

(2021) 10 BOM CK 0041
In the Bombay High Court
Case No : Writ Petition (ST.) No.6115 Of 2021

Kavita Nityanand Shetty

APPELLANT

Vs

State Of Maharashtra

RESPONDENT

Date of Decision : 04-10-2021

Acts Referred:

Constitution Of India, 1950 — Article 21, 226
Indian Penal Code, 1860 — Section 12, 19, 24, 25,, 27201, 307, 326A, 326B
Code Of Criminal Procedure, 1973 — Section 2(b), 2(wa), 2(zc), 3, 357, 357A,
357A(1), 357B, 375C

Citation : (2021) 10 BOM CK 0041

Hon'ble Judges : Ujjal Bhuyan, J;Madhav J. Jamdar, J

Bench : Division Bench

Advocate : Aditi Saxena, Rachita Padwal, A. A. Purav

Final Decision : Disposed Of

Judgement

Ujjal Bhuyan, J

1. Heard Ms. Aditi Saxena, learned counsel for the petitioner and Smt. Purav, learned AGP for respondent Nos.1 and 2. None has appeared for respondent No.3 - Union of India.

2. By filing this petition under Article 226 of the Constitution of India, petitioner basically seeks a direction to the respondents to grant her compensation by treating her burn injuries caused due to pouring of corrosive substance on her at par with victims of acid attack under the Manodhairya Compensation Scheme framed by the Government of Maharashtra. Additional prayers have been made which also pertain to providing further compensation to the petitioner.

3. Petitioner married Nityanand Jagan Shetty on 22.04.2005 and out of the wedlock two sons were born. She resides at Room No.147, Shivaji Chawl, S. V. Road, Shanti Nagar, Dongri, Dahisar (East), Mumbai. While the husband remains unemployed, petitioner earns her livelihood by selling imitation jewellery in local

trains.

3.1. On 24.11.2010 at about 5:00 a.m. when the petitioner was sleeping, the husband removed the bed-sheet (chadar) from her face and before the petitioner could realize what was happening, the husband poured boiling inflammable corrosive substance on her face and body. Though the petitioner tried to resist with both the hands, the substance fell on face and other parts of her body.

3.2. On hearing her hue and cry, neighbours rushed her to the Bhagwati Hospital, Borivali where her statement was recorded on the basis of which first information was registered before the Charkop Police Station. Considering the serious condition of the petitioner, she was later on admitted to Eric Kharas Burns Research Unit, Masina Hospital under the care of Dr. A. M. Vartak. As per statement of medical officer, petitioner had suffered 70% to 80% superficial to deep burns on her face and body.

3.3. In the course of her treatment in Masina Hospital, it is stated that petitioner had spent more than Rs.5,00,000.00. However, considering her disfigurement further treatment and surgeries are required. But in the absence of any funds, petitioner is unable to undergo any further medical treatment. Injuries suffered by the petitioner and which require further treatment / surgeries are as follows:-

"1. Both the outer ear of the Petitioner are damaged and she is unable to wear corrective spectacles for her eye defect.

2. Petitioner's skin has become sensitive due to burns.

3. Petitioner does not have eyebrows because of the burns.

4. Petitioner's lips are also damaged because of which the movement of lips is restricted."

4. It may be mentioned that out of the first information registered before the Charkop Police Station on the basis of petitioner's statement, Sessions Case No.33 of 2011 came to be registered in the Court of Sessions, Borivali Division, Dindoshi. The accused i.e., the husband was charged with committing offence under sections 307 and 201 of the Indian Penal Code, 1860 (IPC). By the judgment and order dated 24.11.2011, the husband was convicted under both the sections of IPC and thereafter sentenced to undergo rigorous imprisonment for ten years and to pay fine of Rs.25,000.00 with default stipulation for the offence under section 307 IPC and to undergo further rigorous imprisonment for three years and to pay a fine of Rs.1,000.00 with default stipulation for the offence under section 201 IPC, both the sentences to run concurrently. Out of the fine amount, it was directed that Rs.20,000.00 be paid to the petitioner as compensation.

