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

% ***Judgment pronounced on:23.05.2025***

+ **W.P.(C) 7582/2023**

SMT. NIRMALA AND ANOTHERPetitioners

Through: Mr. Jitender Kumar, Advocate.

versus

THE STATE AND ORSRespondents

Through: Mr. Hetu Arora Sethi, ASC (GNCTD)
along with Ms. Avni Singh, PC, Mr.
Prakhar Mani Tripathi and Mr. Arjun
Basra, for GNCTD.

Mr. Vinay Rathi and Mr. Vikrant
Dhama, Advocates for R-3.

CORAM:

HON'BLE MR. JUSTICE SACHIN DATTA

JUDGMENT

1. The present petition has been filed by the petitioners being aggrieved by the quantum of compensation awarded to them *vide* impugned order dated 30.06.2021 passed by the Secretary, District Legal Services Authority (Central), Member/Convenor, District Victim Compensation Committee (DVCC) [respondent no.2] under the District Victim Compensation Scheme, 2018 (hereinafter '*the DVC Scheme*').

2. The background to the present petition is that one Shri Hari Chand, who worked as a security guard, lost his life on 26.10.2018 after being involved in an accident on 15.08.2018 where he was hit by an unknown vehicle on the Gopalpur Red Light towards Wazirabad to Majnu ka Tila,



Delhi. Shri Hari Chand (deceased) is survived by his wife (petitioner no.1), two daughters (petitioner nos. 2 and 3) and two sons (not party/ies to the present proceedings).

3. In connection with the said accident, an FIR bearing no. 170/2018 was lodged on 15.08.2018 under Section 279 read with Section 304A of IPC at Police Station Timarpur. It is submitted that since the offending vehicle / person who caused the accident of Shri Hari Chand (decd.) could not be traced, a 'Detailed Accident Report / Untraced Report' was filed before the Presiding Officer, Motor Accident Claims Tribunal-02, Tis Hazari Courts (Central District) on 27.02.2019. It is stated that subsequently, on 13.01.2020, the petitioners were granted liberty to approach the concerned District Legal Services Authority (DLSA) for grant of compensation.

4. Thereafter, an application seeking grant of compensation was filed by the petitioners before the Secretary, DLSA (Central). Consequently, an enquiry was conducted under Section 357A(5) of the Code of Criminal Procedure, 1973 whereby the deposition of the petitioner no.1 was recorded.

5. Thereafter, the Secretary, DLSA (Central) proceeded to pass the impugned order dated 30.06.2021, by which, the petitioners' application seeking compensation has been disposed of and the petitioners have been awarded compensation of Rs. 3,00,000 (Rupees three lakhs only) on account of the accidental death of Shri Hari Chand. The said amount of compensation was awarded to the petitioners by apportioning Rs 1 lakh for each of the petitioners out of the total amount of compensation awarded in their favour. The relevant portion of the order dated 30.06.2021 reads as under –



“In continuation of the order dated 30.06.2021.

As per minutes of meeting of Delhi Victim Compensation Committee (DVCC), Central District, dated 30.06.2021, the following observations have been made:-

An application seeking compensation alongwith copy of FIR, DAR and order dated 27.09.2020 of the Court of Ld. PO MACT-02, THC has been received by this Authority Untraced report has been accepted by the Ld. Court concerned MM on 13.01.2020. It is a case of offence U/s 279/304-A IPC. Interaction sheet has been placed before the Committee.

During enquiry, Nirmala (Wife of deceased) was examined and she stated:

“I am wife of the deceased (Hari Chand) in the present case. My husband was 56 years old at the time of accident. He worked as a security guard and earning Rs. 13,000/- to 15,000/- per month. I also say that my husband meet an accident on 15.08.2018 and he immediately taken to Trauma Centre, Civil Lines and he died on 26.10.2018 in the same hospital. I also say that I have four children, two sons and two daughter. I also say that my elder son namely Santosh is mentally retarded and my second son namely Deelip Kumar aged 22 years is doing a private job and earning around Rs. 7,000/- per month. My daughters are students of 11th class. My children are unmarried till date. I am housewife. I have not received any compensation from any Govt. authority till date. I also say that the above mentioned facts are true and I am bound by the same.

Record perused. Considering the facts and circumstances of the case, it is resolved that a compensation of Rs. Three Lac be awarded to the deceased under the DVCS, 2018 (Part-I). Out of the said amount Rs. One Lac is for wife of the deceased Smt. Nirmala, Rs. One Lac is for daughter of deceased Ms. Archana Kumari, Rs. One Lac is for daughter of the deceased Ms. Pooja Kumari. Let compensation amount be credited to their respective accounts.

