



TAMIL NADU GOVERNMENT GAZETTE

PUBLISHED BY AUTHORITY

No. 40]

CHENNAI, WEDNESDAY, OCTOBER 3, 2018
Purattasi 17, Vilambi, Thiruvalluvar Aandu-2049

Part III—Section 1(a)

General Statutory Rules, Notifications, Orders, Regulations, etc.,
issued by Secretariat Departments.

NOTIFICATIONS BY GOVERNMENT

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NOTIFICATIONS BY GOVERNMENT

HOME DEPARTMENT

The Tamil Nadu Victim Compensation Scheme for Women Victims/Survivors of Sexual Assault/Other Crimes, 2018.

[G.O. Ms. No. 1591, Home (Pol.12), 24th September 2018, புரட்டாசி 8, விளம்பி, திருவள்ளூர் ஆண்டு-2049.]

No. SRO A-47/2018.—Pursuant to the direction of the Supreme Court of India in WP(C) No.565/2012 in Nipun Saxena Versus Union of India, the following scheme provides funds for the purpose of compensation to women victims or their dependents who have suffered loss or injury as a result of the offence committed and who require rehabilitation, namely:-

THE SCHEME

1. Short title and commencement:-(1) This scheme shall be called the Tamil Nadu Victim **Compensation Scheme for Women Victims/Survivors of Sexual Assault/other Crimes, 2018;**

(2) It shall come into force at once;

(3) It shall apply to the women victims and their dependent(s) who have suffered loss, injury, as the case may be, as a result of the offence committed and who require rehabilitation.

2. Definitions:- (1) In this scheme, unless the context otherwise requires:—

(a) **“Code”** means the Code of Criminal Procedure, 1973 (Central Act 2 of 1974);

(b) **‘dependent’** includes husband, father, mother, grandparents, unmarried daughter and minor children of the victim as determined by the State Legal Services Authority or District Legal Services Authority on the basis of the report of the Sub-Divisional Magistrate of the concerned Area/Station House Officer/Investigating Officer or on the basis of material placed on record by the dependents by way of affidavit or on its own enquiry;

(c) **“District Legal Services Authority”** means the District Legal Services Authority (DLSA) constituted under Section 9 of the Legal Services Authorities Act, 1987 (Central Act 39 of 1987) for a district;

(d) **‘Form’** means the Form appended to the Scheme;

(e) **‘Tamil Nadu Fund’** means the Victim Compensation Fund constituted under the Tamil Nadu Victim Compensation Scheme, 2013;

(f) **‘Central Fund’** means funds received from Central Victim Compensation Fund Scheme, 2015;

(g) **‘Women Victims Compensation Fund’** means a fund segregated for disbursement for women victim, out of the Tamil Nadu Fund and the Central Fund;

[Within the Tamil Nadu Fund, a separate Bank Account shall be maintained as a portion of that larger fund which shall contain the funds contributed under Central Victim Compensation Fund Scheme by Ministry of Home Affairs, Government of India contributed from Nirbhaya Fund apart from funds received from the Tamil Nadu Fund which shall be utilised only for victims covered under this Scheme].

(h) **‘Government’** means ‘Government of Tamil Nadu’ wherever the Tamil Nadu Victim Compensation Scheme, 2013 or the Tamil Nadu Fund is in context and ‘Central Government’ wherever the Central Victim Compensation Fund Scheme is in context and includes Union Territories;

(i) **‘Injury’** means any harm caused to body or mind of a female;

(j) **‘Minor’** means a girl child who has not completed the age of 18 years;

(k) **‘Offence’** means offence committed against women punishable under Indian Penal Code or any other law;

(l) **‘Penal Code’** means Indian Penal Code, 1860 (Central Act 45 of 1860);

(m) **‘Schedule’** means the schedule appended to this scheme;

(n) **“Tamil Nadu State Legal Services Authority”** means the Tamil Nadu Legal Services Authority (TNSLSA), as defined in Section 6 of the Legal Services Authorities Act, 1987 (Central Act 39 of 1987);

(o) **‘Sexual Assault Victim’** means a female who has suffered mental or physical injury or both as a result of sexual offence including offences committed under Sections 376A to 376E, Sections 354A to 354D and Section 509 of the Penal Code;

(p) '**Woman Victim/ Survivor of other crime**' means a woman who has suffered loss or physical or mental injury mentioned in the appended Schedule as a result of any offence including offences under Section 304B, Section 326A, Section 498A of the Penal Code, including the attempts and abetment.

