

**PROPOSED SCHEME FOR RELIEF AND REHABILITATION
OF VICTIMS OF RAPE**

(As modified on 8th January 2010)

STATEMENT OF OBJECT AND REASONS

The Hon'ble Supreme Court in Delhi Domestic Working Women's Forum vs. Union of India and others writ petition (CRL) No. 362/93 had directed the National Commission for Women to evolve a "scheme so as to wipe out the tears of unfortunate victims of rape". The Supreme Court observed that having regard to the Directive Principles contained in the Article 38(1) of the Constitution, it was necessary to set up Criminal injuries Compensation Board, as rape victims besides the mental anguish, frequently incur substantial financial loss and in some cases are too traumatized to continue in employment. The Court further directed that compensation for victims shall be awarded by the Court on conviction of the offender and by the Criminal Injuries compensation board whether or not a conviction has taken place. The Board shall take into account the pain, suffering and shock as well as loss of earnings due to pregnancy and the expenses of child birth if this occurs as a result of rape.

To give effect to the aforesaid direction of the Hon'ble Court, the National Commission for women had sent a draft scheme to the Central Government in 1995. The Committee of Secretaries had on this given the following guidelines in this regard:-

- (i) That a plan scheme would be prepared by the NCW/DWCD for disbursing compensation to the victims of rape and the scheme should also provide for interim compensation.
- (ii) The quantum of compensation is to be worked out by the DWCD in consultation with the NCW.
- (iii) Provision for budgetary requirements for the scheme, which would be transferred to the states as Grants-in-Aid.
- (iv) Setting up of District level committees headed by District Magistrate, to consider the claims.
- (v) Criminal Injuries Compensation Board to monitor the implementation of the scheme by the State Government and attending to any complaint received in this regard.

- (vi) The MHA would issue suitable directives to state governments for directing the public prosecutors to plead before the competent court to award suitable compensation to the victims.
- (vii) Monitoring of the scheme by the National Commission for Women. The NCW has redrafted the Scheme in the light of these guidelines in formulating the scheme, the Commission is also guided by the parameters given by the Supreme Court as well as its own assessment of the needs of the victims of rape.

Scheme for Relief and Rehabilitation for Victims of Rape

1. The scheme may be called the “Scheme for relief and Rehabilitation of Victims of Rape, 2005”.
2. The scheme shall apply to the whole of India.
3. It shall come into force on such date as the Central Government may be notification in Official Gazette, appoint.
4. The scheme shall cover all cases where an application has been filed either by the rape victim herself or by any person/organisation/department/commission claiming on her behalf;
5. “Rape” will have the same meaning as defined in section 375 and 376 of the Indian Penal Code;
6. Criminal Injuries Relief and Rehabilitation Board (CIRRB):
 - (a) Upon the notification of the scheme, there shall be established at every District, a Board called the District criminal injuries relief and rehabilitation board;
 - (b) The Board shall have exclusive jurisdiction to deal with applications received under the scheme in that district;
 - (c) The Board shall be headed by the Collector or the District Magistrate by whatever name he/she is called who shall be the president and comprise of four other members namely:

- 1) Supdt. Of Police or his/her nominee;
- 2) A woman who has experience in the field of empowerment of women and children nominated by the Government;
- 3) District Health and Family Welfare Officer/District Medical and Health officer or his/her nominee;
- 4) Deputy Director/Project Director/Gazetted District Officer of WCD of the concerned district, who shall also act as secretary of the Board, maintain records and act as drawing and disbursing officer
- 5) Representative of Child Welfare Committee; (in each district or group of districts)

Provided that in cases where the State Governments have a relief and rehabilitation scheme in force, the constitution of the Board shall be as per those schemes and the a benefits that, would be granted to the applicant/victim in the present scheme shall be administered by those Boards;

7. POWERS OF THE DISTRICT BOARD

- (a) The Board shall be the authority to consider the claims and award financial relief in all cases of rape and order such other relief and Rehabilitation measures as deemed fit in the circumstances of the Case.
- (b) The Collector or the District Magistrate as the president of the Board shall exercise the powers conferred upon him under the Cr.P.C. or under any other law by the State/Central Government, for carrying out its functions under the Scheme;

8. FUNCTIONS OF THE DISTRICT BOARD:

Upon the Constitution of the Board, it shall:

- (i) Consider the claims and award financial relief/rehabilitation as the case may be in all cases of rape in accordance with the procedure prescribed under this scheme;
- (ii) Monitor the activities for rendering assistance to the rape victim in the form of any legal, medical, psychological or any other form of aid/assistance;

