration following factors relating to the loss or injury suffered by the victim:

- (1) Gravity of the offence and severity of mental or physical harm or injury suffered by the victim;
- (2) Expenditure incurred or likely to be incurred on the medical treatment for physical and/or mental health of the victim, funeral, travelling during investigation/ inquiry/ trial (other than diet money);
- (3) 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;
- (4) 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;
- (5) The relationship of the victim to the offender, if any;
- (6) Whether the abuse was a single isolated incidence or whether the abuse took place over a period of time;
- (7) Whether victim became pregnant as a result of the offence;
- (8) Whether the victim contracted a sexually transmitted disease (STD) as a result of the offence;
- (9) Whether the victim contracted human immunodeficiency virus (HIV) as a result of the offence;
- (10) Any disability suffered by the victim as a result of the offence;
- (11) Financial condition of the victim against whom the offence has been committed so as to determine his/her need for rehabilitation.
- (12) In case of death, the age of deceased, his monthly income, number of dependents, life expectancy, future promotional/growth prospects etc.

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<sup>5</sup> 1955 SCC OnLine SC 29



(13) *Or any other factor which the DSLSA/DLSA may consider just and sufficient.*

9. **GROUNDS FOR DECLINING THE COMPENSATION** — *The State or District Legal Services Authority, as the case may be, may decline the compensation giving adequate reasons reduced in writing.”*

21. The learned Counsel of the Respondent No.4 has placed reliance over Clauses 8 and 9 of the Scheme, to contend that the Scheme contains discretionary powers in determining the quantum of compensation, and as such, an award for an amount less than Rs 3 lakhs can be given in acid attack cases. However, a careful reading of these Clauses does not conform to such interpretation. Clause 8 outlines the factors to be considered when determining compensation, while Clause 9 specifies the grounds for denying compensation altogether. Neither clause suggests that Respondent No.4 has any discretion to determine the scale of quantum of compensation in acid attack cases as there is a specific mention in the Schedule to the Scheme for the same. This also obtains from the law as laid down by the Supreme Court, that has been placed by the Petitioner, on how acid attack victims require to be dealt with. The only discretion that is culled out is declining the compensation altogether.

22. The Schedule to the Scheme provides for categories and types of injuries and a minimum limit for the compensation to be awarded for an injury or loss sustained and a maximum awarded as well. The quantum to be awarded ranges for different amounts for different injuries. Thus based on the Schedule and the provisions of the Scheme, compensation can be awarded by the Respondents.

23. The learned Counsel for the Petitioner has contended that the





Schedule provides that a minimum compensation of Rs.3 lakhs be paid for victims of an acid attack where there is less than 50% injury. It has been averred that acid attack victims cannot be treated the same as victims of other injuries. We find merit in this contention upon an examination of the judgements cited and the Scheme and its Schedule as is explained hereinafter.

24. The Supreme Court in a plethora of judgements, has examined the issue of compensation of an acid attack victim and held that to ensure that the objective of the Scheme is given effect, the victims should be offered adequate rehabilitation and compensation. It has been held that a minimum compensation in the sum of Rs. 3 lakhs must be provided to victims of acid attack and it is necessary for the rehabilitation of the persons suffering on this account.

24.1 The Supreme Court in *Parivartan case* clarified that amount of Rs. 3 lakhs may create an additional burden on the State exchequer, however, it is the duty and obligation of State to prevent these crimes, and as such the State will have to burden these costs. The relevant extract reads as follows:

*“19. The guidelines issued by orders in Laxmi case [Laxmi v. Union of India, (2014) 4 SCC 427 : (2014) 4 SCC (Cri) 802] [Laxmi v. Union of India, (2014) 13 SCC 743 (2014) 5 SCC (Cri) 814]’ [Laxmi v. Union of India, (2016) 3 SCC 669 : (2015) 5 Scale 77] are proper, except with respect to the compensation amount. We just need to ensure that these guidelines are implemented properly. **Keeping in view the impact of acid attack on the victim's social, economical and personal life, we need to enhance the amount of compensation.** We cannot be oblivious of the fact that the victim of acid attack requires permanent treatment for the damaged skin. **The mere amount of Rs 3 lakhs will not be of any help to such a victim. We are conscious of the fact that***



**enhancement of the compensation amount will be an additional burden on the State. But prevention of such a crime is the responsibility of the State and the liability to pay the enhanced compensation will be of the State.** The enhancement of the compensation will act in two ways:

(i) It will help the victim in rehabilitation;

(ii) It will also make the State to implement the guidelines properly as the State will try to comply with it in its true spirit so that the crime of acid attack can be prevented in future.”

