

## **2. SCHEME FOR RELIEF AND REHABILITATION OF VICTIMS OF RAPE**

The Hon'ble Supreme Court in Delhi Domestic Working Women's Forum Vs. Union of India and others writ petition (CRL) No.362/93 had directed the National Commission for Women to evolve a "scheme so as to wipe out the tears of unfortunate victims of rape." The Supreme Court observed that having regard to the Directive principles contained in the Article 38(1) of the Constitution, it was necessary to set up criminal Injuries Compensation Board, as rape victims besides the mental anguish, frequently incur substantial financial loss and in some cases are too traumatized to continue in employment. The Court further directed that compensation for victims shall be awarded by the Court on conviction of the offender and by the Criminal Injuries compensation board whether or not a conviction has taken place. The Board shall take into account the pain, suffering and shock as well as loss of earnings due to pregnancy and the expenses of child birth if this occurs as a result of rape.

Accordingly, to give effect to the aforesaid direction of the Hon'ble Court, the National Commission for women sent a draft scheme to the central government in 1995, thereafter the

Committee of Secretaries under the Chairmanship of the Cabinet Secretary gave the following guidelines in this regard:-

1. That a plan scheme would be prepared by the NCW/DWCD for disbursing compensation to the victims of rape and the scheme should also provide for interim compensation.
2. The quantum of compensation is to be worked out by the DWCD in consultation with the NCW.
3. Provision for budgetary requirements for the scheme, which would be transferred to the states as Grants-in-Aid.
4. Setting up of District level Committees headed by District Magistrate, to consider the claims.
5. Criminal Injuries Compensation Board to monitor the implementation of the scheme by the State Government and attending to any complaint received in this regard.
6. The MHA would issue suitable directives to state governments for directing the public prosecutors to plead before the competent court to award suitable compensation to the victims.
7. Monitoring of the scheme by the National Commission for women.

The NCW has redrafted the scheme in the light of the above guidelines and in formulating the scheme, the Commission is guided by the parameters given by the Supreme Court as well as its own assessment of the needs of the victims of rape.

**SCHEME FOR RELIEF AND REHABILITATION FOR VICTIMS OF  
RAPE**

1. The scheme may be called the “Scheme for relief and Rehabilitation of Victims of Rape, 2005”.
2. The scheme shall apply to the whole of India.
3. It shall come into force on such date as the Central Government may by notification in Official Gazette, appoint.
4. The scheme shall cover all cases where an application has been filed either by the rape victim herself or by any person claiming on her behalf;
5. “Rape”, will have the same meaning as defined in section 375 of the Indian Penal Code;
6. Criminal Injuries Relief and Rehabilitation Board (CIRRB):
  - (a) Upon the notification of the scheme, there shall be established at every District, a Board called the ***District criminal Injuries relief and rehabilitation Board ;***
  - (b) The board shall have exclusive jurisdiction to deal with applications received under the scheme in that district;

- (c) The board shall be headed by the Collector or the District Magistrate by whatever name he/she is called who shall be the President and comprise of four other members nominated by the State government, where one of them has *expertise in matters relating to criminal law, one has experience in the field of empowerment of women, a Medical doctor and a representative of Panchayati Raj Institution or municipality in the District, out of which at least three members would be women.*

#### 7. FUNCTIONS OF THE DISTRICT CIRRB –

- (a) The Board shall consider the claims and award financial relief/ rehabilitation as the case may be in all cases of rape in accordance with the procedure prescribed under this scheme.
- (b) The Board shall coordinate and monitor the activities of the District Monitoring Committee (DMC), as provided under the Scheme, and/or with the Governmental and non – Government organizations for rendering assistance to the victim, in the form of any legal, medical, psychological or any other form of aid/ assistance.

(c) Implement any scheme for rehabilitation of rape victims framed by the State or National Criminal Injuries Relief and Rehabilitation Board.

8. POWERS OF THE DISTRICT BOARD –

(a) The board shall be the authority to consider the claims and award financial relief in all cases of rape and order such other relief and rehabilitation measures as deemed fit in the circumstances of the case.

