Chapter - VI

COMPENSATION AND GUIDELINES
ABOUT RAPE VICTIM & OTHERS
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In the developed countries the very atmosphere is electrified by loud claims of feminism and here in our country, our hearts are full to the brim with enthusiasm for the cause of woman. But it must be said that when a woman is seduced or raped, the legal position as it exits today is that there is no civil remedy available to her. She faces complete holocaust and devastation. This is because our law of torts is not of our own. It is the legacy or hangover of colonial and imperialist regime which has kept us enslaved and dependent for more than two hundred years. This has made us so important that we have now no will left to throw overboard this ignoble colonial rag of medieval common law.

In India in spite of all the trends of welfare legislation about women, legislations have left barren this field. Perhaps it has escaped their notice. So in the law of torts the sexual wrong against woman and other wrongs like theft, dacoity, murder, robbery have failed to get tortuous remedy of damages or compensation. Our law of torts derives its rules and principles from the feudal and medieval England, where woman was treated as part of the personality of man. Woman and man were one in the eye of law. She had no independent right to sue, to enter into contract and to own property in her own name. It is only through the courts of equity that the law relating to woman was developed and restoration took place but in the matter of seduction and rape the woman still has no right to sue, rather rape is not recognised as a tort. If a woman is raped, the law of tort allowed remedy before 1970 to a parent or a master for the loss of services which would have been rendered by the victim of rape. There is no rule that woman can claim compensation for the wrong suffered by her. This is in itself preposterous (unnatural) and violation of the principle of equality and the very spirit of democracy. Again, it is against the principle of individualism and utilitarians which was the moving force of law reform in common law countries. This historical reason for absence of legal remedy to women in law of torts is that the law of torts
was developed through a criminal writ called the writ of trespass. This writ was applicable to lighter criminal wrongs called misdemeanors. Later on this writ was made applicable to torts also. As a result of this, the grave criminal wrongs at that time called felonies, were beyond the preview of law of tort. Where the property of the felon was confiscated, as he had no property he could not be sued in tort for compensation or damages. Due to law reforms now the property of the felon is saved from confiscation. Now when he can retain his property the commission of law reform have failed to make provision in favour of the woman (victim of rape) by granting her right to claim damages for the wrong. The punishment given to the rapist or the seducers cannot relieve her a bit. The mental agony she suffers and the social stigma which she bears disable her to seek work and earn her living in the usual course. The sensitive women often commit suicide; if they fail to take this dangerous step, the only course open for them appears to be to take to prostitution or to be call girls or to degrade their life and personality in whatever way the things may take that course.

One cannot understand how the law was not reformed in this regard in India, where half of the wrongs are wrongs against women whether they are reported or unreported. The molestation and eve teasing is the daily occurrence; the youth of woman is subjected to fraud and blackmail in our social life. The absence of remedy in itself is an abetment or encouragement to wrong doer against women. The moment, a person earns money by legal or illegal means his first pleasure becomes womanising. The economic, social and political power often seeks its satisfaction in sexual indulgence, where the helpless females have to offer themselves when they are pressed by poverty, destitution and unjust social conditions. They are raped and the law of torts does not protect them. The rapist knows that due to shame the woman will not report the matter for prosecution in the absence of effective checks, the crime of rape becomes a romantic and victorious adventure. The poronofic and sexy literature, which is more profitable for its publishers, often encourages such adventures by fanning sex mentality of youth.
If maintenance is allowed against the wrongdoer, he may scarcely think of committing the folly again. It will be a lifelong lesson to him. Many such wrongdoers if they are unmarried may take the raped unmarried woman as wife. In this way there will be re-establishment of healthy social relationships. The fact is that youthful mind is still influenced by rapist desires which are illegal and develop a guilt complex, which make him irresponsible to duties and obligations of social life. Most of the corruption, blackmail and failures of duty are due to the inner-sex desire which assumes proportions when added by other factors and blow-up in communal riots, civic disturbances and terrorism etc.