[Emphasis supplied]

24.2 The Supreme Court in successive judgements in *Laxmi case* in 2014 and in 2016 has while dealing with inconsistent compensation across the States & UTs also recommended that the minimum amount of compensation for acid attack victims should be raised to at least to Rs. 3 lakhs to cover aftercare and rehabilitation costs of the victims. The Supreme Court directed that the decision passed in 2014 *Laxmi case*, should be implemented across the country, and urged the authorities to comply with the directions without any undue delay. The relevant extract of *Laxmi case* of 2016 reads as follows:

**“13. In the meanwhile, the Chief Secretaries of the States of Maharashtra, Karnataka, Andhra Pradesh, Himachal Pradesh, Uttarakhand, Arunachal Pradesh, Meghalaya, Nagaland, Goa, Punjab, Gujarat, Jammu and Kashmir, Madhya Pradesh, Chhattisgarh, Kerala, West Bengal, Tamil Nadu, Jharkhand and Administrators of Union Territories of Dadra and Nagar Haveli, Andaman and Nicobar and Chandigarh shall ensure that the responses/affidavits of compliance therewith are filed on behalf of the respective State Governments/Union Territories within eight weeks from today.**

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33. Insofar as the proper treatment, aftercare and rehabilitation of the victims of acid attack is concerned, the meeting convened on



*14-3-2015 notes unanimously that full medical assistance should be provided **to the victims of acid attack and that private hospitals should also provide free medical treatment to such victims.** It is noted that there may perhaps be some reluctance on the part of some private hospitals to provide free medical treatment and, therefore, the officers concerned in the State Governments should take up the matter with the private hospitals so that they are also required to provide free medical treatment to the victims of acid attack.”*

[Emphasis supplied]

24.3 The Supreme Court in *Nipun Saxena* case, while directing the authorities to ensure implementation of the Compensation schemes, categorically held, the Compensation Scheme only sets out the minimum requirement that needs to be followed, and it did not preclude the authorities from adding to the Scheme, although emphasised that nothing should be taken away from the Scheme. The relevant extract reads as follows:

*“8. A copy of the Scheme should be sent by the Ministry of Women and Child Development, Government of India to the Principal Secretaries of the State Governments and Union Territory Administrations **within two weeks from today for implementation.** **We make it clear that the Scheme postulates only the minimum requirements. This does not preclude the State Governments and Union Territory Administrations from adding to the Scheme.** However, nothing should be taken away from the Scheme.”*

[Emphasis supplied]

25. The record reflects that the Delhi Victim Compensation Scheme, 2015 was notified on 23.12.2016. The Schedule to the Scheme sets out that for acid attack victims, where injuries are less than 50%, a minimum of Rs.3 lakhs which is payable and a maximum of Rs.5 lakhs. This means that the Respondent No.4 is at liberty to exercise its discretion to examine



what amount is to be paid - provided the amount is between Rs.3 lakhs and Rs.5 lakhs This Court finds that such interpretation would be the correct interpretation of the legislative intent of the Scheme especially since it sets out a separate quantification for different types of acid attacks. The relevant extract of the Schedule is reproduced below:

S.No.	Particulars of loss or injury	Minimum Limit of compensation	Upper Limit of compensation
xxx	xxx	xxx	xxx
<b>14.</b>	<b>Victims of Acid Attack-</b>		
a.	In case of disfigurement of face.	Rs.3 Lakhs	Rs.7 Lakhs
b.	In case of injury more than 50%.	Rs.5 Lakhs	Rs.7 Lakhs
c.	In case of injury less than 50%.	Rs.3 Lakhs	Rs.5 Lakhs

