



Victim-centric justice in India: Evaluating the effectiveness of compensation schemes under BNSS, 2023

Prerna Sinha, Student of JGLS, O.P. Jindal Global University, Sonipat, India

Contact at: prernasinha945@gmail.com

Abstract

The justice system for criminal matters in India has typically focused on those accused of crimes frequently paying insufficient attention to the entitlements and requirements of individuals who have suffered due to criminal actions. Gradually legal judgments and changes aimed to correct this disparity by establishing methods of recompensing victims based on the essential principles of respect and equitable treatment as in the Constitution. The implementation of the Bharatiya Nagarik Suraksha Sanhita, 2023 carries forward the structure previously outlined in Section 357A of the Criminal Procedure Code, 1973 signifies a revitalized dedication by the legislature to prioritize the justice owed to. The research underscores present inadequacies in how these schemes are enforced, how consistently they are applied, and how easily accessible they are and suggesting that the objective of centring justice on the victim risks being merely emblematic unless solid procedural protections and systems of responsibility are put in place.

Keywords: Victim compensation, criminal justice reform, restorative justice, Article 21, victim rights

1 Introduction

In the past the Indian legal system for criminal matters has seen criminal activity as something done against the government putting those who were hurt by the crime in a less important position during court cases. The people harmed were mostly seen as those who could give information, and their job was mainly to help with the case, with not much thought given to fixing the damage they experienced. This way of doing things not only overlooked the physical and mental pain that these people went through but also did not do much to fix the situation for them. Over time, there has been a slow understanding that fairness cannot be fully achieved unless it includes respecting the rights of the person who was hurt, helping them get back on their feet, and giving them money to make up for what happened. This changing view had been greatly influenced by legal ideas based on Article 21 of the Constitution of India and the increasing importance of fixing things that went wrong.

Although laws have been put in place like the victim payment plans under the Criminal Procedure Code, 1973 (CrPC, 1973) that are actually making the justice system focus on the person who was hurt has been uneven. The Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS, 2023) aims to change how criminal cases are handled and make the system for paying victims stronger. But still there has not been a lot of deep study to see if the BNSS, 2023 really fixes the problems that courts have pointed out in the past. This article tries to deal with this issue by carefully looking at the payment plan under the BNSS, 2023. The research uses a method that focuses on legal rule using a wide look at laws, court decisions from the highest courts, reports from law groups and writings from experts found on sites like SCC Online, Manupatra, and Indian Kanoon.¹

2 Concept of victim-centric justice in criminal law

The concept of victim-centric justice signifies a move away from traditional punitive justice and embracing a more encompassing framework where the victim is seen as an active participant in the judicial process. It places importance on mending damages, acknowledging the victim's pain and helping victims return to normal life within the community. This method is closely linked to ideas of restorative justice prioritizing the recovery from harm instead of solely punishing the individuals who commit offenses.

Indian legal courts have frequently pointed out that victims are often sidelined in criminal cases. In the case of "Rattan Singh versus the State of Punjab" Hon'ble Supreme court referred to victims as the neglected party in the courtroom proceedings.² This comment paved the way for future attempts by the judiciary to incorporate the rights of victims into the structure of criminal law. Constitutional jurisprudence has also strengthened the victim-centric justice. Article 21 of the Constitution of India guarantees the right to life and personal liberty has been expansively interpreted to include the right to live with dignity and access to justice for victims of crime. In *Bodhisattwa Gautam v Subhra Chakraborty*, Hon'ble Supreme Court recognised rape as a violation of a woman's fundamental right to life and dignity and directed interim compensation to the victim, thereby affirming a rights-based and restorative approach.³

In modern-day legal understanding of criminal matters fairness based on those impacted consequently signifies a developing example that aims to bring into harmony the privileges of those charged with the justifiable interests of those impacted by wrongdoing. It does not weakens the standards of impartial legal proceedings or the presumption of innocence instead, it enhances them by making certain that those who have suffered are given attention, shown respect, and helped in their recovery. By incorporating

¹ Terry Hutchinson, *Researching and Writing in Law* (3rd edn, Lawbook Co 2010).

² *Rattan Singh v State of Punjab* (1979) 4 SCC 719.

³ *Bodhisattwa Gautam v Subhra Chakraborty* (1996) 1 SCC 490.

reparation, involvement, safety measures and mechanisms for restoration fairness centred on those impacted strives to make the criminal justice system more thoughtful, unbiased and responsive to societal needs.