The law of torts is a vital limb of social and individual security. It is going towards social insurance and social welfare. In appropriate cases it imposes strict liability independent of fault and negligence for the protection of our social and public interests. It has abolished the rule that death extinguishes the liability by enactment of statues and evaluation of law, it allows remedy in case of death by virtue of Acts like Fatal Accidents Act, 1855 and principles like expectation for life, pain and sufferings before death. It has extended remedy in case of negligence by translating the principle. of ‘love thy neighbour’ into law which directs do not injure your neighbour2. It has recognised indirect injury or nervous shock and is developing the principles of law in deceit, liability for mis-statements, negligence of hospital authorities etc. There seems to be no reason to deny remedy of damages in the case of rape which has emerged a vital threat to a woman’s personality, otherwise there would be the violation of the very spirit of our Constitution which ensures dignity of the individual. It is often objected that awarding of compensation is adding insult to the injure to the wronged women but this objection seems to be verbal and unsubstantial. We can find no reasonable justification in denying this remedy which is an economic relief to the wronged woman as well as a penal burden upon the wrongdoer. It will prove an eye opener as well as deterrent punishment for him. If there is any linguistic blame or insult in the word ‘damages’ or ‘compensation’, the word ‘relief’ can be substituted for it.
It is true that medieval common law of England would have allowed remedy in case of rape had it not been a felony, where the property of wrongdoer was confiscated because of this reason legally damages or compensation could not be allowed in absence of the existence of the property of the felon. It is also true that when the law was reformed the law of tort was not codified as a result of which the anomaly was not removed. This is the historical reason why the uncodified law of torts in India retains this common law lacuna and makes no provision for compensation to woman in case of rape. It is to be noted that section 357 of the Code of Criminal Procedure, 1973 does make provision for compensation. But it cannot be a substitute for tortuous remedy proposed in this paper on three counts. Firstly, the remedy is merely discretionary and secondly, it is to obligatory that the full amount of fine will be given to the injured or raped woman, and thirdly, there is no guarantee that the amount of compensation would be sufficient for the subsistence of the wronged woman.

It is submitted that in modern India due to certain circumstances like establishment of industries, the incidents of environmental nuisance, gas disasters as in Bhopal\(^1\) and Delhi\(^2\) have become quite common, and when economic threat is a real threat to the existence of poverty stricken multitudes of India, the law of torts is bound to be forged as the significant instrument to remedy wrongs which are full of economic significance. Historically tort is the parent of crime. It has been claimed by writers like Henry Maine that Anglo-Saxon law of crime was primarily the law of wrongs i.e. law of torts. It is only later that differentiation and distinction crept in. Today the criminal wrongs like defamation, deceit, nuisance, negligence, assault, false imprisonment (wrongful confinement) etc. are already occupying their place in law of torts. There seems to be no reason for not recognising murder, theft, robbery, dacoity and rape as torts also. If the whole law of torts cannot be codified atleast special legislation should be made for protecting the modesty of woman by making provision for aggravated and penal damages in

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1. Bhopal Gas Leakage Case.

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case of sexual wrongs against woman. In a case Chief Justice Guman Mal Lodha, as he then was, directed the state government to make ex-gratia payment to ten gang raped victims varying from Rs.25,000/- to Rs.10,000/- even before the trial and the proof of rape in the criminal court. This shows that the judicial mind which is the keeper of the conscience of the nation has adequately recognised the sin against woman and their said plight. Now it is for the Parliament, which represents the will of the nation to come forward to make legislation awarding full economic relief to the raped woman. If it is done the incidents of rape are bound to be minimised. Further instead a lump-sum amount of compensation of relief if monthly maintenance allowance for a long period is allowed, we feel the rapist may think twice before committing the rape. It is in the fitness of things that there should be some social insurance and vicarious liability of the state for the sexual wrongs against woman.

If no change is made in this law to provide a substantial remedy to a ravished woman we do not know where she will go to seek relief. Punishment of imprisonment is no satisfaction to the defiled woman. It does not help her a bit, while the offender lives secured in the walls of prison, the offend woman in person wanders about in this wide world as an outcaste, in perpetual exile from her people because she is unacceptable to sacred conscience of this society. She is condemned to be free, to starve or to go to the dogs of society who are ever greedy and lascivious to trap and notch her. Suppose she suffers conception by the act of rape, the questions which arise are: What will happen to her? Who will maintain her illegitimate child? Which law will allow her maintenance? Where is social insurance for her? Who will rehabilitate her? Our law answers all these questions with a big ‘No’. Even in England a trifle remedy in the tort of seduction for the loss of service, which was available to father or a master only and not available to the victim woman herself has been abolished by the Law Reform (Miscellaneous Provisions) Act, 1970. Consequently, in India also recently the Orrisa High Court


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in Deenbandhu Mandal v. Manendra Nath Mandal has refused to allow remedy in a case of seduction of daughter by citing the provisions of 1970’s Act. So the result is that, no remedy worth the name is available to a wronged woman in civil courts. The present position is that there is not even a semblance of remedy available to a seduced woman either in England or in India.