2. Words and expressions used in this Scheme and not defined here, shall have the same meaning as assigned to them in the Code of Criminal Procedure, 1973 (Central Act 2 of 1974) or the Indian Penal Code, 1860 (Central Act 45 of 1860).

3. Women Victims Compensation Fund.—(1) There shall be a Fund, namely, the Women Victims Compensation Fund from which the amount of compensation, as decided by the Tamil Nadu State Legal Services Authority or District Legal Services Authority, shall be paid to the women victim or her dependent(s) who have suffered loss or injury as a result of an offence and who require rehabilitation.

(2) The 'Women Victims Compensation Fund' shall comprise the following:-

- (a) Contribution received from Central Victim Compensation Scheme, 2015.
- (b) Budgetary allocation in the shape of Grants-in-aid to TNSLSA for which necessary provision shall be made in the Annual Budget by the Government;
- (c) Any cost amount ordered by Civil/Criminal Tribunal to be deposited in this Fund;
- (d) Amount of compensation recovered from the wrong doer/accused;
- (e) Donations /contributions from International / National Philanthropist /Charitable Institutions /Organisations; and individuals permitted by the State or Central Government; and
- (f) Contributions from companies under CSR (Corporate Social Responsibility).

(3) The said Fund shall be operated by the Tamil Nadu State Legal Services Authority (TNSLSA).

4. Eligibility for compensation:- A woman victim or her dependent (s), as the case may be, shall be eligible for grant of compensation from multiple schemes applicable to her. However, the compensation received by her in the other schemes with regard to Section 357-B of the Code shall be taken into account while deciding the quantum of compensation.

5. Procedure for making application before the TNSLSA or DLSA:- (1) Mandatory Reporting of First Information Reports:- Station House Officer/Superintendent of Police /Deputy Commissioner of Police shall mandatorily share soft/hard copy of FIR immediately after its registration with the Tamil Nadu State Legal Services Authority/District Legal Services Authority in respect of commission of offences covered in this Scheme which include Sections 326A, 354A to 354D, 376A to 376E, 304B and 498A of the Penal Code (in case of physical injury covered in this Schedule appended to this Scheme), so that the TNSLSA/DLSA can, in deserving cases, may *suo-moto* initiate preliminary verification of facts for the purpose of grant of interim compensation.

(2) An application for the award of *interim* or final compensation can be filed by the Victim or her dependents or the Station House Officer of the area before Tamil Nadu State Legal Services Authority or District Legal Services Authority as the case may be. It shall be submitted in the Form along with a copy of the First Information Report (FIR) or criminal complaint of which cognizance is taken by the Court and if available Medical Report, Death Certificate, wherever applicable, copy of judgment or recommendation of Court, if the trial is over.

6. Place of filing of application:- The application/recommendation for compensation can be moved either, before the Tamil Nadu State Legal Services Authority or the concerned District Legal Services Authority or it can be filed online on a portal which shall be created by all State Legal Services Authorities. The Secretary of the respective DLSA shall decide the application/ recommendation moved before him(her) as per the Scheme.

Explanation:- In case of acid attack victim the deciding authority shall be Criminal Injury Compensation Board as directed by Hon'ble Supreme Court in *Laxmi Vs. Union of India* (W.P.CRML 129/2006 order dated 10-04-2015) which includes Ld. District & Sessions Judge, District Magistrate, Superintendent of Police, Civil Surgeon/Chief Medical Officer of the district.