(b) The Collector or the District Magistrate as the President of the Board shall exercise the powers conferred upon him under the Cr.P.C.or under any other law by the State Government, for carrying out the functions under the Scheme ;

9. DISTRICT MONITORING COMMITTEE - The State Government shall establish in every District, a Monitoring Committee, which shall be headed by the Superintendent of Police of the District. The committee shall comprise of the following other members, whom the District Collector/District Magistrate would nominate:

- (i) A police officer, preferably a woman
- (ii) A woman social activist or a counsellor;
- (iii) A Lawyer

- (v) A Medical doctor;
- (vi) A representative of the Panchayati Raj Institution or Municipality

#### 10. FUNCTIONS OF THE DISTRICT MONITORING COMMITTEE:

The District Monitoring committee shall perform the following functions;

- (a) To arrange for psychological and medical aid and counseling to the victim.
- (b) To arrange for legal aid to the victim in filing the FIR till the conclusion of the trial;
- (c) To initiate suitable measures to ensure the protection of the victim and witnesses till the conclusion of the trial.
- (d) Monitor and expedite the progress of the investigation.
- (e) To aid and assist in opposing bails, filing appeals and making application for protection of the victim.
- (f) In cases of young victims, to see that they receive education or professional training or training for self-employment.
- (g) To assist them in securing employment.
- (h) To provide the required psychiatric treatment/counseling
- (j). To facilitate the victims' rehabilitation.
- (k) Initiate action so as to ensure Anonymity of the victims.

- (l) Ensure that Interrogations of the victim be conducted by female police officers. During all stages of interrogation and examination of the victim or the applicant, at least one member of the DMC is present.
- (m) To arrange shelter to the victim, for such period as the circumstances warrant.
- (n) and such other functions as may be deemed expedient and necessary by the committee given the peculiar facts and circumstances of each case;

**11. PROCEDURE FOR TRANSACTION OF BUSINESS BY THE DISTRICT BOARD (CIRRB):**

- (a) A victim, or her legal heir or any person/voluntary organization espousing the cause of women, or DMC may apply to the District Board for financial relief and rehabilitation in accordance with the provisions of this Scheme.
- (b) Where the legal heir is:—
  - (i) *A child*, the application may be made on his behalf by a parent or guardian or by any voluntary organization.
  - (ii) A mentally ill person within the meaning of the Mental Health Act, the Application may be made by the person with whom the victim normally resides or a duly

authorized medical officer or a voluntary organization; or by a parent/guardian.

- (c) An applicant shall submit the following documents, as applicable, with the application:
  - (i) **Medical certificate**, where the application is being made by or on behalf of the victim; or
  - (ii) The **death certificate** of the victim, where the application is being made by a legal heir.
  - (iii) Copy of **FIR/Complaint**.
- (d) On receiving the application and after having been *prima facie satisfied* that a case of rape has been made out, the Board shall order an interim financial relief of Rs.20,000/-.
- (e) The Board shall as far as possible grant the interim relief within a period of three weeks from the date of receipt of the application;
- (f) Before awarding the interim relief, the Board shall satisfy itself about the claim, make a preliminary assessment about the nature of the claim;
- (g) The Board can take the assistance of the District Monitoring Committee or any one member of the Committee before arriving at any decision;

- (h) The Board may take other measures for the purposes of the rehabilitation or any special needs of the victim in addition to the financial relief;
- (i) In case of victims who belong to schedule caste / schedule tribes, the provisions of the scheme shall be in addition to the provisions prescribed for grant of relief under the scheduled caste and the scheduled tribes (prevention of atrocities) Act 1989. However, the District Monitoring Committee while deciding the relief under this scheme shall take into account the compensation payable to the SC/ST victim under that Act.
- (j) The Board shall dispose the application for relief and rehabilitation within one month from the date on which the *complainant gives her evidence or within one year from the date of receipt of the application whichever is earlier*;  
In deciding the application for financial relief, the Board shall be guided by, but not completely controlled by, the stand of the applicant in the trial.
- (k) The Board shall as far as possible, award financial and other relief's, as per the heads specified in the scheme.
- (l) Award the compensation to the victim in lump sum subject to a maximum of Rs.2, 00,000/-. While awarding the

final relief, the Board shall take into account the interim relief granted.