The time is quite appropriate to disown this leaf-over of a foreign reign and bring out a major change in the perspective of our civil law in order to provide adequate maintenance and economic satisfaction i.e. damages to ensure the Honourable survival of the wronged woman whose state is worse than a divorced or separated woman who can demand maintenance in the court as a matter of right.

If a woman is raped by a person and remedy of compensation is allowed according to the gravity of the wrong it will certainly reduce the occurrence of rape. We allow maintenance to a deserted or separated wife throughout her life. If a maintenance is allowed to a raped woman on a monthly basis the whole romantic euphoria of the youthful mind may be washed off and the potential rapists may be compelled to lead a moral life. While our society is educated to purge itself of the fetish of false purity and becomes quite ready to reclaim and rehabilitate the wronged woman with all dignity and honour, the law should take the bold initiative and effective lead by the desired reform and amelioration.

Compensation in many of the cases arising out of the Criminal proceedings and the injustice due to the crime done to the victims, the compensation in such cases become there right and move over it is the duty of the state to provide for the compensation to the victims in our country where the compensation is payable by the prospectus or the convict as the case may be according to the judgment of the Hon’ble Courts. The victim of criminal offence ‘Rape’ and other sexual offences needs compensation as there life style is disturb or interrupted and she become down graded in the eyes of their society and relatives. But in our country there is

no specific act and legislation in which all the victim should be legally compensated as there was different modes like domestic violence, motor vehicles, matrimonial, physical and emotional Injury etc. There is no specific act or law is present to deal with the problem like U.S. where a special specific statute is enacted "VOCA", victims of Crime Acts. VOCA established a federal office responsible for developing the rights of the victim generally and in particular for providing supplementary federal funding for state victim assistance program includes pregnancy, rape, sexual assault and mental health. In Britain Criminal compensation is given under the rule of Double compensation so that a victim does not obtain compensation from the program in addition to financial assistance from social security, insurance and other sources, assessed on the basis of common law damages.

In India under Criminal Procedure Code U/S 357 of Cr.P.C. compensation may be given to the victim which is as under :-

Order to Pay Compensation :

1. When a Court imposes a sentence of fine or a sentence (including a sentence of death) of which fine forms a part, the Court may, when passing judgment, order the whole or any part of the fine recovered to be applied.
   a) In defraying the expenses properly incurred in the prosecution.
   b) In the payment to any person of compensation for any loss or injury caused by the offence, when compensation is, in the opinion of the Court, recoverable by such person in a Civil Court.
   c) When any person is convicted of any offence for having caused the death of another person or of having abetted the commission of such an offence, in paying compensation to the person who are, under the Fatal

6. Cr.P.C., 1973

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Accidents Act, 1855 (13 of 1855) entitled to recover damages from the person sentenced for the loss resulting to them from such deaths.

d) When any person is convicted of any offence which includes theft, criminal m is appropriation, criminal breach of trust, or cheating, or of having dishonesty received or retained, or of having voluntarily assisted in disposing of, stolen property knowing or having reason to believe the same to be stolen, in compensating any bonafide purchases of such property or the loss of the same if such property is restored to the possession of the person entitled there to.

2. If the fine is imposed in a case which is subject to appeal, no such payment shall be made before the period allowed for presenting the appeal that has elapsed, or, if an appeal be presented before the decision of the appeal.

3. When a court imposes a sentence, of which fine does not form a part, the court may, when passing judgment, order the accused person to pay, by way of compensation such amount as may specified in the order to the person who has suffered any loss or injury by reason of the act for which the accused person has been so sentenced.

4. An order under this section may also be made by an appellate court or by the High Court on court session when exercising its powers of revision.

5. At the time of awarding compensation in any subsequent civil suit relating to the same matter, the court shall take into account any sum paid or recovered as compensation under this section.

