

A Study of Victim's Compensation Process of the Cases Reported under the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 in Kurukshetra District in Haryana

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ABSTRACT

The sociological aspects of law depict the connection between society, individuals and groups. The development of sociological & human rights jurisprudence has enabled the law to emerge as the legal order of the state with the instrumentality of replacing the harmful customs of society. The law as a regulator, in modern times, attempted to cater the needs of the people with the changing needs of the society. In this line, the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 is also an instrument to curb the age old menace of untouchability, exploitation and mal-treatment which is purely based on caste system of Hindu social order. Apart from this, from time to time, the institutional mechanism of the state has also tried to protect the victim through its law, order and policies so that the victim may not merely remain a tool of supplying evidences to the prosecution to further the trial of the court. Depending upon the nature & gravity of the offence, Haryana Govt. formulated the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Rules, 1995 Amendments 2011 which enshrine the quantum of relief to the victim under the above act. The present study is based on secondary data on registered cases under the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 which is collected from District Social Welfare Office, Kurukshetra from 01/04/2017 to 31/01/2018. It may be concluded that major objectives of the said act was to bring out social equality, however, some of the victims started using this institutional measure as a tool for income generation & threatening, harassing, blackmailing and creating a fearful environment for higher castes.

1. Introduction

The system of the criminal justice is an instrument of social control by devising the mechanism of prevention of the occurrence of crime, deterrence of the offenders from committing any crime in the future, punishment and rehabilitation of the wrong-doers and criminals, maintenance of law and order in the society and to compensate the victims as far as possible. The rights of victims can be protected through the effective system of law and order, otherwise the victim remain forgotten and a meek viewer as the accused is to be fined and or imprisoned by the Court whereby he enjoys food, clothing and other facilities in prison at the expense of the state or in other words at the cost of tax payers to the state treasury including the victim etc. But, in the last few decades, the concept of compensation and its benefits for the victims of crime has started gaining momentum among the jurists, criminologists, penologists, sociologists and other scholars etc. UN Declaration of Basic Rights for Victims of Crimes and abuse of Power, 1985 provided the definition of "Victims" means persons who, individually or collectively, have suffered harm, including physical or mental injury, emotional suffering, economic loss or substantial impairment of their fundamental rights, through acts or omissions that are in violation of criminal laws operative within Member States, including those laws proscribing criminal abuse of power. It recognised four major components of the rights of the victims of the crime i.e. access to the mechanism of justice and to prompt redress, restitution to the victims, compensation to the victims or his family and

necessary assistance (material, medical, psychological and social assistance through institutional and indigenous means).

The Hammurabi code has been known as the first "victim rights statute" in history. In Mosaic dispensation of among Hebrews of Greek depicts the traces of restitution to the victim. The law of Manu of requires the offender to pay compensation and pay the expenses of cure in case of injuries to the sufferer and satisfaction to the owner where goods were damaged. The law of Vishnu, Yajnavalkyas, Narada and Brihaspati also advocates compensation to the victim of crime for their injury. Again traders or business men who lost their property while travelling through the kingdom were also compensated. Emile Durkheim in his 'The Rules of Sociological Methods' (1895) talked about replacement of repressive laws by restitutive laws. Roscoe Pound also averted the purpose of law to balance between the competing and conflicting interests of people in society. John Rawls (1971) held that the social and economic inequalities are to be arranged so that they are sustain the greatest benefit of the least advantaged

The Indian jurisprudence has also attempted to recognise directly or indirectly one or more of the above mentioned four components in its system of administration of criminal justice. The constitution of India assures equal access to justice and fair treatment to the sufferer of crime vide its preamble, fundamental rights and other provisions. The provision of registration of First Information Report (FIR) with the police section enables the victim of crime to set the Criminal Justice system into motion. The apex judiciary in India, from time to

time, has also taken some revolutionary steps in some cases for granting compensation to the victim of state excesses. The compensation, as per the Constitutional scheme, is to be given either by the state or accused. The state has been directed by the Courts to pay compensation to the victims of communal riots, mass disaster, rape victims and victims of state inaction. Many a times, at institutional level, the National Human Rights Commission, National Commission for Women, National Commission for Scheduled Caste/ Schedule Tribe and the state Commissions of like nature have directed the government to pay compensation to the victims in case of violation of human rights of the individual/masses. At the same time, the state has also come forward to compensate the victims of non-criminal the acts like natural calamities, vehicular accidents and other acts which are beyond the reasonable control of human being. Apart from this, the constitutional scheme of equal justice to all is supplemented by National Legal Services Act, 1987 which entitles the victims of a crime for the free legal aid at the cost of state to file and defend his case or access to legal services.

