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COMPENSATORY ASSISTANCE TO THE VICTIMS OF ACID ATTACKS

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COMPENSATORY ASSISTANCE TO THE VICTIMS OF ACID ATTACKS**Sarvesh Soni**, (Assistant Professor)

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Abstract:

Violence with throwing acid is a heinous act of crime which falls under the offence against body. Attack of acid is mostly committed against women who are of young age. It is an intentional act, object in most cases to take revenge. Basically, it is gender based violence and gradually increasing against women. Acid that normally used in attack are easily available in market. The Criminal Law (Amendment) Act, 2013 and guidelines issued by the apex court under the Laxmi case regarding compensation and assistance in favour of acid attack survivor, so the proper treatment can be done, expense can be bearable and victim can face the challenges. Through this research paper scholar wants to highlight on caused, impact and relief provide by the state to the innocent victim and also recommended that proper check should be done on sale of acids.

Keywords: Acid Attack, Vitriol, Victims, Compensation, Perpetrators etc.**Introduction**

Acid attacks occur and are reported today worldwide, this type of horrific violence is very common in South Asia. Significantly, in India and neighboring countries the incidence of acid attacks is steadily rising every year, according to a powerful study over the past decade. Acid attack is also known as 'Vitriol attack' or 'Vitriolage'. It is a type of violent attack that involves throwing an acid or a paralytic into the body of another person with the intent to harm, maim, abuse, or kill. The attackers of this attack throw destructive liquid on their victims, often on their faces, burn themselves, and damage the skin tissues, often exposing and sometimes destroying bones. Acid attacks often lead to chronic traumatic brain injury as well as lead to grievous injury. It also resulted in the loss of the victim's life. The most common types of acids used in this attack are Sulfuric acid, Hydrochloric acid, Hydrofluoric acid and Phosphoric acid. They are usually available in the market. Hydrochloric acid is sometimes used, but it is not very harmful. Aqueous solutions of strong alkaline substances, such as caustic soda (sodium hydroxide), are used, especially in areas where strong acid is controlled.

Post Effects

Acid attacks are causes perpetual suffering to the victim. As acid (comes in contact of part of body) melts flesh and even the bones of a person, it causes an severe degree of pain to the victim and also leaves a mutilated and scarred, as well as, giving permanent disabilities at times. Victims face lifetime consequences. The long term consequences of these attacks may include- blindness, eye burns, with severe permanent scarring of the face and body, along with far-reaching social, psychological, and economic difficulties.

Some of the well-known effects of acid are as under

- Acids are corrosive substances that will cause visible necrosis (death) of human skin tissue and will even corrode a metal in higher concentration.
- They can cause serious poisoning; burning and serious injury can result from exposure to strong acids. In an acid attack the skin is the main organ of contact.
- The effects of acids on the skin may include redness, and burns. In severe cases, it could lead to shock and death too.

Historical Background

On tracing the history, it found that, origin of Vitriol throwing (acid attack) as a fashion,¹ (a woman disfiguring face of her lover's) it occurs first time in Paris and later spread to all parts of France.² Gradually as time moves on, such kind of attack spread in all around the world. In India, the first complaint file of acid attack occurred in the year around 1982. Since then, this kind of violence gets spread day by day in whole nation. Various reported speak its severity of it.

The General assembly of the United Nations in its 96th plenary meeting held on 29th November, 1985 set out the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power which recognizes and grants to victim, their families, witnesses and other who aid them the rights in the area of Access to Justice and Fair Treatment, Restitution, Compensation, and Assistance as basic human rights.

Incidence:

In India there is no separate law to deal acid attack cases, the cases of acid attack deals under different section of Indian Penal Code, 1860 particularly the sections relating to Hurt, Grievous Hurt, Grievous Hurt by Corrosive substances, attempt to murder and murder.

Here, are some incidences —

In year 2002, *Marepally Venkata Sree Nagesh v. State of A.P.*³ the accused was distrustful in nature about the character of his wife and he inserted mercuric chloride into the vagina of his wife, she died due to the renal failure. The accused was sentenced under section 302 and 307, IPC.

In *Veerla Satyanarayana v. State of A.P.*⁴ accused attack with acid on his estranged wife reason that, she refused to cohabit with him. The wife suffered permanent nature of disfigurement and loss of vision of an eye. The accused was sentenced under section 307 with imprisoned for 7 years.

In *Syed Shafique Ahmed v. State of Maharashtra*⁵ due to personal enmity with his wife was the reason behind a gruesome acid attack by the husband on his wife and another man. This caused disfiguration of the face of both the wife as well as that of the other person and loss of vision of right eye of wife. The accused was charged under sections 326 and 324 of IPC and was awarded 3 years imprisonment with fine of 5000 rs.