In T.A. Krishan V. Chithran & others Hon’ble Kerala High Court in above can interpret section 357 Cr.Pc and held that criminal court may award compensation to the victim either under sub-section (1) (b) or under sub-section

(3). When the court imposes a sentence of fine or a sentence of which fine forms a part, the court may award compensation to any person for any loss or injury caused by the offence under clause (b) of sub-section (1) of section 357 if in the opinion of the court compensation is recoverable by such person in a civil court. Even when the fine does not form part of the sentence, the court may award compensation to the victim, payable by the accused person, as per sub-section (3) of section 357. It is provided in sub-section (3) of section 357. It is provided in sub-section (3) of section 357 that the person to whom compensation is to be awarded must be a person who could be awarded must be a person who could recover such compensation in a civil court, as is the case in clause (b) of sub-section (1) of section 357 of the code of criminal procedure. Sub-section (4) provides that the appellate court or the Revisional Court may also pass an order under section 357. Therefore, it is contended that the victim could wait till the disposal of the criminal case and his right to file a civil suit for compensation could be reckoned from the date of disposal of the criminal case.

It was held in A.S.K. Krishnappa Chettiar Case\(^8\) Hon’ble Supreme Court held that acts are consolidating and amending statute relating to the suits, appeal and certain types of application to courts and must, therefore, be regarded as an exhaustive code. It is a piece of adjective or procedural law and not of substantive law. Rules of procedure, whatever they may be, are to be applied only to matters to which they are made applicable by the legislative expressly by analogy or reference they cannot be extended by analogy or reference to proceedings to which they do not expressly apply or could be said to apply by necessary implication.

In a case\(^9\) Punjab and Haryana High Court advise the state of Haryana in there decision Hon’ble D.B. observed that although accused did not inflict any grievous bodily harm to the victim, never then the extent of psychological harm

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8. A.S.K. Krishnappa Chettiar and others Vs. V. V. Somiah @ Navniappa Chettiar and another AIR 1964 S.C. 227.

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cannot be measured further in para 24 of the judgment it is comprised with the Rape victims and it must be given immediate assistance to enable them to overcome that personal crisis. We strongly urge the state govt. to devise a suitable “Victim Assistance Programme” in every sessions Division under Sub-Divisional Magistrate in collaboration with the District Legal Service Authority to assist victims of rape. The programme should advise them as regards their rights for treatment, for also provide a trained social worker (female) to give constant counseling and emotional support to the victims. Further, it is suggested that the programme should be elective and should not be forced upon victims who do not wish to seek its benefits for the reason of privacy.

In Bodhisattwa Gautam Case\(^\text{10}\) while deciding question for interim compensation to the rape victim held that “If the court trying an offence of rape has jurisdiction to award the compensation at the final stage, there is no reason to deny to the court the right to award interim compensation which should also be provided in the scheme”. The jurisdiction to pay interim compensation can be treated as a part of the overall jurisdiction of the courts trying the offences of rape. The court having regard to the facts and circumstances of the case directed to pay a sum of Rs.1000/- per month on interim compensation during the pendency of criminal proceedings from the date of the complaint.

Supreme Court in the case of Smt. Nilabati Behera alias Lalita Behera V. State of Orissa & Others\(^\text{11}\) held as under that a claim in public law for compensation for contravention of human rights and fundamental freedom, the protection of which a guaranteed in the constitution, is an acknowledged remedy for enforcement and protection of such rights, and such a claim based on strict liability made by resorting to a constitutional remedy provided for the enforcement of a fundamental right is distinct from, and in addition to the remedy in private law


for damages for the tort resulting from the contravention of the fundamental right. The defence of sovereign immunity being inapplicable and alien to the concept of guarantee of fundamental rights, there can be no question of such a defence being available in the constitutional remedy. It is this principle which justifies award of monetary compensation. Which contravention of fundamental rights guaranteed by the constitution, when that is the only practicable mode of redress available for the contravention made by the state or its servants in the purported exercise of their powers, and enforcement of the fundamental right is claimed by resort to the remedy in public law under the constitution by resource to Articles 32 and 226 of the constitution.

In a case a lady was working as a maid servant in the house of she was taken to police station by a man police constable for interrogation. She was not told the native of complaint and also not allowed to contact her husband. She was accused in vulgar language and asked to state at to what did she lift from the house of the owner. After some time she came to know that false police complaint against the petitioner in the matter of theft of Rs.60,000/- and some gold jewels. She was tortured by pressing her fingernail. She was threatened of stripping naked and gang rape by the police. No woman police was kept with her. Apprehending gang rape, she urinated and requested the police to allow her to go to toilet.