26. Learned Counsel for the Respondent No. 4 has contended that the word used in the Scheme is 'Acid attack' and not 'Acid burn' and the Petitioner only received acid burns, hence she is not entitled to the compensation as set out in the Schedule. The Court has also examined the minutes of the CICB meetings. In its meeting of 06.02.2019 the Board recommended that the victim needs to be given some interim compensation, though not the prescribed amount of Rs. 1 lakh and gave a finding that since the matter is still in investigation compensation of Rs. 25,000/- is suitable. However, the CICB sought a clarification from Respondent no. 4 for the payment to be made to the Petitioner. The second meeting of the CICB of 15.07.2019 sets out that they have been



informed by the Respondent no. 4 that the compensation of less than Rs. 1 lakh can be granted "*in suitable cases like the one in hand*". Thus, it was decided by the CICB that Rs. 30,000/- should be suitable. The relevant extract of these minutes are set out below:

*"The matter has been discussed amongst the Board Members. **In the last meeting dated 06.02.2019 it was resolved that clarification is to be sought from the Ld. Member Secretary, Delhi State Legal Services Authority, Patiala House Courts, New Delhi on the issue that whether compensation of less than Rs.1,00,000/- can be granted in a case of Acid Attack.** Vide letter dated 11.04.2019 from the office of L.d. Member Secretary, Delhi State Legal Services Authority, Patiala House Courts, New Delhi it has been informed that an **'Interim compensation of less than Rs.1,00,000/- (One Lakh) can be accorded in suitable cases like the one in hand'**. Therefore, considering the material on record, observation/opinion of the members of the Board, as Chairperson of this Committee, **it is hereby decided that a compensation of Rs.30,000/- shall be suitable** in the backdrop of magnitude of injuries which is reported to be '5/6% superficial burns over legs."*

[Emphasis supplied]

26.1 Thus, quite clearly the CICB was acting on the basis of a recommendations made by the Respondent No. 4. It is relevant to note that the CICB in both its minutes has inquired whether an "acid attack" victim can be granted compensation of less than Rs. 1 lakh.

27. As discussed above, the Schedule to the Scheme provides for different compensation amounts for acid attack victims starting from a minimum of Rs. 3 lakhs and not Rs. 1 lakh. Thus clause 14 of the Schedule has not been taken into consideration by Respondent No. 4 while recommending the interim compensation. In addition, the Respondent No. 4 has not placed any finding of a competent court to



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evidence that this is not a case of acid attack. It has also not disputed that the police investigation is the subject matter of challenge before a Court.

28. The learned Counsel of Respondent has placed reliance on *Tirath Singh* case to contest, that when the literal reading of a statute lead to mischief, an interpretation curing the said mischief should be given effect, to contend that the Schedule cannot be interpreted to award a minimum of Rs. 3 lakhs. The Supreme Court in *Tirath Singh* case has held that the said rule of interpretation is to be employed, if the literal construction leads to a manifest contradiction, hardship or injustice that was not intended by the legislature.

28.1 By no stretch of the language of the Scheme and the various judicial pronouncements discussing the requirement of adequate compensation, it can be inferred that the minimum compensation amount as set out is contradictory to its intended purposes of providing adequate rehabilitation and care to Acid Attack victims. Thus, this Court is unable to agree that the Scheme and the Schedule warrants an alternative interpretation by this Court.

28.2 In any event the Supreme Court in *Tirath case*, was dealing with Section 99 of the Representation of the People Act 43 of 1951, wherein it held that the required notice as per the literal reading of the said provision was redundant, if the concerned person was already part of the proceedings, and as such the notice was a futile exercise. We do not see any application of the said *Tirath case*, in the case at hand either.

29. Lastly, so far as concerns the apprehension as set out by the



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Respondent No.4, regarding the possibility of misuse of the provisions of the Scheme and that the Scheme provide for discretion when it comes to award for compensation amounts to prevent its misuse, is clearly misplaced. The Scheme provides adequate discretion in Clause 9 to decline compensation by giving valid reasons, to safeguard any misuse of the Scheme, if the need so arises. However, once a decision has been made to award compensation, it cannot be arbitrarily reduced below the minimum threshold as has been provided for.

30. In view of the foregoing discussions, prayer (a) of the Petition is allowed.

31. The Respondent No.4 is directed to award the Petitioner the minimum compensation in the sum of Rs. 3 lakhs, less the interim compensation already awarded within eight weeks from the date of this decision.

32. The Petition and all pending Applications stand disposed of in the foregoing terms.

33. Parties will act based on the digitally signed copy of the order.

**TARA VITASTA GANJU, J**

**NOVEMBER 6, 2024/SA/GJ**

*Click here to check corrigendum, if any*