5. Husband preferred appeal before this court which was registered as Criminal Appeal No.92 of 2012. During the hearing of the criminal appeal, petitioner informed the court about her desire to stay with the accused notwithstanding

what he had done to her. Petitioner was present before the court where she indicated that she wanted to forgive her husband and that she would have no objection if the appeal was allowed. This court observed that such a stand of the petitioner was possibly due to socio-economic conditions. Considering the above, this court vide judgment and order dated 17.06.2015 while maintaining the conviction of the husband under sections 307 and 201 IPC, however, reduced the sentence to the period already undergone.

6. Respondent No.1 i.e., State of Maharashtra has filed an affidavit through Bapurao Bhavane, Divisional Deputy Commissioner for Women and Child Development, Konkan Division, Mumbai. While contesting the claim of the petitioner, it is stated that State Government has issued Government Resolution dated 30.12.2017 superseding previous Government Resolution dated 01.08.2017. It further stated that a separate policy decision will be taken by the government on sanctioning of financial assistance with retrospective effect covered by the Manodhairya Compensation Scheme for eligible cases with effect from 31. 12.2009. Decision of the state government in this regard is under active consideration. As per Government Resolution dated 30.12.2017 all new claims have been transferred to the District Legal Services Authority. Therefore, petitioner should approach District Legal Services Authority.

6.1. Reference has also been made to the Government Resolution dated 21.10.2013 whereby and whereunder the Manodhairya Compensation Scheme was first implemented in the State of Maharashtra. It is stated that the scheme itself indicates in which cases financial assistance would be provided. However, benefits under the said scheme would not be applicable with retrospective effect.

6.2. Referring to the facts of the present case, it is stated that the incident in question had taken place on 24.11.2010. Therefore, petitioner is not entitled to compensation under the Manodhairya Compensation Scheme.

7. Elaborate submissions were made by Ms. Saxena, learned counsel for the petitioner as well as by Smt. Purav, learned AGP which we have duly considered.

8. With the assistance of learned counsel for the parties, we may refer to some of the relevant statutory provisions and judicial pronouncements having a bearing on the subject matter of the writ petition.

9. Section 357A was inserted in the Code of Criminal Procedure, 1973 (Cr.P.C.) by Amendment Act 5 of 2009 with effect from 31. 12.2009. As per sub-section (1) of section 357A Cr.P.C., every state government in co-ordination with the central government shall prepare a scheme for providing funds for the purpose of compensation to the victim or his dependents who had suffered loss or injury as a result of the crime and who require rehabilitation. The procedural aspects relating to victim compensation are laid down in sub-section (2) to sub-section (6). At this stage, we may mention that by the said amendment act 'victim' also came to be defined under section 2(wa) Cr.P.C. to mean a person who has suffered any loss or injury caused by reason of the act or omission for which the

accused person has been charged and the expression 'victim' includes his or her guardian or legal heir.

10. In *Suresh Vs. State of Haryana*, (2015) 2 SCC 227, Supreme Court explained the rationale behind insertion of section 357A in Cr.P.C. It was held that the object and purpose of the provision is to enable the court to direct the state to pay compensation to the victim where the compensation under section 357 was not adequate or where the case ended in acquittal or discharge and the victim was required to be rehabilitated. This provision was incorporated on the recommendation of the 154th Report of Law Commission. It recognizes compensation as one of the methods of protection of victims.