The concept of restitution has not given any statutory recognition till date. In Dec. 2009, Indian Parliament gave the statutory fabric to the victim compensation scheme by incorporating section 357-A in the CR.PC which mandates State Government in co-ordination with the Central Government to prepare a scheme for providing funds for the purpose of compensation to the victim or his dependents which shall be awarded by the District Legal Service Authority or the State Legal Service Authority to the victim or his dependents even in the cases acquittal or discharge of the accused or offender is not traced or identified, but the victim is identified. It may be noted that the state of Tamilnadu was first one which has created Victim Assistance Fund.

2. Atrocities on Scheduled Castes

As per NCRB data the rate of crime against SCs and the total number of crimes against SCs both show an increasing trend from 2014 to 2017 (Sept 2017) . The conviction percentage in atrocity cases of 0, 6.97 & 7.74 in 2014 , 2015 & 2016 respectively which is below the than the National average of 28.28, 27.10 & 25.68% for 2014, 2015 & 2016 respectively. As in 2016, on 2013.8 lakh SC/ST population, 42183 cases of atrocities against SC/ST were reported in India under both POA SC/ST Act, 1989 and IPC whereas only 5312 cases registered under the POA SC/ST Act, 1989. Following table attempts to provide some comparative information about Haryana-

Nature of Cases Reported	Haryana	All India
Cases under POA, 1989 & IPC	607	42183
Under IPC only	236	24971
Under POA only	35	5312
Murder	34	799
Attempt to murder	14	761
Grievous Hurt	19	1149
Rioting	40	2114
Kidnapping	82	1742
Robbery & Dacoity	02	86

Arson	71	174
Assault to Women	102	3178
Out ragging the modesty of women	34	1273
Disrobing, stalking, voyeurism against women	36	399
Sexual Harassment of Women	33	1468
Rape	97	2541
Attempt to commit rape	12	48

Source- NCRB, 2016

As per NCRB Data in 2016, in Haryana, there reported total 739 cases (including 100 cases of previous year) and in that cases found 169 false, 4 true but lacked insufficient evidence, 650 charge sheeted, 89 are pending 12% pendency rate 302 trail completed (39 convicted 263 convicted/discharged). In this connection, 912 person (including 15 females) were arrested and 880(14females) have been charge sheeted.

Compensation Mechanism under the 'Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act' of 1989 (POA)

In pursuant to the article 17 and other related articles of the Indian Constitution, 'Protection of Civil Rights Act' of 1955 (PCR) & another is the 'Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act' of 1989 (POA). As per the act, 'atrocitiy' is declared as an offense & 22 different acts are declared as the 'acts of atrocity'. Provisions are made for constitution of 'special courts' for handling atrocity cases. Different vigilance & monitoring committees are formed, reports are written & expected to be presented in the parliaments annually, atrocity prone areas are expected to be identified & many other such things are done. From 1995, rules were framed for the compensation to the victim.

The present study is descriptive in nature which aims to analyse victim's Relief Mechanism of State under the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989, the study is based on secondary data of 38 registered cases under the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 which is collected from District Social Welfare Office, Kurukshetra from 01/04/2017 to 31/01/2018. Apart from this, informal interviews were also conducted. As we are aware of the fact that the Victim compensation policy under SC/ST POA 1989, there is the provision of payment of Rs. 60000/- to 8.25lacs to the victims.

3. Summary of the Data Collected

Following first hand information were collected from the respondents-

Gender of the Respondents

Gender	Freq.	%
Male	16	42.1
Female	22	57.9
Total	38	100.0

Age of the Respondents

Age in years	Freq.	%
Below 18	17	44.7
18 to 25	10	26.3
25 to 35	8	21.1
46 to 55	3	7.9
Total	38	100.0

Marital status of the Respondents

Status	Freq.	%
Married	21	54.3
Unmarried	17	44.7
Total	38	100.0

Locality of the Respondents

Locality	Freq.	%
Rural	35	92.1
Urban	3	7.9
Total	38	100.0

Act/ law enlisted the offence

Law/Act	Freq.	%
SC/ST Act1989	14	36.8
SC/ST Act 1989 with IPC	24	63.2
Total	38	100.0

Gender of the offender

Gender	Freq.	%
Male	37	97.4
Female	1	2.6
Total	38	100.0

Caste of the offender

Offender's caste	Freq.	%
Jat	8	21.1
Balmiki	1	2.6
Ror	1	2.6
Caste not known	12	31.6
Brahmin	4	10.5
Rajput	2	5.3
Jattsikh	3	7.9
Gujjar	1	2.6
Kashyap	2	5.3
Kamboj	2	5.3
Jogi	1	2.6
Baniya	1	2.6
Total	38	100.0