- (m) The Board shall be guided by the peculiar needs of the victim in deciding the amount of compensation to be granted in each case;
- (n) The financial relief that is awarded by the Board is in addition to rehabilitation measures that the Board may suggest/ administer in each case.
- (o) In cases where the victim is a minor, the amount shall be paid to her guardian or next friend after satisfying itself about the legitimacy of the person;
- (p) The Board shall keep the Best interests of the victim in mind at all times;
- (q) The Board May reject any application where it is of the considered opinion that:-
  - (i) The applicant failed to take, without delay, all reasonable steps to inform the police, or other body or person considered by the Board to be appropriate for the purpose, of the circumstances giving rise to the injury; or
  - (ii) The applicant failed to co-operate with the police or other authority in attempting to bring the assailant to justice; or

(iii) The applicant has failed to give all reasonable assistance to the authority or other body or person in connection with the application;

**12.** The application before the Board has to be made within one year from the date of incident, Provided that upon showing due cause, the Board shall have the powers to condone the delay if any;

**13.** **Sittings of the Board -** (i) The Board shall hear the application at such times and in such places as the Board may determine.

(ii) The Board shall notify the applicant of the time and place of the hearing of the relevant application.

(iii) Where the Board makes a decision to hear the applicant it shall be entitled to call and examine any other person.

(iv) The Board shall reach its decision on the basis of evidence and other information available to it at the hearing.

(v) The victim and/or her agent shall have a right of oral hearing;

#### **14. PRINCIPLES GOVERNING THE DETERMINATION OF THE RELIEF AND REHABILITATION TO THE VICTIM.**

The Board shall while determining the compensation and other reliefs be guided by the following Parameters :-

**(i) Where Death results as a consequence of rape:**

**(a) Non-earning member** of the family - Rs 1, 00,000/- (one lakh) towards relief after the post mortem report establishes a prima facie case.

**(b) Earning member** of the family- Rs 2, 00,000/- (two lakh) payment after the post mortem report establishes a prima facie case.

**(ii) IN OTHER CASES:**

**(a)** Type and severity of the bodily injury suffered by the victim and expenditure incurred or likely to be incurred on medical treatment and psychological counseling to the victim.

**(b)** Expenditure consequential on pregnancy, if resulting from rape including expenses connected with abortion, if it is resorted to, in consequence to rape.

**(c)** Expenses incurred or likely to be incurred in connection with any education or professional or vocational training or training for self employment to the victim.

- (d) Loss caused to the victim by cessation or interruption of gainful activity or employment on the basis of an assessment made by the Board and /or the district monitoring committee.
- (e) Non pecuniary loss or damage for pain, suffering mental or emotional trauma, humiliation or inconvenience.
- (f) Expenses incurred in connection with provision of any alternate accommodation in cases where the victim belongs to any other place other than the place where the offence took place.
- (g) Expenses likely to be incurred in connection with the court trial- the Board and DMC shall arrange for legal aid under the Legal Services Authorities Act 1987 and may if so considered necessary, engage any other lawyer to assist the victim and pay honorarium and traveling allowance as may be determined by the state Board.
- (h) While determining the financial and other relief, the Board shall have due regard to the victim being an child or mentally challenged and may consider higher financial relief and special relief measures to be provided.
- (i) The Board shall not be guided by the outcome of the trial in allowing the application for relief and rehabilitation;
- (j) Relief and rehabilitation shall not be granted under this Scheme in the following circumstances:

- Where the applicant has previously lodged any claim in respect of the same criminal injury under this scheme for the relief and rehabilitation of the victim of crime; or
- Where the incident is so belated that no evidence would be forthcoming;
- Where the applicant after having filed the complaint, deliberately turned hostile in the trial and has not supported the case of the prosecution;

#### **15. CONSTITUTION OF THE STATE BOARD –**

- (i) The State Government shall constitute by notification in the Official Gazette State Criminal Injuries Relief and Rehabilitation Board at State level
- (ii) The State Board shall consist of:-
  - Secretary, of the department of Women and Child development/ department of social welfare who shall be the President;
  - Joint Secretary of Department of Home
  - The Member Secretary or any member of the State women commission.
  - An officer of the Law department of the State or the Union territory

- Three Representatives from amongst women Activists and eminent lawyers working in the field of empowerment of women.

- 16. FUNCTIONS OF THE STATE BOARD** - (i) The State Board shall co- ordinate and monitor the functions of the District Board;
- (ii) The State Board shall ensure proper disbursement of the funds allocated to it by the Central Government and any additional amount supplemented by the State Government, to the district Boards.
  - (iii) Issue directions to the appropriate authorities under the Act for ensuring proper medical, psychological and legal assistance to the victim.
  - (iv) The Board may inquire, suo moto or otherwise on a petition presented to it by a victim or any person on her behalf into any complaint alleging rape and /or with respect to any matter in connection with the provisions of the scheme and refer the matter to the District Board.
  - (v) The Board shall entertain all appeals against the decision of the District Board and in deserving cases of extraordinary circumstances, enhance the compensation amount subject to

a maximum limit of Rs 3,00,000/- with prior approval of the National Board.