10.1. In the said case, Supreme Court was informed that most of the state governments had notified victim compensation scheme. However, it was noted that even though five years had expired since the enactment of section 357A Cr.P.C., award of compensation had not become the rule and interim compensation, which is very important, was not being granted by the courts. It was also pointed out that the upper limit of compensation fixed by some of the states was arbitrarily low and was not in keeping with the object of the legislation. Proceeding further Supreme Court held that it is the duty of the courts, on taking cognizance of a criminal offence, to ascertain whether there is tangible material to show commission of crime, whether the victim is identifiable and whether the victim of crime needs immediate financial relief. On being satisfied either on an application or on its own motion, the court ought to direct grant of interim compensation which would be subject to final compensation that may be determined later. Such a duty continues at every stage of a criminal case where compensation ought to be given and has not been given irrespective of the application by the victim. At the stage of final hearing it is obligatory on the part of the court to advert to the provision of section 357A Cr.P.C. and record a finding whether a case for grant of compensation has been made out and if so who is entitled to compensation and how much. Award of such compensation can be interim. Gravity of offence and need of victim are some of the guiding factors to be kept in mind apart from other factors while determining compensation.

10.2. Supreme Court further noted that there was need to consider upward revision in the scale of compensation and pending such consideration to adopt the scale notified by the State of Kerala in its scheme, unless the scale awarded by any other state or union territory was higher.

11. This principle was reiterated by the Supreme Court in *Manohar Singh Vs. State of Rajasthan*, (2015) 3 SCC 449. It was explained that just compensation to the victim has to be fixed having regard to the medical and other expenses, pain and suffering, loss of earning and other relevant factors. While punishment to the accused is one aspect, determination of just compensation to the victim is the other. At times, evidence may not be available in this regard. Therefore, in such a situation, some guess work is inevitable. Compensation is payable under sections 357 and 357A Cr.P.C. While under section 357 Cr.P.C., financial capacity

of the accused has to be kept in mind, section 357A Cr.P.C. under which compensation comes out of the state funds, has to be invoked to make up the requirement of just compensation.

12. Supreme Court in *State of Madhya Pradesh Vs. Mehtaab*, (2015) 5 SCC 197, again emphasized that it is the duty of the court to duly consider the aspect of rehabilitating the victim. In the facts of that case, Supreme Court awarded interim compensation of Rs.3,00,000.00 under section 357A Cr.P.C. to the victim payable out of the funds available with the District Legal Services Authority, Guna.

13. Having regard to the recurrence of acid attack etc. in the country, Parliament inserted sections 326A and 326B in IPC and correspondingly sections 357B and 357C in the Cr.P.C. Sections 326A and 326B IPC came into the statute book with retrospective effect from 03.02.2013. As per section 326A IPC whoever causes permanent or partial damage or deformity to, or burns or maims or disfigures or disables, any part or parts of the body of a person or causes grievous hurt by throwing acid on or by administering acid to that person, or by using any other means (emphasis is ours) with the intention of causing or with the knowledge that he is likely to cause such injury or hurt, shall be punished with imprisonment of either description for a term which shall not be less than ten years but which may extend to imprisonment for life and with fine. As per the first proviso, such fine should be just and reasonable to meet the medical expenses for the treatment of the victim. Second proviso says that any fine imposed under section 326A IPC shall be paid to the victim.

13.1. As per section 326B whoever throws or attempts to throw acid or attempts to administer acid to any person or attempts to use any other means (emphasis is ours) with the intention of causing permanent or partial damage or deformity or burns or maiming or disfigurement or disability or grievous hurt to that person, shall be punished with imprisonment of either description for a term which shall not be less than five years but which may extend to seven years, and shall also be liable to fine.

13.2. Explanation 1, which is relevant, says that for the purposes of sections 326A and 326B, 'acid' would include any substance which has acidic or corrosive character or burning nature capable of causing bodily injury leading to scars or disfigurement or temporary or permanent disability.

13.3. From the above, the legislative intent is quite clear. Legislature has not intended to confine the rigours of sections 326A and 326B only to throwing or attempting to throw or administering or attempt to administer acid. It could be by using any other means with the intent of causing or with the knowledge that by such act, serious injury or hurt will be caused to the victim. Further the word 'acid' has not been given a strict meaning confined to its chemical formula or definition. It could be any substance which has acidic or corrosive character or of burning nature which is capable of causing bodily injury leading to scars or disfigurement or temporary or permanent disability.