7. Relief that may be awarded by the State Legal Services Authority or District Legal Services Authority:-The TNSLSA or DLSA may award compensation to the victim or her dependents to the extent as specified in the Schedule.

8. Factors to be considered while awarding compensation:- While deciding a matter, the Tamil Nadu State Legal Services Authority/District Legal Services Authority may take into consideration the following factors relating to the loss or injury suffered by the victim:

- (1) Gravity of the offence and severity of mental or physical harm or injury suffered by the victim;
- (2) Expenditure incurred or likely to be incurred on the medical treatment for physical or mental health including counselling of the victim, funeral, travelling during investigation or inquiry or trial (other than diet money);

- (3) Loss of educational opportunity as a consequence of the offence, including absence from school/college due to mental trauma, bodily injury, medical treatment, investigation and trial of the offence, or any other reason;
- (4) Loss of employment as a result of the offence, including absence from place of employment due to mental trauma, bodily injury, medical treatment, investigation and trial of the offence, or any other reason;
- (5) The relationship of the victim to the offender, if any;
- (6) Whether the abuse was a single isolated incident or whether the abuse took place over a period of time;
- (7) Whether victim became pregnant as a result of the offence, whether she had to undergo Medical Termination of Pregnancy (MTP) give birth to a child, including rehabilitation needs of such child;
- (8) Whether the victim contracted a Sexually Transmitted Disease (STD) as a result of the offence;
- (9) Whether the victim contracted Human Immunodeficiency Virus (HIV) as a result of the offence;
- (10) Any disability suffered by the victim as a result of the offence;
- (11) Financial condition of the victim against whom the offence has been committed so as to determine her need for rehabilitation and re-integration needs of the victim;
- (12) In case of death, the age of deceased, her monthly income, number of dependents, life expectancy, future promotional/growth prospects etc.
- (13) Or any other factor which the TNSLSA or DLSA may consider just and sufficient.

9. Procedure for grant of compensation:-(1) Wherever, a recommendation is made by the Court for compensation under sub-sections (2) or (3) of Section 357-A of the Code, or an application is made by any victim or her dependent(s), under sub-section (4) of Section 357-A of the Code, to the Tamil Nadu State Legal Services Authority or District Legal Services Authority, for *interim* compensation, it shall *prima-facie* satisfy itself in respect of compensation needs and identity of the victim. As regards the final compensation, it shall examine the case and verify the contents of the claim with respect to the loss or injury and rehabilitation needs as a result of the crime and may also call for any other relevant information necessary for deciding the claim:

Provided that in deserving cases and in all acid attack cases, at any time after commission of the offence, Secretary, TNSLSA or Secretary, DLSA may *suo moto* or after preliminary verification of the facts proceed to grant *interim* relief as may be required in the circumstances of each case.

(2) The inquiry as contemplated under sub-section (5) of Section 357-A of the Code, shall be completed expeditiously and the period in no case shall exceed beyond sixty days from the receipt of the claim or petition or recommendation:

Provided that in cases of acid attack an amount of Rupees One lakh shall be paid to the victim within 15 days of the matter being brought to the notice of DLSA. The order granting *interim* compensation shall be passed by DLSA within 7 days of the matter being brought to its notice and the TNSLSA shall pay the compensation within 8 days of passing of the order. Thereafter, an amount of Rupees two lakh shall be paid to the victim as expeditiously as possible and positively within two months of the first payment*.

Provided further that the victim may also be paid such further amount as is admissible under this Scheme.

(3) After consideration of the matter, the TNSLSA or DLSA, as the case may be, upon its satisfaction, shall decide the quantum of compensation to be awarded to the victim or her dependent(s) taking into account the factors enumerated in clause 5(3) of the Tamil Nadu Victim Compensation Scheme, 2013 as per the Schedule appended to this Scheme. However, in deserving cases, for reasons to be recorded, the upper limit may be exceeded. Moreover, in case the victim is minor, the limit of compensation shall be deemed to be 50% higher than the amount mentioned in the Schedule appended to this Scheme.

