



SC bats for minor rape survivors-Extends compensation plan to them

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Highlights

- The Supreme Court on Wednesday ordered that minor survivors of rape or sexual assault will get compensation on par with women victims.
- The apex court extended to minor children the National Legal Services Authority's (NALSA) compensation scheme for women rape and sexual assault survivors.
- A three-judge Bench led by Justice Madan B. Lokur directed that Special Judges under the Protection of Children from Sexual Offences (POCSO) Act should disburse compensation to minor victims of sex abuse as per the NALSA's 'Compensation Scheme for Women Victims/Survivors of Sexual Assault/Other Crimes-2018'.

Uniform payment

- The NALSA scheme would be made applicable to minor victims from October 2 until the Centre frames compensation guidelines under the POCSO.
- The NALSA scheme provides a uniform payment of Rs.5 lakh to a maximum Rs. 10 lakh for "loss of life" and to gang rape survivors in any part of the country.
- Similarly, in case of rape and unnatural sexual assault, the victim would get a minimum of Rs.4 lakh and a maximum of Rs.7 lakh as compensation.
- Among other categories, if a victim suffers the loss of foetus, that is, by miscarriage as a result of assault or loss fertility, the NALSA scheme offers a compensation of Rs.2 lakh to Rs.3 lakh.
- A victim of acid attacks, in case of disfigurement of face, would get a minimum compensation of Rs.7 lakh, while the upper limit would be Rs.8 lakh.

Additional Info:

The Protection of Children from Sexual Offences Act (POCSO Act) 2012

- The Protection of Children from Sexual Offences Act (POCSO Act) 2012 was formulated in order to effectively address sexual abuse and sexual exploitation of children.
- The Protection of Children from Sexual Offences Act, 2012 received the President's assent on 19th June 2012 and was notified in the Gazette of India on 20th June, 2012.

Definition

- The Act defines a child as any person below eighteen years of age.
- It defines different forms of sexual abuse, including penetrative and non-penetrative assault, as well as sexual harassment and pornography.

Aggravated sexual assault

- It deems a sexual assault to be “aggravated” under certain circumstances, such as when the abused child is mentally ill or when the abuse is committed by a person in a position of trust or authority like a family member, police officer, teacher, or doctor.

Police Directives

- The Act also casts the police in the role of child protectors during the investigative process.
- Thus, the police personnel receiving a report of sexual abuse of a child are given the responsibility of making urgent arrangements for the care and protection of the child, such as obtaining emergency medical treatment for the child and placing the child in a shelter home, and bringing the matter in front of the CWC, should the need arise.

Avoiding the re-victimisation

- The Act further makes provisions for avoiding the re-victimisation of the child at the hands of the judicial system.
- It provides for special courts that conduct the trial in-camera and without revealing the identity of the child, in a manner that is as child-friendly as possible.
- Hence, the child may have a parent or other trusted person present at the time of testifying and can call for assistance from an interpreter, special educator, or other professional while giving evidence.
- Above all, the Act stipulates that a case of child sexual abuse must be disposed of within one year from the date the offence is reported.
- The Act also provides for mandatory reporting of sexual offences.
- This casts a legal duty upon a person who has knowledge that a child has been sexually abused to report the offence; if he fails to do so, he may be punished with six months’ imprisonment and/ or a fine.
- The Act further states that the evidence of the child should be recorded within a period of thirty days.

Provides for Special Court

- The Special Court taking cognizance of the matter should be able to complete the trial within the period of one year from the date of taking cognizance of the abuse.
- It provides that the Special Court proceedings should be recorded in camera and the trial should take place in the presence of parents or any other person in whom the child has trust or confidence.
- The Act provides for punishment against false complaints or untrue information.
- It describes strict action against the offender according to the gravity of the offence.
- It prescribes rigorous imprisonment for a term which shall not be less than ten years but which may extend to imprisonment for life and also fine as punishment for aggravated penetrative sexual assault.
- It also prescribes punishment to the people who traffic children for sexual purposes.

Compensation Scheme for Women Victims/Survivors of Sexual Assault/other Crimes

- The Supreme Court of India in *Nipun Saxena v. Union of India*, WP (C) No. 565 of 2012 had opined that “it would be appropriate if NALSA sets up a Committee of about 4 or 5

persons who can prepare Model Rules for Victim Compensation for sexual offences and acid attacks taking into account the submissions made by the learned Amicus.

- Further, the committee had finalized the “Compensation Scheme for Women Victims/Survivors of Sexual Assault/other Crimes” and submitted the same before the Supreme Court on 24-04-2018.
- As per NALSA’s scheme, the victim of gangrape in any part of the country would now get a minimum compensation of Rs 5 lakhs and up to a maximum of Rs 10 lakhs.
- Similarly, in case of rape and unnatural sexual assault, the victim would get a minimum of Rs 4 lakhs and maximum of Rs 7 lakhs as compensation.
- The scheme also says that victim of acid attacks, in case of disfigurement of face, would get a minimum compensation of Rs 7 lakhs, while the upper limit would be Rs 8 lakhs. In acid attack cases, if the injury was more than 50 percent, a minimum compensation of Rs 5 lakhs would be given, while the maximum would be Rs 8 lakhs.
- Hence, in the present order, the Supreme Court stated that slight modifications in the above-mentioned scheme were required in order to embed the “child victims” under it as well.

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