13.4. Section 357B Cr.P.C. provides that compensation payable by the state government under section 357A shall be in addition to the payment of fine to the victim under section 326A IPC amongst other provisions.

13.5. We may also take note of section 357C Cr.P.C. which deals with treatment of victims. It says that all hospitals, public or private, whether run by the central government or by the state government or by local bodies or by any other person shall immediately provide the first-aid or medical treatment, free of cost to the victims of any offence covered by the sections mentioned therein which includes section 326A IPC and shall immediately inform the police of such incident.

14. In *Laxmi Vs. Union of India*, (2014) 4 SCC 427, which was a case dealing with acid attack and compensation to be payable to victims of acid attack, Supreme Court directed that acid attack victims should be paid compensation of at least three lakhs by the state government / union territory concerned as the after care and rehabilitation cost.

15. Subsequently in *Parivartan Kendra Vs. Union of India*, (2016) 3 SCC 571, Supreme Court explained that the direction given in *Laxmi* (supra) was a general mandate to the states and union territories and was the minimum amount which the state should make available to each victim of acid attack. The states and union territories could give even more amount of compensation than Rs.3,00,000.00 as directed in *Laxmi* (supra). The state has the discretion to provide more compensation to the victim in case of acid attack. Besides, court had not put any condition in *Laxmi* (supra) as to the degree of injury which the victim has suffered due to acid attack.

16. State of Maharashtra in the Women and Child Welfare Department issued Government Resolution dated 27.10.2013 framing the Manodhairya scheme. As per the said government resolution both the minimum and the maximum amount payable to victims of acid attack was fixed at Rs.3,00,000.00; out of which 25% should be kept in fixed deposit and 75% was to be released to the victim to meet the medical and related expenses.

17. In *Aarti Thakur Vs. State of Maharashtra*, Civil Writ Petition No.4267 of 2014, a Division Bench of this court passed an order on

17. 03.2015. In that case, the court noticed that the Manodhairya scheme framed as per the Government Resolution dated 27.10.2013 was made applicable to women victims of rape, sexual assault and acid attack after 2. 10.2013. It was noted that the said scheme was framed following the directions of the Supreme Court in the case of *Laxmi* (supra). This court, after examining the decision of the Supreme Court in *Laxmi* (supra), prima facie took the view that such a cut-off date for granting benefit under the Manodhairya scheme would be arbitrary and contrary to the directions of the Supreme Court. It was mentioned that the incident in *Laxmi* (supra) took place in the year 2006.

17.1. On 19.03.2015, this court in Writ Petition No.4267 of 2014 directed the state government to directly pay to the hospital the expenses incurred in the treatment and surgery of the petitioner (Aarti Thakur) after collecting relevant bills from the hospital.

17.2. Thereafter on 05.01.2018, this court in Writ Petition No.4267 of 2014 directed the state government to pay a sum of Rs.3,00,000.00 to the petitioner as an interim measure in addition to the expenses paid by the state government to the hospital for the treatment and surgery of the petitioner (Aarti Thakur) observing that since the petitioner herself had incurred those expenses and had paid the bills of the hospitals, she needed to be reimbursed.

18. Manodhairya scheme came to be amended vide Government Resolution dated 01.08.2017. It was clarified that for cases eligible since 31. 12.2009 financial compensation would be given under the Manodhairya scheme as per the criteria laid down in Government Resolution dated 27.10.2013. As per the schedule of revised financial assistance, it was mentioned that in case of acid attacks, if the face of the victim was disfigured or there was damage to the visible parts of her body or permanent disability, the compensation would be upto Rs.10,00,000.00; and in case of other injuries, compensation was upto Rs.3,00,000.00.

19. However, State of Maharashtra introduced a new Government Resolution dated 30.12.2017 introducing the modified new Manodhairya scheme. It is categorically stated that the modified new Manodhairya scheme would not be applicable with retrospective effect. Regarding payment of compensation in eligible cases from 31.12.2009 having regard to the directions issued by this court, it is stated that a separate policy decision is being considered and that a separate order would be issued by the government.