Apprehending police torture and gang rape she jumped from the second floor of the police station building and was grievously injured and admitted to hospital. Her case was taken up before the commissioner of police, Mysore and Lokayukpta. The National Human Rights Commission was also approached by the victim which is allowed by the Hon'ble Court with the tune of Rs.2,00,000/- in which Rs.1,50,000/- is directed to be deposited in a nationalised bank at Mysore, for a period of 5 years with high yielding interest in fixed deposit and victim is entitled to withdraw with in four weeks of passing the order, and a sum of Rs.5000/- to

12. Samata Vedike and etc. Vs. State of Karnataka and others Judicial Report (Criminal) Vol. 17 2003 (2) 605 (Karnataka).
Samatha Vedlike, a processing women's organization for taking the matter with interest to authorities and the court by the state government towards legal expenses, along with there it is described by the Hon'ble Apex Court that rule of law is the basic foundation of the democracy it can survive only with the active assistance of police. The Higher Authorities should have taken much more care to see that the law protectors are not to become law breakers. Law breaker is to be properly punished to protect law, further giving directions to the Director General of Police to get hold of the entire records of the departmental proceedings and have a second look in the light of this order and take remedial action in accordance with law to maintain purity and dignity of police department.

It is held in case\textsuperscript{13} that Right of Rape victim to receive compensation flows from Article 21 of the compensation. Every Court has jurisdiction to grant compensation not only at the final stage of trial but also to award interim compensation at any interlocutory stage of trial.

The Hon'ble Supreme Court in order to protect and safeguard the honour and personality of a rape victim in its landmark judgment in case of D.D.W.W.F.\textsuperscript{14} has laid down the following guidelines.

1. The complainants of sexual assault should be provided with legal representation. It is important to have someone who is well-acquainted with the criminal justice system. The role of the victim's advocate would not only be to explain to the victim the nature of the proceedings, to prepare her for the case and to assist her in the police station and in court but to provide her with guidance as to how she might obtain help of a different nature from the other agencies, for example, mind counseling or medical assistance. It is important to secure continuity of assistance by ensuring that


\textsuperscript{14} Delhi Domestic Working Women's Forum Vs. Union of India, (1955) 1 SCC 14 = 995 SCC (cri) 7.
the same person who looked after the complainant’s interest in the police station represent her till the end of the case.

2. Legal assistance will have to be provided at the police station since the victim of sexual assault might very well be in distressed state upon arrival at the police station, the guidance and support of a lawyer at this stage and whilst she was being questioned would be of great assistance to her.

3. The police should be under a duty to inform the victim of her right to representation before any question were asked of her and that the police report should state that the victim was so informed.

4. A list of advocates willing to act in these cases should be kept at the police station for the victim who did not have a particular lawyer in mind or whose own lawyer was unavailable.

5. The advocate shall be appointed by the court, upon application by the police at the earliest convenient moment, but in order to ensure that victims were questioned without undue delay, advocates would be authorized to act at the police station before leave of the court was sought or obtained.

6. In all rape trials anonymity of the victim must be maintained as far as necessary.

7. It is necessary, having regard to the directive principles contained under article 38 (1) of the constitution of India to set up criminal Injuries compensation Board, Rape victims frequently incur substantial loss. Some, for example are too traumatised to continue in employment.

8. Compensation for victims shall be awarded by the court on conviction of the offender any by the criminal injuries compensation Board whether or not a conviction has taken place. The Board will take into account pain, suffering and shock as well as loss of earnings due to pregnancy and the expenses of child birth if this occurred as a result of rape.
In Brijesh V State of Haryana\textsuperscript{15} it was held by Punjab and Haryana High Court that rape violates fundamental right of a woman to live with dignity. Accused was directed to pay Rs. 5000/- as compensation to prosecutrix besides to suffer other sentence.

In Pradan case\textsuperscript{16} it was observed by the Hon'ble Court that an attempt was made for reconciliation by getting the accused married to the prosecutrix so that she could be rehabilitated in the society. But neither the appellant nor the prosecutrix nor their parents consented to the marriage because of caste barrier. The prosecutrix, being a young girl will be left in the lurch on account of the stigma. She has suffered on account of the rape, as well as the publicity that the case must have received in the locality. In ordinary course the prospects of her marriage appears to be bleak. But possibility of being rehabilitated if she gets some financial assistance. Hence a fine of Rs. 3000/- was imposed by the court on the accused and the amount was to be paid to the victim.