* Victims of Acid attack are also entitled to additional compensation of Rupees one lakh under Prime Minister's National Relief Fund vide memorandum No. 24013/94/Misc./2014-CSR-III/Gol/MHA, dated 09-11-2016 (copy attached).

Victims of Acid Attack are also entitled to additional special financial assistance upto Rupees five lakh who need treatment expenses over and above the compensation paid by the respective State/UTs in terms of Central Victim Compensation Fund Guidelines-2016, No. 24013/94/Misc/2014-CSR.III, MHA/Gol.

(4) The TNSLSA/DLSA may call from any record or take assistance from any Authority or Establishment or Individual or Police or Court concerned or expert for smooth implementation of the Scheme.

(5) In case Trial or Appellate Court gives findings that the criminal complaint and the allegation were false, then Legal Services Authority may initiate proceedings for recovery of compensation, if any, granted in part or full under this Scheme, before the Trial Court for its recovery as if it were a fine.

10. The order to be placed on record:- Copy of the order of *interim* or final compensation passed under this Scheme shall be placed on record of the Trial Court so as to enable the Trial Court to pass an appropriate order of compensation under Section 357-A of the Code. A true copy of the order shall be provided to the Investigation Officer in case the matter is pending investigation and also to the victim/dependent as the case may be.

11. Method of disbursement of compensation:- (1) The amount of compensation so awarded shall be disbursed by the TNSLSA by depositing the same in a Bank in the joint or single name of the victim/dependent(s). In case the victim does not have any bank account, the DLSA concerned would facilitate opening of a bank account in the name of the victim and in case the victim is a minor along with a guardian or in case, minor is in a child care institution, the bank account shall be opened with the Superintendent of the Institution as Guardian. However, in case the victim is a foreign national or a refugee, the compensation can be disbursed by way of cash cards. *Interim* amount shall be disbursed in full. However, as far as the final compensation amount is concerned, seventy five percent of the same shall be put in a fixed deposit for a minimum period of three years and the remaining twenty five percent shall be available for utilization and initial expenses by the victim or dependent(s), as the case may be.

(2) In the case of a minor, 80% of the amount of compensation so awarded, shall be deposited in the fixed deposit account and shall be drawn only on attainment of the age of majority, but not before three years of the deposit:

Provided that in exceptional cases, amounts may be withdrawn for educational or medical or other pressing and urgent needs of the beneficiary at the discretion of the TNSLSA/ DLSA.

(3) The interest on the sum, if lying in Fixed Deposit Rates form, shall be credited directly by the bank in the savings account of the victim/dependent(s), on monthly basis which can be withdrawn by the beneficiary.

12. Interim relief to the victim: The Tamil Nadu State Legal Services Authority or District Legal Services Authority, as the case may be, may order for immediate first-aid facility or medical benefits to be made available free of cost or any other *interim* relief (including *interim* monetary compensation) as deemed appropriate, to alleviate the suffering of the victim on the certificate of a police officer, not below the rank of the officer-in-charge of the police station, or a Magistrate of the area concerned or on the application of the victim or dependents or *suo moto*:

Provided that as soon as the application for compensation is received by the TNSLSA/DLSA, a sum of Rs.5000/- or as the case warrants, up to Rs. 10,000/- shall be immediately disbursed to the victim through preloaded cash card from a Nationalised Bank by the Secretary, DLSA or Member Secretary, TNSLSA:

Provided further that the, *interim* relief so granted shall not be less than 25 per cent of the maximum compensation awardable as per the Schedule applicable to this Scheme, which shall be paid to the victim in totality:

Provided also that in cases of acid attack a sum of Rupees One lakh shall be paid to the victim within 15 days of the matter being brought to the notice of TNSLSA/DLSA. The order granting *interim* compensation shall be passed by the TNSLSA/DLSA within 7 days of the matter being brought to its notice and the TNSLSA shall pay the compensation within 8 days of passing of order. Thereafter an additional sum of Rupees two lakh shall be awarded and paid to the victim as expeditiously as possible and positively within two months.