20. However, nothing has been placed on record as to whether any such policy decision has been taken by the state government or whether any such separate order has been passed by the state government.

21. Be that as it may, National Legal Services Authority (NALSA) has framed a scheme called Compensation Scheme for Women Victims / Survivors of Sexual Assault / Other Crimes, 2018. The said scheme has been framed following the decision of the Supreme Court in Nipun Saxena Vs. Union of India, Writ Petition (C) No.565 of 2012. The scheme deals in detail the factors to be considered while awarding compensation and also lays down the procedure for grant of compensation. Below paragraph 9 of the said scheme, it is mentioned that victims of acid attack are entitled to additional compensation of Rs.1,00,000.00 under the Prime Minister's National Relief Fund vide memorandum dated 09.11.2016. It is further mentioned that victims of acid attack are also entitled to additional special financial assistance upto Rs.5,00,000.00 who need treatment expenses over and above the compensation paid by the respective states / union territories in terms of the Central Victim Compensation Fund Guidelines, 2016.

Schedule applicable to women victim of crimes includes victims of burning at Sr. No.12 and victims of acid attack at Sr. No.13. In case of disfigurement of face in both cases, the minimum limit of compensation is Rs.7,00,000.00 with upper limit of compensation at Rs.8,00,000.00. In case of injury of more than 50%, minimum compensation is Rs.5,00,000.00 and upper limit of compensation is Rs.8,00,000.00. In case of injury less than 50%, it is Rs.3,00,000.00 and 7,00,000.00 respectively in case of victims of burning and Rs.3,00,000.00 and Rs.5,00,000.00 respectively in case of victims of acid attack. However, the important thing is that it has been clarified by NALSA that if the woman victim of sexual assault or acid attack is covered under one or more category of the schedule, she shall be entitled to be considered for the combined value of the compensation.

21.1. While we are at NALSA, we may mention that prior to the above scheme NALSA had framed another scheme called NALSA (Legal Services to Victims of Acid Attacks) Scheme, 2016. Noting that affording treatment to acid victims was expensive spanning over a long period it was observed that rehabilitation of the victims also becomes an important issue. Amongst the various objectives of the scheme the principle objective is to enable the victims of acid attacks to get access to medical facilities and rehabilitative services. As per the plan of action, all victims of acid attacks and where the acid attack results in death, the heirs of victims of acid attacks shall be provided legal aid on a priority basis in order to enable them to get the benefit of the victim compensation scheme. Paralegal volunteers may be assigned in obtaining from the hospital where the victim was treated a certificate that the individual is a victim of acid attack which may be utilized by the victim for treatment and reconstructive surgeries or for any other benefit. Besides, such para-legal volunteers shall ensure that victims of acid attacks are able to avail of various rehabilitative services that may be available to them. Legal services to be provided to acid attack victims would include informing the beneficiaries about different schemes to which they are entitled and the benefits thereunder including assisting the beneficiaries to procure documents required for availing such benefits and accompanying the beneficiaries to the designated offices for availing the benefits.

22. At this stage we may note that on a query by the court, learned counsel for the petitioner submitted that petitioner has not been paid a single penny by the state till date. That apart, the compensation which was directed to be paid by the convict (husband) was also not paid who as a matter of fact suffered additional imprisonment in lieu of the fine.

23. To have a realistic assessment of the injuries suffered by the petitioner we personally interacted with the petitioner in chamber on 13. 09.2021 and we saw for ourselves the extent of disfigurement suffered by the petitioner particularly in her face.

24. The Rights of Persons with Disabilities Act, 2016 has been enacted to give effect to the United Nations Convention on the rights of persons with disabilities

and for matters connected therewith or incidental thereto. While it defines 'appropriate government' in section 2(b) to include the state government in relation to a state government or any establishment, wholly or substantially financed by that government or any local authority, other than a cantonment board, it also defines 'specified disability' under section 2(zc) to mean the disabilities as specified in the schedule. The schedule specifies the specified disability in terms of physical disability, visual impairment, hearing impairment etc. In the category of 'physical disability' at clause A(e) is included 'acid attack victim' which has been defined to mean a person disfigured due to violent assaults by throwing of acid or similar corrosive substance. Therefore, 'an acid attack victim' would be construed to be a person suffering from 'specified disability'.