Caste of the Respondents

Caste	Freq.	%
Chamar	16	42.1
Balmiki	13	34.2
Megh	1	2.6
Odh	1	2.6
Majhbi Sikh	1	2.6
Ramdasia	1	2.6
Other	5	13.2
Total	38	100.0

Nature of the offence reported by Respondents

Offence caused	Freq.	%
Caste based derogatory comments	13	34.2
Hurt / Grievance hurt	7	18.4
Murder	3	7.9
Sexual harassment / Rape	14	36.8
Robbery / Extortion	1	2.6
Total	38	100.0

Was FIR was lodged well within time?

Response	Freq.	%
Yes	28	73.7
No	10	26.3
Total	38	100.0

If no, then how you manage to lodge FIR?

Authority approached	Freq.	%
Approach to Higher Authorities	4	10.5
Court	2	5.3
Through Political Pressure	4	10.5
Not applicable	28	73.7
Total	38	100.0

Quantum of amount received as compensation

Quantum of the sanctioned amount	Freq.	%
25% of the amount	12	31.6
50 % of the amount	7	18.4
75 % of the amount	7	18.4
Not received any amount	12	31.6
Total	38	100.0

Are you satisfied with the compensation received?

Satisfaction	Freq.	%
Yes	5	13.2
No	21	55.3
Amount not get yet	12	31.6
Total	38	100.0

Amount sanctioned for compensation

Amount	Freq.	%
Rs. 60000/-	1	2.6
Rs. 90000/-	2	5.3
1.0 lac	12	31.6
2.0 lac	7	18.4
4.0 lac	2	5.3
8.25 lac	2	5.3
Sanction pending	12	31.6
Total	38	100.0

Stage of the case/FIR of the Respondents

Stage	Freq.	%
convicted of the offender	2	5.3
Discharge of the offender	1	2.6
Acquittal of the offender	4	10.5
case under investigating by the police	8	21.1

Matter subjudice in the court	21	55.3
FIR was cancelled	2	5.3
Total	38	100.0

Suggestions for Better Compensating

Suggestions	Freq.	%
Faster disposal of compensation amount	5	13.2
separate courts to deal with such matters	10	26.3
Provision of Govt. Jobs	13	34.2
Separate budget for compensation	10	26.3
Total	38	100.0

4. Findings

There are 16 male and 22 female respondents, majority was married (21), rural back ground (35) from below 18 years(17) & upto 35 years(18). The respondents from *Chamar* caste were more in number (16) followed by *Balmiki* (13) & others. 24 respondents reported their grievances under POA 1989 whereas 14 under both POA & IPC. 14 respondents were victims of sexual harassment / rape, followed by 13, who reported caste based derogatory comments, hurt / Grievance hurt(7), murder (3) and robbery/extortion by suffered by 01 respondent. In all cases, except one, the predators were male & from upper castes. In some cases (30), FIR was lodged well within time but lodge either by approaching higher authorities, through political pressure or court. 12 respondents were sanctioned 1.0 lac amount as compensation followed by Rs.

2.0 lacs(7), 4.0 lacs (2), 8.25 lacs(2), Rs. 90000/-(2) and Rs. 60000/- to one respondent whereas sanction of 12 respondents was pending with the administration. Majority of the respondents were not found satisfied with the compensation amount they received. 21 respondents reported their matter sub-judice, 8 under investigating by the police, in 2 FIR was cancelled, in 5 case the offender was discharged/ acquitted and only 2 respondents reported the convictions of the offenders. The respondents suggested some measures for betterment of compensation mechanism such as provision of Govt. Jobs(13), separate courts to deal with such matters(10), separate budget for compensation(10) and faster disposal of compensation amount (5).

5. Suggestions

There are some suggestions appeared such as the establishment of Special Courts for speedy disposal of cases registered under POA, generation of Victim Assistance Fund by the State. Govts, State Government nod to assess and improve the performance of the Special Public prosecutors, speedy sanction of monetary compensation by Administration, the additional relief like pension to the widow, education up to graduation level of the children of the victims , 3 month rashan etc. is not being provided. Many new offences are not yet included in the list of 'acts of atrocities'. A fresh review needs to be taken & the 'acts' be revised. The provisions of relief & rehabilitation should be revised. The monetary reliefs should be revised & brought in line with compensations to the victims of communal riots etc. Apart from this, the mechanism should also be adopted to make a check on frivolous cases.

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