13. Recovery of compensation awarded to the victim or her dependent:- Subject to the provisions of sub-section (3) of Section 357-A of the Code, the Tamil Nadu State Legal Services Authority, in proper cases, may institute proceedings before the competent court of law for recovery of the compensation granted to the victim or her dependent(s) from person(s) responsible for causing loss or injury as a result of the crime committed by him/her. The amount, so recovered, shall be deposited in Woman Victim Compensation Fund.

14. Dependency Certificate:-The authority empowered to issue the Dependency Certificate shall issue the same within a period of fifteen days from the date of receipt of application and, in no case, this period shall be extended:

Provided that the TNSLSA/DLSA, in case of non-issuance of Dependency Certificate, after expiry of 15 days, may proceed on the basis of an affidavit to be obtained from the claimant.

15. Minor Victims :-That in case the victim is an orphaned minor without any parent or legal guardian the immediate relief or the *interim* compensation shall be disbursed to the Bank Account of the child, opened under the guardianship of the Superintendent, Child Care Institutions where the child is lodged or in absence thereof, DDO or SDM, as the case may be.

16. Limitation:-Under the Scheme, no claim made by the victim or her dependent(s), under sub-section (4) of Section 357-A of the Code, shall be entertained after a period of three years from the date of occurrence of the offence or conclusion of the trial:

Provided that in deserving cases, on an application made in this regard, for reasons to be recorded, the delay beyond three years may be condoned by the TNSLSAs or DLSAs.

17. Appeal:-In case the victim or her dependents are not satisfied with the quantum of compensation awarded by the District Legal Services Authority, they can file appeal within thirty days from the date of receipt of order before the State Legal Services Authority:

Provided that, delay in filing appeal may be condoned by the Appellate Authority, for reasons to be recorded, in deserving cases, on an application made in this regard.

18. Repeal & Savings:- (1) In case this Scheme is silent on any issue pertaining to Victim Compensation to Women, the provisions of the Tamil Nadu Victim Compensation Scheme would be applicable.

(2) Nothing in this Scheme shall prevent Victims or their dependents from instituting any Civil Suit or Claim against the perpetrator of offence or any other person indirectly responsible for the same.

Explanation:—It is clarified that this Scheme does not apply to minor victims under Protection of Children from Sexual Offences Act, 2012(Central Act 32 of 2012) in so far as their compensation issues are to be dealt with only by the Special Courts under Section 33 (8) of Protection of Children from Sexual Offences Act, 2012 and Rule 7 of the Protection of Children from Sexual Offences Rules, 2012.

APPENDIX

THE SCHEDULE

Sl.No.	Particulars of loss or injury	Minimum Limit of Compensation	Upper Limit of Compensation
(1)	(2)	(3)	(4)
1.	Loss of Life	Rs. 5 Lakh	Rs. 10 Lakh
2.	Gang Rape	Rs. 5 Lakh	Rs. 10 Lakh
3.	Rape	Rs. 4 Lakh	Rs. 7 Lakh
4.	Unnatural Sexual Assault	Rs. 4 Lakh	Rs. 7 Lakh
5.	Loss of any Limb or part of body resulting in 80% permanent disability or above	Rs. 2 Lakh	Rs. 5 Lakh
6.	Loss of any Limb or part of body resulting in 40% and below 80% permanent disability	Rs. 2 Lakh	Rs. 4 Lakh
7.	Loss of any Limb or part of body resulting in above 20% and below 40% permanent disability	Rs. 1 Lakh	Rs. 3 Lakh
8.	Loss of any limb or part of body resulting in below 20% permanent disability	Rs. 1 Lakh	Rs. 2 Lakh
9.	Grievous physical injury or any mental injury requiring rehabilitation	Rs. 1 Lakh	Rs. 2 Lakh
10.	Loss of Foetus i.e. Miscarriage as a result of Assault or loss of fertility	Rs. 2 Lakh	Rs. 3 Lakh
11.	In case of pregnancy on account of rape.	Rs. 3 Lakh	Rs. 4 Lakh
12.	Victims of Burning :		
	(a) In case of disfigurement of face	Rs. 7 Lakh	Rs. 8 Lakh
	(b) In case of more than 50%	Rs. 5 Lakh	Rs. 8 Lakh
	(c) In case of injury less than 50%	Rs. 3 Lakh	Rs. 7 Lakh
	(d) In case of less than 20%	Rs. 2 Lakh	Rs. 3 Lakh
13.	Victims of Acid Attack:		
	(a) In case of disfigurement of face.	Rs. 8 Lakh	Rs. 10 Lakh
	(b) In case of injury more than 50%	Rs. 5 Lakh	Rs. 8 Lakh
	(c) In case of injury less than 50%	Rs. 3 Lakh	Rs.5 Lakh
	(d) In case of injury less than 20%	Rs. 3 Lakh	Rs. 4 Lakh