In this case it was shown that the punishment that is often awarded does not take into account the deliberate and gruesome nature of the attack and rests on technicalities of injuries.

¹ Mehta, Rohinton; "Crime and Criminology", (1999) Snow white, Mumbai Page 181.

² Ibid

³ 2002 Cri. L. J. 3625.

⁴ 2002 (Supp) SCC 489.

⁵ 2002 Cri. L. J. 1403.

In **Haseena Hussain case – State of Karnataka v. Joseph Rodrigues** ⁶ — Haseena 20 yearsold girl, who had completed computer course during studying B.Com. 1st year. She was working in 'Neha Computers office' which was run by the accused and he was the proprietor too. one year & eight months after, as the said office incurred a loss, Haseena left the job and started working at Satish Industries situated at H.M.T., Layout. It is alleged that the accused started teasing her to leave the new job and start working in the house for which he would provide a computer. This offer was rejected by Haseena. It is alleged that number of times the accused came to her house to offer previous job repeatedly. Other day when she was near the gate of Satish Industry, the accused came on a motorcycle holding a plastic jug and on coining near Haseena, he splashed the whole contents of the jug on her and went away. On throwing of acid (now proved to be Sulfuric Acid), she received severe burn injuries on her entire body which includes -- face, eyes, neck, chest, hands and legs. She also received burn on her outfits. When she was crying due to pain, nearby peoples came and took her, first to H.M.T., then to Ramaiah and to Victoria Hospitals at last. The accused was convicted under section 307 of IPC and was to sentenced to imprisonment for all times. A compensation of Rs two lakhs, additionally the court imposed fine of Rs three lakh which was paid to the victim. It was first time that a large sum as awarded to the victim to meet her medical expenses.

In **Preeti Rathi Case** – Preeti is a Lieutenant ia Indian Navy and server to INHS Asvini, the naval hospital situated at Colaba (Mumbai). Other day an incidence took place with her, on 2nd may 2013, when she was on her way to work, a man flung acid on her, as a result her face, eye got damaged and infected her kidney. The acid entered into her internal organs – esophagus, windpipe and trachea caused her severe injury with unbearable pain. Finally she lost her life. The charges framed on perpetrator u/s 302 (murder), u/s 326-A (Voluntary causing grievous hurt by use of acid), u/s 326-B (Voluntary throwing or attempting to throw acid).

In **Parivartan Kendra v. Union of India** ⁷ — In Bihar state, two dalit girls around midnight of October 21, 2012 ,were attacked by four assailants (Anil Rai, Ghanshyam Rai, Badal and Raja) who threw acid on the face and bodies while they were sleeping on their rooftops. The allegation on these young assailants were that they used to harass the elder sister on public places while she was going to computer classes or to work. The Supreme Court issued a direction that – the State Governments/ UT should seriously take up the matter with all the private hospitals in their respective State/ UT to the effect that the private hospitals should not denied the treatment of victims of acid attack and it have to provide full treatment including medicines, food, bedding and reconstructive surgeries. The Apex Court refuse to set up a separate Criminal Injuries Compensation Board and the Court also stated that the State Government/UT concerned can give even more amount of compensation more than Rs. Three Lakh. The Apex Court further also stated that – "the appropriate Government should take a stringent action against those erring persons who were supplying acid without proper authorization. The concerned authorities would be made accountable for failure to keep a check on the distribution of the acid."

Laxmi Agarwal Case – Laxmi v. Union of India ⁸ At the time of incidence occur, she was around 16 year old. Other day when she was waiting for bus near Tughlaq road in year 2005, two person throw acid on her reason behind it was that – she refused to marry one of her assailant. The result of incidence left

⁶ The State Of Karnataka By Jalahalli police Station v. Joseph Rodrigues S/O V.Z. Rodrigues (decided by Hon'ble High Court of Karnataka on 22 August, 2006).

⁷ 2015 (13) SCALE 325

⁸ 2014 4 SCC 427

her disfigured for whole life. Acid which came in contact with her body (skin) burnt her whole face. She had to go through several surgeries to make her physical appearance as she was before, but as belonging to a poor family, she would not be able to treat herself. No benefactor came forward to bear her medical expenses which cost around 2.5 – 3 lakhs rupees.

But salute to this courageous lady. The incidence inspired herself to fight against acid violence by gathering 27,000 signatures to file Public Interest Litigation (PIL) before Supreme Court of India, to curb sale of acids in whole country. Her great efforts in form of PIL sought framing of a new law by amending in the existing criminal laws, in which she pleaded for total ban on sale of acid and acid survivor should get compensation as much amount by which they go for their medical treatment.