In Chandrima Das Case\textsuperscript{17} while discussing the case of victim of gang rape of foreign woman under Public Interest Litigation (PIL) has held that a foreign national can be granted compensation under constitution for violation of fundamental right on the ground of domestic jurisdiction based on constitutional provisions and Herman Rights Jurisprudence. In this case, on petition filed in Calcutta High Court under article 226 of the constitution against the various railways authorities of eastern railway claiming compensation for the victim, a foreign Bangladesh National, who was gang raped by the employees of Railways in a room at Yatri niwas of Hawarh Station of the eastern railway. The high court awarded a sum of Rs.10 lac as compensation to the victim. Before the apex court in appeal it was argued on behalf of the state that the Railways was not liable to pay compensation to the victim as she was a foreigner and not an Indian National. It was also contended that for claiming damages for the offence perpetrated on the

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victim, the remedy lay in the domain of private law by filing a civil suit for damages before the civil court, and not under Public law and, therefore, no compensations could have been awarded by the High Court under article 226 of the constitution and that too, at the instance of practicing lawyer who, in no way, was connections with the victim. The supreme court while rejecting the contentions held while rejecting the contentions held that where a rape was committed by railway employees on a woman in a building belonging to railways, a writ petition filed by the victim against the government for compensation is maintainable under Article 226 of the constitution. The court said that where public functionaries are involved and the matter relates to the violation of fundamental relates or the enforcement of public duties the remedy would be avoidable under the public law, not with standing that a suit could be filed for damages under private law. It was more so when it was not a mere violation of an ordinary right of a person but the violation of fundamental rights was involved as petitioner was a victim of rape which is violation of fundamental right of a person guaranteed under act 21 of the constitution. As regards the question whether fundamental rights are available to "citizens" and not to aliens, the supreme court held that since the word "life" has been used in Article 21 of the constitution and recognised a basic right in the same sense as understood in the Universal Declaration of Human Rights, 1948 there is no reason why it should be given a narrow meaning. According to the language used in Article 21, it will be available not only to every citizen of this country, but also be a citizen of this country, but also to a "person" who may not be a citizen of the country. Then even those who are not citizen of this country and come here merely as tourists or in any other capacity will be entitled to the protection of their lives in accordance with the constitutional provisions. They also have a right to "life" in this country. Thus they also have the right to live, so long as they are here, with human dignity. Just as the state is under obligation to protect the life of every citizen is the country, so also the state is under an obligation to protect the life of the persons who are not citizens.
In a case¹⁸ in which accused is a police office of the highest rank, the brief facts of the case is that on 18.7.1988, a senior IAS Officer holding the post of Financial Commissioner and Secretary to the Government of Punjab, invited some of the IAS Officers and IPS Officers working at Chandigarh, for a dinner at 8.30 p.m. at his residence in sector 16 of Chandigarh. Apart from the IAS and IPS Officers, there were a few advocates, including the Advocate General of the state of Punjab and also some journalists and press correspondents working with some leading newspapers. The guest assembled around 8.30 p.m. Ladies were sitting in a semi-circle slightly away from the male guests. As per the allegation in the complaint preferred by the husband of the prosecutrix, the accused, who was then the Director General of Punjab Police, came and occupied a chair which was lying vacant at the place where the ladies were sitting. The accused then called out the prosecutrix and asked her to sit near him as he wanted to talk to her about something. When the prosecutrix was about to sit on the chair lying near the accused, the latter suddenly pulled the chair close to him and it is alleged that the prosecutrix felt slightly embarrassed and she managed to pull the chair back and sat on it. The accused again tried to pull the chair close to his chair whereupon the prosecutrix got up from the chair and returned to her original seat. The further allegation is that about few minutes later, the accused came near the prosecutrix and asked her to come along with him. The prosecutrix strongly objected to his behaviour, but the accused was not prepared to change his tone and tenor and again he asked the prosecutrix to accompany him. The prosecutrix further alleged that she because frightened as accused blocked her way and she tried to get away from the place whereupon the accused slapped on the posterior of the prosecutrix and the same was done in the presence of other guests. The prosecutrix then made a complaint to the host and told him that the behaviour of the accused was abnoxious and that he was not fit for a decent company. The accused was then gently removed from the place. Later the matter comes before the supreme court in which