3 Constitutional and judicial foundations of victim compensation

The constitutional support for compensating victims in India mainly comes from Article 21 of the Indian Constitution that secures the right to life and individual freedom. Legal interpretations have broadened this right to cover respect, recovery assistance and the ability to seek justice.

In the "Delhi Domestic Working Women's Forum versus the Union of India" Hon'ble Supreme Court declared that victims of rape have a right to compensation as a component of their basic right to a dignified life.⁴ This ruling was a major step in identifying compensation not as a charitable action but as a legal requirement of the government.

4 Evolution of victim compensation law in India

Before official legal recognition compensation for victims was primarily reliant on penalties charged to wrongdoers often resulting in uncertain and uneven assistance. Victims had restricted avenues for obtaining relief notably in situations where the charged individual was found not guilty or could not be identified. The addition of Section 357A through the Criminal Procedure Code Amendment Act in 2008 represented a notable change in law, requiring state-sponsored programs for victim compensation. Receiving compensation was no longer conditional on a guilty verdict.

In the "Ankush Shivaji Gaikwad versus the State of Maharashtra" case India's Hon'ble Supreme Court said that courts have a responsibility to deliberate on awarding compensation in each criminal case and neglecting to do constitutes a severe lapse in judicial duty.⁵ This ruling emphasized the obligatory aspect of providing compensation to victims.

5 Victim compensation scheme under BNSS, 2023

While aiming to make procedural elements more efficient the BNSS, 2023 preserves the key elements of Section 357A of the CrPC, 1973. It requires state governments to develop compensation plans and grants courts the authority to suggest compensation regardless of the trial's result. An essential aspect of the BNSS, 2023 is the understanding that victims may need to be compensated even when the perpetrator is found not

⁴ *Delhi Domestic Working Women's Forum v Union of India* (1995) 1 SCC 14.

⁵ *Ankush Shivaji Gaikwad v State of Maharashtra* (2013) 6 SCC 770.

guilty or cannot be located implying that the harm experienced rather than a strict emphasis on the offender's responsibility. The BNSS, 2023 however, does not outline consistent criteria for determining compensation amounts giving state authorities substantial leeway.

6 Judicial interpretation and contemporary challenges

Legal rulings continue to influence how victim compensation is understood. The Hon'ble Supreme Court made it clear in *Suresh v. State of Haryana* that compensation under victim schemes is unrelated to a conviction and must prioritize the needs of the victim.⁶ Despite these legal instructions, implementation issues remain. The Hon'ble Delhi High Court noted in *Karan v. State of NCT of Delhi* that delayed compensation invalidates the fundamental idea of victim-centred justice.⁷ These judicial comments are very pertinent to the BNSS, 2023 since the new law lacks enforceable timelines or monitoring systems which raises the possibility that past mistakes will be repeated.

7 Critical evaluation of BNSS, 2023 compensation framework

The BNSS, 2023 demonstrates a progressive legislative intent aligned with constitutional and restorative justice principles, recognizing victims' rights independent of trial outcomes and emphasizing institutional support, thereby reflecting a commitment to inclusive justice. Nevertheless there are some fundamental flaws that diminish its effectiveness. Because there are no set rules for the least amount of money that should be paid there are big differences in how much people get in different states. Also, because not many people know about it or have help understanding it and those who have been hurt cannot easily use the system to get paid. When those in charge have too much freedom to decide how much money to give, this creates unfair results and makes the process take longer. Furthermore, the BNSS, 2023 does not have good ways to check if it is being used correctly, see if it is working well, or make sure that state officials are following the rules. If these problems are not fixed, the goal of focusing on the person who was hurt may not become a reality. For this law to really change things, it needs clear steps, rules that are the same for everyone, and strong ways to make sure people are responsible.

The promise of victim-centred justice under the BNSS, 2023 is in danger of remaining more aspirational than real without strong procedural protections and accountability procedures.⁸

⁶ *Suresh v State of Haryana* (2015) 2 SCC 227.

⁷ *Karan v State (NCT of Delhi)* 2022 SCC Online Del 3709

⁸ Law Commission of India, *Report No 154 on the Code of Criminal Procedure, 1973* (1996).

8 Conclusion and suggestions

The BNSS, 2023 is a significant step forward in reaffirming the State's dedication to victim-centred justice. However legislative continuity is insufficient without structural change. For compensation systems to be genuinely successful there must be uniform standards, time-bound distribution procedures, and specialized institutional assistance for victims.

Incorporating legal requirements into legally enforceable statutory provisions would significantly improve the victim compensation system. Victim-centred justice in India will continue to rely more on judicial sensitivity than on legislative certainty until such changes are made.