Note: If a woman victim of sexual assault/acid attack is covered under one or more category of the schedule, she shall be entitled to be considered for combined value of the compensation.

FORM

APPLICATION FOR THE AWARD OF COMPENSATION UNDER COMPENSATION SCHEME FOR WOMEN VICTIMS/
SURVIVORS OF SEXUAL ASSAULT/OTHER CRIMES, 2018 FOR INTERIM/FINAL RELIEF FOR WOMEN.

[See rule 5(2)]

1. Name of the Applicant Victim(s) or her Dependent(s)
 2. Age of the Victim(s) or her Dependent(s)
 3. (a) Father's Name
(b) Mother's Name
(c) Spouse's Name
 4. Address of the Victim(s) or her/their Dependent(s)
 5. Date and time of the Incident
 6. Whether FIR has been lodged?
 7. Whether medical examination has been done? If yes, enclose Medical Report/ Death Certificate/Post Mortem Report.
 8. Status of trial, if pending. If over, enclose copy of judgment and order on sentence.
 9. Has the applicant been awarded any compensation by the trial court or any other Govt. agency. If, yes give details.
 10. Give details of financial expenditure/ loss incurred
 11. Have you instituted any civil suit/ claim against the perpetrator of offence. If yes give details.
- Signature of the Victim/Dependent.

Amendment to the Tamil Nadu Private Security Agencies Rules.

[G.O. Ms. No. 1592, Home (Pol-XIII), 24th September 2018, புரட்டாசி 8, விளம்பி, திருவள்ளூர் ஆண்டு-2049.]

No. SRO A-48/2018.—In exercise of the powers conferred by Section 25 of the Private Security Agencies (Regulation) Act, 2005 (Central Act 29 of 2005), the Governor of Tamil Nadu hereby makes the following amendment to the Tamil Nadu Private Security Agencies Rules, 2008,-

AMENDMENT

In the said Rules, in clause (f) of rule 2, for the expression "Inspector General of Police, Tamil Nadu Commando Force", the expression "Inspector General of Police, Armed Police" shall be substituted.

Amendment to the Tamil Nadu Cinemas (Regulation) Rules.

[G.O. Ms. No. 1599, Home (Cinema), 26th September 2018, புரட்டாசி 10, விளம்பி, திருவள்ளூர் ஆண்டு-2049.]

No. SRO A-49/2018.—In exercise of the powers conferred by Section 10 of the Tamil Nadu Cinemas (Regulation) Act, 1955 (Tamil Nadu Act IX of 1955), the Governor of Tamil Nadu hereby makes the following amendment to the Tamil Nadu Cinemas (Regulation) Rules, 1957.

AMENDMENT

In the said Rules, in rule 80, in sub-rule (7), for the expressions "fifty paise" and "one rupee", the expressions "two rupees" and "four rupees" shall respectively be substituted.

NIRANJAN MARDI,
Additional Chief Secretary to Government.