- (iii) make use of any other scheme(s) for rehabilitation of rape victims framed by the State or Central Government;
- (iv) arrange for psychological, medical and legal assistance to the victims;
- (v) provide counseling support to the victims;
- (vi) initiate suitable measures to ensure the protection of the victim and witnesses till the conclusion of the trial;
- (vii) periodically review the progress of investigation;
- (viii) provide support to young victims for education, professional training or training for self-employment;
- (ix) provide any other assistance for appropriate rehabilitation of the victims;
- (x) recommend change of investigating officers in appropriate cases on the request made by the victim;
- (xi) arrange shelter to the victim, for such period as the Circumstances warrant;
- (xii) perform any other function as may be deemed expedient and necessary by the Board or as directed by the State/National Board, given the peculiar facts and circumstances of each case;

9. PROCEDURE FOR MAKING CLAIMS BEFORE THE BOARD:

- (a) As soon as an incident of rape is reported and registered, the SHO of the concerned police station, through the SP/DCP, shall forward within 72 hours the copy of the FIR/complaint, medical report and the preliminary investigation report by the IO to the District Board;
- (b) (1) A victim, or her legal heir or any person/voluntary organisation espousing the cause of women/Commission may also apply to the District Board for

financial relief and rehabilitation in accordance with the provisions of this Scheme within 60 days.

Provided that in cases where the application is made after 60 days, the Board may, after being satisfied with the reasons for the delay given in writing, condone the delay:

2. Where the applicant is:-

(i) A child, the application may be made on his/her behalf by a parent, Guardian, by any voluntary organisation/commissions;

(ii) A mentally ill person within the meaning of the Mental Health Act or a mentally retarded person, the Application may be made by the person with whom the applicant normally resides or a duly authorized medical officer or a voluntary organisation;

© The application under clause (b) shall contain the copy of the FIR/complaint, medical report, death certificate in appropriate cases or complaint made to the court in cases where police have not registered the FIR, indicating reasons for non-registration of the FIR;

10. RELIEFS THAT MAY BE AWARDED BY THE DISTRICT BOARD:

- a. The Board may award both financial relief as well as make provisions for rehabilitation;
- b. The relief that is provided by the Board shall not exceed Rs. 2 lakhs; provided that in cases specified under clause 16, the relief may be increased subject to a maximum of Rs. 3 lakhs.

11. INTERIM RELIEF AND REHABILITATION

- (a) Upon receipt of the information from the police under clause 9(a), the District Board, shall disburse a sum of Rs. 20,000/- (twenty thousand) in favour of the victim preferably within fifteen days and in any case not exceeding three weeks as interim relief.
- (b) In cases where the application is made under clause 9 (b) the Board shall, after having been prima facie satisfied that a case of rape has been made out, order a financial interim relief of Rs. 20,000/- within fifteen days and in any case not exceeding three weeks to the victim/legal heir;
- (c) On receipt of the complaint and examination of the victim the board shall on merits of each case examine/determine the nature of relief and rehabilitation to be provided to

the victim and initiate appropriate action towards such measures and may incur an expenditure upto Rs. 50,000/- towards relief and rehabilitation of the victim;

- (d) Before awarding the interim and other relief's under clause (b) and (c), the Board shall satisfy itself about the claim, make a preliminary assessment about the nature of the claim as well as take into account the medical report and other evidences;
- (e) The Board may issue appropriate directions for the purposes of the rehabilitation and/or any other special needs of the victim in addition to the financial relief;

12. FINAL RELIEF

- (a) Within a period of one month from the date on which the prosecutrix gives her evidence in the criminal trial or within one year from the date of receipt of the application in cases where the recording of evidence has been unduly delayed for reasons beyond the control of prosecutrix, whichever is earlier, the Board shall direct disbursal of the final amount of relief upto Rs. 1.30 lakhs.
- (b) In cases where the final relief is awarded before the recording of the evidence of the prosecutrix, the Board shall give reasons in writing for doing so;
- (c) The Board shall be guided by the special needs of the victim in deciding the amount of financial relief to be granted in each case;
- (d) The financial relief that is awarded by the Board is in addition to rehabilitation measures that the Board may suggest/administer in each case.
- (e) In cases where the victim is a minor, the amount shall be released to her guardian or next friend on the application filed by the claimant, after the Board is satisfied about the proper utilization of funds in the best interest and the welfare of the child victim;
- (f) The Board shall keep the best interests of the victim in mind at all times;

13. REJECTION OF THE CLAIMS:

- (a) The Board may reject any application where it is of the considered opinion that:

- (i) The applicant failed to take, without delay, all reasonable steps to inform the police, or other body to person considered by the Board to be appropriate for the purpose, of the circumstances giving rise to the injury; or
- (ii) The applicant failed to co-operate with the police or Courts in attempting to bring the accused/assailant to justice; or
- (iii) The applicant has failed to give all reasonable assistance to the Board in connection with the application;
- (iv) Where the applicant has previously lodged any claim in respect of the same criminal injury under this scheme for the relief and rehabilitation of the victim of crime; or
- (v) Where the incident is so belated that no evidence would be forthcoming;
- (vi) Where the applicant after having filed the complaint deliberately turned hostile in the trial and has not supported the case of the prosecution;
- (vii) In cases of elopement of girls above 16 years of age where a prima facie case of rape is not made out the Board shall not reject the application but may await outcome of trial, before disbursing any compensation;

14. PROCEDURE FOR TRANSACTION OF BUSINESS OF THE BOARD

- (i) The Board may hear and/or examine the application/complaint at such times and in such places as the Board may determine
- (ii) Ordinarily, the board may on receipt of documents and evidences and on being satisfied that a prima facie case is made out, may dispense with hearing of the victim and/or her agent/representative and order for interim and other relief's. However, in cases where the Board is of the considered view, that examination of the victim and other parties is necessary and may proceed to hear the case, record the evidences and deliberations and pass a speaking order on admissibility of otherwise of interim and other relief's

Provided further that an application shall not be rejected without giving the applicant an opportunity of being heard and without assigning reasons in writing".

- (iii) Not less than one third of the members shall remain present to complete the quorum at any sitting;
- (iv) The Board shall notify the applicant of the time and place of the hearing of the application;
- (v) The Board shall have the powers to call for any records/documents and examine any person for examination before coming to a final conclusion about the application;
- (vi) The Board shall reach its decision on the basis of evidence and other information available to it at the hearing;
- (vii) The victim and/or her agent shall have a right of oral hearing;
- (viii) The proceedings of the Board shall be in camera and the anonymity of the victim shall be maintained at all times and all circumstances;
- (ix) The proceedings of the Board shall not be printed, published , telecast or posted in any public forum;

15. PRINCIPLES GOVERNING THE DETERMINATION OF THE RELIEF AND REHABILITATION TO THE VICTIM

The Board shall while determining the compensation and other relief's be guided by the following Parameters:-

- (i) Where Death results as a consequence of rape:
 - (a) If the victim happened to be a non-earning member of the family, the Board shall award upto Rs.. 1,00,000/- (one lakh) towards relief after the post mortem report establishes a prima facie case.
 - (b) In case the victim was an earning member of the family, the Board shall award an amount of Rs. 2,00,000/- (two lakh) to the benefit of minor children after satisfying itself that the victim was an earning member after the post mortem report establishes a prima facie case for the benefit of minor children;

(ii) The Board shall take into account rehabilitation and other expenses if any – subject to a maximum of Rs. 50,000/- which may include:

(a) Type and severity of the bodily injury suffered by the victim and expenditure incurred or likely to be incurred on medical treatment and psychological counseling to the victim.

(b) Expenditure consequential or pregnancy, if resulting from rape including expenses connected with abortion, if it is resorted to, in consequence to rape.

(c) Expenses incurred or likely to be incurred in connection with any education or professional or vocational training or training for self employment to the victim.

(d) Loss caused to the victim by cessation or interruption of gainful activity or employment on the basis of an assessment made by the Board;

(e) Non pecuniary loss or damage for pain, suffering mental or emotional trauma, humiliation or inconvenience.

(f) Expenses incurred in connection with provision of any alternate accommodation incases where the victim belongs to any other place other than the place where the offence took place.

(iii) While determining the financial and other relief, the Board shall have due regard to the victim being a child or mentally challenged and may consider higher financial relief and special relief measures to be provided.

(iv) The Board shall as far as possible make use of the schemes, facilities provided by the State or Central Government and also the organisations funded fully or partly by the Government for relief and rehabilitation measures.

16. ENHANCEMENT OF RELIEF IN SPECIAL CASES –

(i) The State Board with prior consultation with the National Board shall have the power to provide for enhanced relief subject to a maximum of Rs. Three lakhs in cases where:

- (a) offences against children below 13 years of age, which may involve specialized treatment and care.
- (b) offences against mentally challenged, Handicapped Women and children which may involve specialised treatment and care.
- (c) victim becomes infected with STDs including affected by HIV/AIDS as a consequence of rape;
- (d) victim gets pregnant as a consequence of rape and due to circumstances beyond her control delivers the child;
- (e) where severe medical problems is faced by the victim including both physical and mental.
- (f) any other ground as may be prescribed;

17. CONSTITUTION OF THE STATE BOARD-

- (i) The State Government shall constitute by notification in the Official Gazette State Criminal Injuries Relief and Rehabilitation Board at State level;
- (ii) The State Board shall consist of:

Secretary of the Department of Women and Child Development/Department of Social Welfare who shall be the president and five other members who shall be an officer of the rank of Joint Secretary of Department of Home, an officer not below the rank of Joint Secretary from the Ministry of Law, three Representatives who have experience in working on women's children and legal issues to be nominated by the Department of Women in Child in consultation with the State Legal Services Authority;

- (iii) The Term of the President and the members shall be for a period of three years with the provision of extension for one more term;

18. FUNCTIONS OF THE STATE BOARD –

- (i) The State Board shall coordinate and monitor the functions of the District Board;
- (ii) The State Board shall ensure proper disbursement of the funds allocated to it by the Central Government and any additional amount supplemented by the State Government, to the district Boards.
- (iii) Issue directions to the appropriate authorities for ensuring proper medical, psychological and legal assistance to the victim;
- (iv) The Board may inquire, suo moto or otherwise on a petition presented to it by a victim or any person on her behalf into any complaint alleging rape and/or with respect to any matter in connection with the provisions of the scheme and refer the matter to the District Board;
- (v) The Board shall entertain all appeals against the decision of the District Board;
- (vi) In deserving cases of extraordinary circumstances, enhance the compensation amount subject to a medium limit of RTs. 3,00,000/- with prior approval of the National Board.

19. CONSTITUTION OF NATIONAL CRIMINAL INJURIES RELIEF AND REHABILITATION BOARD

- (i) The Central Government shall by notification constitute a body to be known as National Criminal Injuries Relief and Rehabilitation Board;
- (ii) The National Board shall consist of :-

The Chairperson, National Commission for Women who shall be the President of the Board, and four other members comprising of an officer not below the rank of Joint Secretary of the Central Government in the Ministry of Women and Child Development, one member experiences in law and issues relating to women and children to be nominated by the national legal Services Authority, one member who has experience in working on issues relating to women and one member who has experience in working on issues relating to children;

- (iii) The term of the President and the members of the National Board shall be for a period of three years with a provision of extension for one additional term;

20. **FUNCTIONS OF THE NATIONAL BOARD –**

The National Board shall administer the Scheme and to that effect:-

- (i) Lay down policies and procedures for the effective implementation and administration of the Scheme.
- (ii) Review, from time to time, and advise the Central Government on the quantum payable and other relief's provided under the Scheme.
- (iii) Advise the Ministry to issue suitable advisories to state government for directing the public prosecutors to plead before the competent court to award suitable compensation to the victims and appraise the court on the actions initiated as per the scheme.
- (iv) Estimate the requirement of the funds/budget.
- (v) Administer and Allocate funds to the State Boards
- (vi) Issue directions to the appropriate authorities under the scheme for ensuring proper medical, psychological and legal assistance to the victim.
- (vii) Frame and issue guidelines on the rehabilitation schemes in consultation with the Central and State government.
- (viii) Monitor and evaluate the implementation of the scheme and seek periodical reports.
- (ix) Coordinate and Monitor the functioning of the state and district authorities constituted under this Scheme for the implementation of the Scheme.
- (x) The Board may inquire or cause to be inquired suo moto or otherwise or on a petition presented to it by a victim or any person on her behalf or by an NGO, into any complaint alleging rape and/or with respect to any matter in connection with

the provisions of the scheme and refer the matter to the appropriate District or State Board

21. FINACNE/GRANT IN AID

- (i) The Central Government shall provide the budgetary requirements for the implementation of the scheme, to the MWCD which would be transferred to the National Board as Grant in Aid.
- (ii) The budgetary allocations shall be made in consultation with the National Criminal Injuries Relief and Rehabilitation Board.
- (iii) All fines/costs compensation, collected from persons convicted of offences of rape by a competent court would be credited to the National Criminal Injuries Relief and Rehabilitation Board, if so ordered by the court.
- (iv) National Criminal Injuries Relief and Rehabilitation Board would allocate fund to State Criminal Relief Rehabilitation Boards depending upon their requirements. The State Criminal Injuries Relief and Rehabilitation Board would in turn allocate funds to District Criminal Injuries Relief and Rehabilitation Boards.
- (v) The Budgetary allocations shall be used for meeting:-
 - (a) The cost of assistance provided under this Scheme, including grants made to State CIRRB.
 - (b) Any other expenses required for functioning of National, State and District Criminal Injuries Relief and Rehabilitation Boards including the funds required for rehabilitation of the victims.

22. ACCOUNTS AND AUDIT

The Centre, State and District Board shall maintain proper accounts and other relevant records and prepare an annual statement of accounts including the income and expenditure account and the balance-sheet. These Accounts will be audited by The C&AG of India.

23. The applications under this scheme will be in addition to any application that may be made under Section 357/357 of the Code of Criminal Procedure.