it is held that crimes against women are on the rise and the court should have death with the matter severely and the accused should not have been released on probation and same is dismissed accordingly. The fine imposed by the High Court is Rs. 2,00,000/- for compensation in which it prosecutrix submitted that the complainant has no intention of with drawing Rs. 2 lacs ordered to be paid to her by way of compensation and that the amount may be given to any women's organization engaged in doing service for the cause of the women in this regard Hon’ble Court leave the matter to the Chief justice of the High Court of Punjab & Haryana to deal with the said compensation amount in an appropriate manner as prayed by the victim of the case.

In another case Supreme Court passed the order in the interest of Justice in exercise of power vested under Article 142 of the constitution. In that case the rape victim girl lodged a complaint to the police on 29-11-1988 long age the alleged act of rape. By the date of the report, she was pregnant by six months. Broadly, the version of the victim girl was that she and the accused were neighbours and fell in love with each other and one day, the accused forcibly raped her and later consoled her saying that he would marry her, that she succumbed to the entreaties of the accused to have sexual relations with him on account of the promise made by him to marry her. Therefore, continued to have sex on several occasions. After she became pregnant, she revealed the matter to her parents. Even thereafter, the intimacy continued to the knowledge of the parents and other relation who were under the impression that the accused would marry the girl but the accused avoided to marry her and his father took him out of the village to marry. The efforts made by the father to establish the marital tie failed and, therefore, she was constrained to file the complaint after waiting for sometime. It is held that the act of the accused left behind her a trail of misery, ignomity, and trauma. Later a female child born out of the illicit relationship is now living with her married mother and she is about in years old now. Before the Hon’ble Court the counsel of the


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appellant is ready to pay Rs. 50,000/- is the girl in way of monetary compensation irrespective of acquittal. The concerned Register of the Court shall send the Draft to the C.J.M., Sahibganj, for being credited to his account in the first instance. The C.J.M. shall take immediate steps to summon the prosecutrix whose name and address shall be furnished by the counsel for the appellant in the course of the day to the Registrar of this Court. Out of 50,000/- amount a sum of Rs. 10,000/- shall be paid over to the prosecutrix is cash if she makes a request and the remaining amount of Rs. 40,000/- shall be kept in a fixed deposit in a Bank in the name of the minor girl namely Miss Sangeeta Kumari with the prosecutrix as her guardian. The accrued interest shall be paid to the prosecutrix once in two years. The amount of Rs. 40,000/- with remaining interest there on shall be disbursed to the girl after she attains the majority by getting on account opened in a Bank in her name. However, for the purpose of meeting the imminent needs of the minor girl, the C.J.M. can permit the amount to be paid over to the guardian (prosecutrix) either partly or in whole depending on the genuine and reasonable requirements concerning the maintenance of the child. The C.J.M. shall submit a report to the Registrar of this court on the action taken in this regard within two months & translated copy of the part of the judgment starting from page 37 shall be furnished to the prosecutrix by the C.J.M. The C.J.M. may appoint a counsel under the legal aid scheme to assist the prosecutrix and the girl whenever necessary in connection with the implementation of this order.

The Hon’ble Supreme Court in another sensational rape case20 observed "Judges who bear to sword of justice should not hesitate to use that sword with almost severity to the full and to the end if the gravity of the offence so demand". In this case, the accused Medical Officer was convicted for 7 years R.I. and fine of Rs. 25000/- was ordered to be paid as a victim compensation.

In a case\textsuperscript{21} Tamil Nadu Govt. paid compensation to victim woman of Rs. 1 lac because she was assaulted and ravished at one police station, and in another case\textsuperscript{22} order was passed for immediate payment of Rs. 50,000/- to the victim as a compensation.

In our Cr.Pc. though there is provision of compensation still in the present juncture to compensation victim women, law to be changed as victim - oriented for women welfare rather than offender oriented.

\begin{itemize}
  \item\textsuperscript{21} Padmini Vs. State 1993 (rih) 2964 (Madras).
  \item\textsuperscript{22} State of Mah. v/s CPKC Jain AIR 1990 SC 658 : 1950 (ri) LJ 889.
\end{itemize}