24.1. We may note that the legislature has not confined disfigurement due to violent assaults by throwing of acid only but it has been broadened to include disfigurement due to violent assaults by throwing of similar corrosive substance so that the beneficial provision can be extended to persons suffering similar attacks and need not be confined to the strict chemical definition of 'acid'.

25. The Rights of Persons with Disabilities Act, 2016 (briefly 'the 2016 Act' hereinafter) also contains several measures to be taken by the state for rehabilitation of persons suffering from such disabilities and as we have seen it includes victims of acid attacks. Chapter II deals with rights and entitlements of persons with disabilities. As per section 3 forming part of Chapter II, the appropriate government shall ensure that persons with disabilities enjoy the right to equality, life with dignity and respect for his or her integrity equally with others. Under sub-section (5), the appropriate government is required to take necessary steps to ensure reasonable accommodation for persons with disabilities. Section 4 is women and children specific. Sub-section (1) says that the appropriate government and the local authorities shall take measures to ensure that women and children with disabilities enjoy their rights equally with others. Section 12 deals with access to justice. It is the duty of the appropriate government as well as NALSA and state legal services authorities constituted under the Legal Services Authorities Act, 1987 to ensure that persons with disabilities are able to access justice including any scheme, programme, facility or service.

25.1. As per section 19, which is under Chapter IV dealing with skill development and employment, the appropriate government shall formulate schemes and programmes including provision of loans at concessional rates to facilitate and support employment of persons with disabilities especially for their vocational training and self-employment.

25.2. Chapter V deals with social security, health, rehabilitation and recreation. As per section 24, it is the duty of the appropriate government within the limit of its economic capacity to formulate necessary schemes and programmes to safeguard and promote the right of persons with disabilities for adequate

standard of living to enable them to live independently or in the community.

25.3. Section 25 is relevant and it deals with health care. Sub-section (1) makes it very clear that the appropriate government and the local authorities shall take necessary measures for persons with disabilities to provide free health care in the vicinity specially in rural area subject to such family income as may be notified, besides providing barrier-free access to all hospitals and health care institutions and centres, priority in attendance and treatment etc.

25.4. Under section 27, the appropriate government and the local authorities shall, within their economic capacity and development, undertake or cause to be undertaken services and programmes of rehabilitation particularly in the areas of health, education and employment for all persons with disabilities.

26. We may sum up our above deliberations in the following manner. Supreme Court in *Suresh* (supra) while explaining the rationale behind insertion of section 357A in Cr.P.C. held that payment of adequate compensation to the victim of crime is one of the methods of protection and rehabilitation of victims. Supreme Court highlighted that it is the duty of every court taking cognizance of a criminal offence to consider payment of just and reasonable compensation to the victim of crime including payment of interim compensation to meet immediate financial needs, stating that such a duty continues at every stage of a criminal case irrespective of any claim made by the victim. At the stage of final hearing it is obligatory on the part of the court to consider grant of compensation under section 357A Cr.P.C. Again, in the case of *Manohar Singh* (supra) Supreme Court observed that while punishment of the accused is one aspect, determination and payment of just compensation to the victim is another aspect. In the absence of evidence, some guess-work becomes inevitable to determine just compensation. While determining just compensation factors such as medical and other expenses, pain and suffering, loss of earning and other relevant factors should be borne in mind. In the case of *Mehtaab* (supra), Supreme Court emphasized that it is the duty of the court to duly consider the aspect of rehabilitating the victim.