**17. CONSTITUTION OF NATIONAL CRIMINAL INJURIES RELIEF AND REHABILITATION BOARD**

- (i) The Central Government shall by notification constitute a body to be known as National Criminal Injuries Compensation Board;
- (ii) The Central Board shall consist of : -
- The Chairperson, National Commission for Women who shall be the President of the Board, ex-officio.
  - An officer not below the rank of Joint Secretary of the Central Government in the Department of Women and Child Development.
  - One woman Member to be appointed from amongst persons having knowledge of or practical experience in matters relating to criminal Law.
  - Two women representatives of NGOs or women Activists working in the field of empowerment of women.
  - Member Secretary of NCW who shall be the Member Secretary of the Board, ex-officio.

## **18. FUNCTIONS OF THE NATIONAL BOARD.-**

The National Board shall administer the Scheme and to that effect:-

- (i) Lay down policies and procedures for the effective implementation and administration of the Scheme.
- (ii) Review, from time to time, and advise the Central Government on the quantum payable and other relief's provided under the Scheme.
- (iii) Advise the Ministry to issue suitable advisories to state government for directing the public prosecutors to plead before the competent court to award suitable compensation to the victims and appraise the court on the actions initiated as per the scheme.
- (iv) Estimate the requirement of the funds/budget. Administer and Allocate funds to the State Boards.
- (v) Issue directions to the appropriate authorities under the Scheme for ensuring proper medical, psychological and legal assistance to the victim.
- (vi) Frame and issue guidelines on the rehabilitation schemes in consultation with the Central and State government.
- (vii) Monitor and evaluate the implementation of the scheme and seek periodical reports.

- (viii) Co-ordinate and Monitor the functioning of the state and district authorities constituted under this Scheme for the implementation of the Scheme.
- (ix) The Board may inquire or cause to be inquired suo moto or otherwise or on a petition presented to it by a victim or any person on her behalf or by an NGO, into any complaint alleging rape and /or with respect to any matter in connection with the provisions of the scheme and refer the matter to the appropriate District or State Board.

#### **19. Finance / Grant in Aid**

- (i) The central government shall provide the budgetary requirements for the implementation of the scheme, to the DWCD which would be transferred to the National Board as Grant in Aid
- (ii) The budgetary allocations shall be made in consultation with the National Criminal Injuries Relief and Rehabilitation Board.
- (iii) All fines collected from persons convicted of offences of rape by a competent court would be credited to the National Criminal Injuries Relief and Rehabilitation Board, if so ordered by the court.
- (iv) National Criminal Injuries Relief and Rehabilitation Board would allocate fund to State Criminal Relief Rehabilitation Boards depending upon their requirements. The State Criminal

Injuries Relief and Rehabilitation Board would in turn allocate funds to District Criminal Injuries Relief and Rehabilitation Boards.

- (v) The Budgetary allocations shall be used for meeting:-
- a) The cost of assistance provided under this Scheme, including grants made to State CIRRB.
  - b) Any other expenses required for functioning of National, State & District Criminal Injuries Relief and Rehabilitation Boards including the funds required for rehabilitation of the victims which are required to be met by the district monitoring committees.

**20.** Accounts and Audit- The Central, State and the District Boards shall maintain proper accounts and other relevant records and prepare an annual statement of accounts including the income and expenditure account and the balance-sheet. These Accounts will be audited by The C&AG of India.

**21.** Term of Office of the Members of the Board, shall be for 3 years. The President and the Members of District, State and National Criminal Injuries Compensation Board would work on honorary basis. Non official Members of National, State and

District Boards will be eligible to get a sitting fee of Rs.200/- for each meeting. Non official Members of District Monitoring Committee will be entitled to on honorarium of Rs.500/- for each case. Members of the National, State and District Boards who are government servants would work on honorary basis and would be entitled to TA/DA as per rules applicable to them from their regular head of account.

- 22.** The applications under this scheme will be in addition to any application that may be made under Section 357 of the Code of Criminal Procedure.