In view of the facts and circumstances of the case and recommendation of the committee, a compensation of Rs. Three lac is awarded to the LRs of the deceased under the DVCS, 2018 (Part-I). Photocopy of Bank Pass Books and Identity Proofs were produced and authenticated by the IO. Relevant details are as under:-

S.N	Name of the	Bank Name	Account	IFSC	Compensatio
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<i>O</i>	<i>Beneficiary/ parents/ legal guardian</i>	<i>and Branch</i>	<i>Number</i>	<i>Code</i>	<i>n Amount</i>
1.	<i>Smt. Nirmala (wife)</i>	<i>Corporation Bank & Delhi Jal Board, Shopping Complex, Wazirabad, New Delhi- 110084.</i>	<i>520101260356 953</i>	<i>CORP00 02141</i>	<i>Rs. 1,00,000/- (Rupees One Lac Only)</i>
2.	<i>Archana Kumari (daughter)</i>	<i>Corporation Bank & Delhi Jal Board, Shopping Complex, Wazirabad, New Delhi- 110084.</i>	<i>520481001868 733</i>	<i>CORP00 02141</i>	<i>Rs. 1,00,000/- (Rupees One Lac Only)</i>
3.	<i>Pooja Kumari (Daughter)</i>	<i>Punjab National Bank & Mukherjee Nagar, Delhi</i>	<i>498800150004 4216</i>	<i>PUNB04 98800</i>	<i>Rs. 1,00,000/- (Rupees One Lac Only)</i>

The aforesaid amounts of Rs. 3,00,000/- (Rupees Three Lac Only) may be disbursed by the Delhi State Legal Services Authority (“DSLISA”), Patiala House Courts as per Rule 12 of the Delhi Victim Compensation Scheme, 2018, i.e. 25 % be made available immediately and 75 % of the amount (in case of minor 20% be made available immediately and 80% of the amount be kept in FDR till Majority but not before 3 years of the deposit) shall be deposited in terms of Rule 12 of the scheme and in terms of Judgment of the Hon’ble Delhi High Court in Geeta Devi Vs. Union of India (FAO 22/2015, decided on 21.04.2017) and Sachindra Mishra Vs. Sunita and Others [W.P (C) No. 7398/2016, decided on 04.05.2017] for payment of compensation amount to the beneficiaries in a phased manner as follows..”

6. In terms of the aforesaid order, the Delhi State Legal Services



Authority (DSLSA / respondent no.3) was directed to disburse compensation of Rs. 3,00,000/- in terms of the order dated 30.06.2021, in favour of the petitioners.

7. Aggrieved by the quantum of compensation awarded *vide* order dated 30.06.2021, the petitioners filed an application on 02.09.2022 before the Secretary, DLSA, Tis Hazari Court, Delhi seeking review of the aforesaid order dated 30.06.2021. In the said application, the petitioner no.1 highlighted several circumstances, in light of which, the compensation of Rs. 3 lakhs is inadequate. Relevant portion of the said application reads as under –

- “4. That I have two unmarried daughter namely Ms. Pooja (D.O.B-10/08/1999) Aged-22 Years, Ms. Archana (D.O.B-05.05.2001) Aged-21. My son Santosh (Unmarried) Aged-27, who is handicapped and depends on me.*
- 5. That I have not my owned house.*
- 6. That I have some lone during lockdown.*
- 7. That the amount has been granted in claim is insufficient for me and my family as per the dependency.”*

8. *Vide* order dated 19.10.2022, the said application dated 02.09.2022 came to be dismissed on the following basis -

“...

The ground for review of the above said award is that the compensation which has awarded by the District Victims Compensation Committee was insufficient and therefore, a prayer was made to increase the same. The District Victims Compensation Committee carefully perused Delhi Victims Compensation Scheme 2018 and found that there is no express provision providing for review of its own orders/ awards. However the Committee resolved to consider the application on the basis of general well settled principals regarding grounds for review.

The award dated 30.06.2021 has been carefully perused. This committee find that District Victims Compensation Committee, Central District as it was existing on that date, had carefully gone through the



facts of the case and thereafter passed the order for disbursal of Rs. 3 Lac to the LRs of the deceased as is evident from the award itself. There is no error apparent on the face of it in the above mentioned award and neither has the applicant pointed out any such error. No new material has come on record and no other ground for review has been put before the Committee or made out. This Committee has resolved that it cannot substitute one view for another. If the well settled grounds for review are not made out. Accordingly, the application is disposed off as not allowed.”