26.1 On going through the provisions of sections 326A and 326B IPC what is discernible is that the legislature has not intended to confine the offences thereunder to throwing or administering of acid only but enlarging the scope by using the expression "by using any other means" and "attempts to use any other means". As a matter of fact, "acid" has been defined to include any substance which has acidic or corrosive character or burning nature capable of causing bodily injury leading to scars or disfigurement or temporary or permanent disability. We may also note that NALSA in the "Compensation Scheme for Women Victims / Survivors of Sexual Assault / Other Crimes, 2018" has treated almost at par victims of burning with victims of acid attack. While laying down the minimum and maximum compensation for various categories of injuries, it has been clarified by NALSA that if the victim is covered under one or more categories of the schedule, she would be entitled to be considered for the

combined value of the compensation.

26.2 Under the 2016 Act, an 'acid attack victim' will be considered to be a person suffering from specified disability. Here also 'acid attack victim' has been defined to mean a person disfigured due to violent assaults by throwing of acid or similar corrosive substance. By use of the expression 'similar corrosive substance' the legislative intent is quite clear. The disability should not be confined to disfigurement by throwing of acid only; such disfigurement could be due to throwing of similar corrosive substance. That apart, the 2016 Act provides for several measures to be taken by the appropriate government (In this case the State Government of Maharashtra) for rehabilitation of persons with disabilities which would include acid attack victims as defined in the 2016 Act. One of the most important aspects of such rehabilitation measures is to provide free healthcare in the vicinity including by providing priority in attendance and treatment.

27. Reverting back to the facts of this case, it is evidently clear from the materials on record including the judgment of the criminal court that boiling inflammable corrosive substance was poured on the face and body of the petitioner. As per statement of the medical officer in the criminal trial, petitioner had suffered 70% to 80% superficial to deep burns on her face and body. Petitioner has stated on oath which has not been denied that she had spent more than Rs.5 lakhs in Masina Hospital, Mumbai for her treatment but because of absolute financial constraints she is unable to undergo further medical treatment including reconstructive surgery.

28. As we have noticed, petitioner has not received any compensation. The criminal court also unfortunately did not direct payment of just compensation to the petitioner under section 357A Cr.P.C. No measures for rehabilitation of the petitioner have been undertaken by the state notwithstanding the statutory mandate. It is really an unfortunate case. Petitioner's right to lead a meaningful life, a life with dignity, within the meaning of Article 21 of the Constitution of India remains a distant dream. In such circumstances, the writ court will be failing in its duty if it does not direct payment of just compensation to the petitioner as well as to direct rehabilitation measures for the petitioner.

29. Having surveyed the relevant legal provisions as above more particularly the provisions relating to victim compensation under section 357A Cr.P.C. which came into the statute book from the year 2009 onwards much prior to the unfortunate incident suffered by the petitioner and the fact that no compensation has been provided to the petitioner till date, in the interest of justice, the following directions are issued:-

a. State of Maharashtra in the Women and Child Development Department shall pay to the petitioner a sum of Rs.10,00,000.00 within three months from the date of receipt of a copy of this order. Out of Rs.10,00,000.00, 75% shall be kept in fixed deposit in the name of the petitioner for such duration as may be

considered appropriate while the remaining 25% shall be credited in her savings bank account individually maintained by her. It shall be the duty of the Secretary of the Mumbai District Legal Services Authority i.e., respondent No.2 to monitor the fixed deposit(s) and the savings bank account of the petitioner periodically;

b. Respondent No.2 i.e., Secretary of Mumbai District Legal Services Authority shall-

(i) either by himself or through para-legal volunteer shall assist the petitioner in availing all other benefits, such as, disability registration, further compensation in terms of NALSA Scheme, Prime Minister's Relief Fund and Central Victim Compensation Fund Guidelines, 2016;

(ii) ensure that free medical treatment is extended to the petitioner including additional / reconstructive surgery that may be required;

(iii) ensure that all rehabilitative measures as provided under the law are made available to the petitioner.

c. Respondent No.2 shall also ensure that the husband (Nityanand Jagan Shetty) has no access to the fixed deposit(s) and savings bank account of the petitioner.

30. With the above directions, writ petition is disposed of. No costs.