9. Learned counsel for the petitioners submits that while the petitioners have been awarded Rs. 3,00,000/- (Rupees three lakhs only) as compensation *vide* impugned order dated 30.06.2021, the petitioners are entitled to the maximum amount of compensation under the DVC Scheme i.e. Rs. 10,00,000/- (Rupees ten lakhs only).

10. Learned counsel for the petitioners submits that the petitioners were heavily dependent on the income of the deceased. In addition, it is submitted that one of the sons [not a party to the present proceedings] is mentally challenged as well.

11. It is submitted that the impugned order dated 30.06.2021 fails to provide any reasoning or calculation criteria, on the basis of which, the petitioners have been awarded the minimum amount of compensation under the DVC scheme.

12. Learned counsel for the petitioners has placed reliance on a judgment dated 10.01.2023 passed by a co-ordinate bench of this Court in W.P.(C) 13161/2021 titled as ***Smt. Kameshwari Devi & Anr. v. The State (Govt. of NCT of Delhi) and Ors.*** wherein the compensation awarded under the DVC Scheme to similarly situated petitioners has been enhanced by this Court in light of the quantum of compensation (which had already been awarded to the petitioners under the DVC Scheme) being found inadequate.



13. Learned counsel for the petitioners lastly submits that in several other claims for compensation under the DVC Scheme by similarly situated claimants, the maximum compensation of Rs. 10 lakhs has been awarded to them.

14. It is further submitted that on account of the offending vehicle / person who caused the accident leading to the death of Shri Hari Chand not being found, the petitioners were precluded from claiming compensation under the Motor Vehicles Act, 1988 before the Motor Accident Claims Tribunal.

15. Respective counsel for the parties have been heard.

16. Section 357-A CRPC contemplates that in cases where the offender is not traced or identified, the victim or his dependents are entitled to compensation by making an application to that effect under Section 357-A(4) CRPC. The said provision reads as under –

“357-A. Victim compensation scheme.— (1) Every State Government in co-ordination with the Central Government shall prepare a scheme for providing funds for the purpose of compensation to the victim or his dependents who have suffered loss or injury as a result of the crime and who require rehabilitation.

(2) Whenever a recommendation is made by the Court for compensation, the District Legal Service Authority or the State Legal Service Authority, as the case may be, shall decide the quantum of compensation to be awarded under the scheme referred to in sub-section (1).

(3) If the trial Court, at the conclusion of the trial, is satisfied, that the compensation awarded under Section 357 is not adequate for such rehabilitation, or where the cases end in acquittal or discharge and the victim has to be rehabilitated, it may make recommendation for compensation.

(4) Where the offender is not traced or identified, but the victim is identified, and where no trial takes place, the victim or his dependents may make an application to the State or the District Legal Services



Authority for award of compensation.

(5) On receipt of such recommendations or on the application under sub-section (4), the State or the District Legal Service Authority shall, after due enquiry award adequate compensation by completing the enquiry within two months.

(6) The State or the District Legal Services Authority, as the case may be, to alleviate the suffering of the victim, may order for immediate first-aid facility or medical benefits to be made available free of cost on the certificate of the police officer not below the rank of the officer in charge of the police station or a Magistrate of the area concerned, or any other interim relief as the appropriate authority deems fit.”

17. Upon consideration of such an application, the DLSA is required to conduct an enquiry and thereafter award adequate compensation pursuant to Section 357A (5) CRPC. Under the DVC Scheme, the DLSA while determining the quantum of compensation is required to take into consideration certain factors as set out under Clause 8 of the DVC Scheme which reads as under –

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) Impact on 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 the victim contracted a sexually transmitted disease (STD) or any other disease as a result of the offence;

(8) Whether the victim contracted human immunodeficiency virus (HIV) as a result of the offence;

(9) Any disability suffered by the victim as a result of the offence and nature and extent of the disability;

(10) Financial condition of the victim against whom the offences has been committed so as to determine his/her need for rehabilitation.

(11) Financial loss to the victim or dependents extent and period of the same.

(12) In case of death, the age of deceased, his monthly income, number of dependents, life expectancy, future promotional/growth prospects etc.

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

18. The Schedule to the DVC Scheme sets out the minimum and maximum limit on the compensation which may be awarded by the DLSA. In cases of loss of life of the victim, the DLSA may award a minimum compensation of Rs. 3 lakhs and a maximum compensation of Rs. 10 lakhs. The relevant portion of the Schedule to the DVC Scheme reads as under –

SCHEDULE

<i>S.No.</i>	<i>Particulars of loss or injury</i>	<i>Minimum Limit of compensation</i>	<i>Upper Limit of compensation</i>
<i>1.</i>	<i>Loss of Life</i>	<i>Rs. 3 Lakhs</i>	<i>Rs. 10 Lakhs</i>



19. It is relevant to note that in cases where compensation is awarded under Section 357-A CrPC, the Supreme Court in *Ankush Shivaji Gaikwad v. State of Maharashtra* (2013) 6 SCC 770 has held that the concerned Court is required to “*apply its mind to the question of awarding compensation*”. The relevant portion of the said judgment reads as under –

“46. The amendments to CrPC brought about in 2008 focused heavily on the rights of victims in a criminal trial, particularly in trials relating to sexual offences. Though the 2008 amendments left Section 357 unchanged, they introduced Section 357-A under which the Court is empowered to direct the State to pay compensation to the victim in such cases where

“the compensation awarded under Section 357 is not adequate for such rehabilitation, or where the cases end in acquittal or discharge and the victim has to be rehabilitated”.

Under this provision, even if the accused is not tried but the victim needs to be rehabilitated, the victim may request the State or District Legal Services Authority to award him/her compensation. This provision was introduced due to the recommendations made by the Law Commission of India in its 152nd and 154th Reports in 1994 and 1996 respectively.

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48. The question then is whether the plenitude of the power vested in the courts under Sections 357 and 357-A, notwithstanding, the courts can simply ignore the provisions or neglect the exercise of a power that is primarily meant to be exercised for the benefit of the victims of crimes that are so often committed though less frequently punished by the courts. In other words, whether courts have a duty to advert to the question of awarding compensation to the victim and record reasons while granting or refusing relief to them?

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54. Applying the tests which emerge from the above cases to Section 357, it appears to us that the provision confers a power coupled with a duty on the courts to apply its mind to the question of awarding compensation in every criminal case. We say so because in the background and context in which it was introduced, the power to award compensation was intended to reassure the victim that he or she is not forgotten in the criminal justice system. The victim would remain



forgotten in the criminal justice system if despite the legislature having gone so far as to enact specific provisions relating to victim compensation, courts choose to ignore the provisions altogether and do not even apply their mind to the question of compensation. It follows that unless Section 357 is read to confer an obligation on the courts to apply their mind to the question of compensation, it would defeat the very object behind the introduction of the provision.”

20. In the present case, Shri Hari Chand (deceased) was a security guard who was earning around Rs. 13,000 – 15,000 and passed away at the age of around 56. The only other earning member in the family at the time of the death of Shri Hari Chand is his younger son – earning a mere Rs.7,000 in a private job. The wife is stated to be a home maker and the elder son is mentally challenged. The daughters are also stated to have been in school at the time and are desirous of pursuing higher education. Hence, it can be reasonably concluded that the family was heavily dependent on the income of the deceased and the loss to the petitioners due to the death of Shri Hari Chand is quite substantial in nature.

21. Despite the aforesaid circumstances, the impugned order fails to provide any reasoning for awarding only Rs. 3 lakhs i.e. the minimum amount of compensation under the DVC Scheme.

22. Furthermore, it is noticed that in several other instances where claims for compensation have been made under the DVC Scheme where the victim lost his life and the offending vehicle / person responsible for the accident have not been found, the claimants have been awarded the maximum amount of compensation under the DVC Scheme i.e. Rs. 10 lakhs.

23. Attention of this Court has been specifically drawn to an order dated 22.08.2023 passed by the North District Legal Services Authority bearing File no. 266/20231DLSA (N)/Robini/VCS/ (Deceased) in connection with



FIR No. 217/2023, [appended as Annexure-1 to the written submissions on behalf of the petitioner] whereby the maximum compensation under the DVC Scheme i.e. Rs.10,00,000/- was awarded to the claimants. In the said case, the deceased was pursuing the vocation of '*Raj Mistri*' and was earning around Rs. 18,000 per month and the widow of the deceased was earning around Rs. 10,000 per month by working as labour. They also had five children who were dependent on the income of their parents.

24. In the present case, the legal heirs of the deceased were wholly dependent on the income of the deceased. On the analogy of the aforesaid case, the petitioners are clearly entitled to the maximum amount of compensation under the DVC Scheme as compared to the claimants in the aforesaid instance.

25. Thus, it is held that the petitioners are entitled to the maximum compensation of Rs. 10,00,000/- (Rupees ten lakhs only) under the DVC Scheme.

26. Accordingly, the Delhi State Legal Services Authority (respondent no.3) is directed to release the balance amount of Rs. 7,00,000/- in favour of the petitioners towards compensation under the DVC Scheme (Rs. 3,00,000/- have already been remitted to the petitioners in terms of the impugned order dated 30.06.2021).

27. The present petition is disposed of in the above terms.

SACHIN DATTA, J

MAY 23, 2025/dn