JUDICIAL ATTITUDE – GUIDLINES:

Land mark Judgment –*Laxmi v. Union of India*⁹

When the victim of acid attack (*Laxmi*) approached to the Apex Court in the year 2006 with a writ petition. She made respondent to *Union of India*, *Law Commission of India* and *National Commission of India*.

The certain issues were raised under the petition:-

- Demand to amend the existing law i.e. the I.P.C. 1860; the Indian Evidence Act, 1872 and the Code of Criminal Procedure, 1973; in the matter of acid attack offence.
- Provide Compensation to the survivor of such offence.
- Demand of complete ban on sale of acid.
- Provide medical assistance and free treatment to the survivor of such offence.
- Help in rehabilitation of acid attack survivors.

The major change was brought by her writ petition under the existing law to deal acid attack survivor –

- ❖ The Apex court on the writ petition issued a direction in the year 2008 for proper investigation and in year 2013 Hon'ble Apex Court issued specific direction regarding to sale of acid.¹⁰
- ❖ The Criminal Law (Amendment) Act, 2013 came in to force, the new sections are inserted in Criminal Procedure Code, 1973 specifically related to acid attack.¹¹ Such as – section 326-A and section 326-B of Indian Penal Code ensure enhanced punishment of acid throwing.
- ❖ Law commission submitted its 226th report to Hon'ble Apex Court for its consideration in the pending proceeding of *Laxmi's* case.¹² This 226th report was specifically based on – “the inclusion of acid attacks as specific offences in the Indian Penal Code; a law for compensation for the victim of crime and; implementation of victim compensation scheme in all states of country.”
- ❖ Apex Court ruled that authorities must regulate retailer of acid when makes a purchase the sale of acid. The judges suggest that buyer of acids should have to provide a photo identity card to seller.

Compensatory provisions:

The Code of Criminal Procedure, 1973 –

⁹ 2014 4 SCC 427

¹⁰ See *Laxmi v. Union of India* 2014 4 SCC 427.

¹¹ See the Criminal Law Amendment Act, 2013.

¹² See 226th report of Law commission of India.

Section 357¹³ – deals with – Order to pay compensation

Section 357-A¹⁴ – deals with – Victim compensation scheme

Section 357-B¹⁵ – Compensation to be in addition to fine under section 326-A or Section 376-D of Indian Penal Code.

Section 357-C¹⁶ – Treatment of victims.

Compensation provided by various states under ‘Victim compensation Schemes’:

S. No.	States Victim Compensation Schemes –	Compensation
1.	The Arunachal Pradesh Victim Compensation Schemes, 2011	1,00,000/-
2.	The Bihar Victim Compensation Scheme, 2011	25,000/-
3.	The Chhatisgarh Victims Compensation Scheme, 2011	50,000/-
4.	The Karnataka Victim Compensation Scheme, 2011	3.00 lacs 2.00 lacs
5.	The Manipur Victim Compensation Scheme, 2011	50,000/-
6.	The Mizoram Victims Compensation Scheme, 2011	--
7.	The Rajasthan Victim Compensation Scheme, 2011	2,00,000/-
8.	The Sikkim Compensation to Victims or his Dependents Schemes, 2011	30,000/-
9.	The Assam Victim Compensation Scheme, 2012	1,75,000/-
10.	The Goa Victim Compensation Scheme, 2012	10,000/-
11.	The Himachal Pradesh (Victim of Crime) Compensation Scheme, 2012	50,000/-
12.	The Jharkhand Victim Compensation Scheme, 2012	--
13.	The Nagaland Victim Compensation Scheme, 2012	--
14.	The Odisha Victim Compensation Scheme, 2012	1,00,000/- 50,000/- 40,000/-
15.	The Tirpura Victim Compensation Scheme, 2012	75,000/-
16.	The West Bengal Victim Compensation Scheme, 2012	--
17..	The Gujrat Victim Compensation Scheme, 2013	1,00,000/- 50,000/-
18.	The Haryana Victim Compensation Scheme, 2013	50,000/- to 2.00 lacs 25,000/- to 1.00 lacs
19.	The Jammu & Kashmir Victim Compensation Scheme, 2013	20,000/-
20.	The Tamil Nadu Victim Compensation Scheme, 2013	3.5 lakh
21.	The Utrakhand Victim from Crime and Assistance Scheme, 2013	1,50,000/- 30,000/-
22.	The Kerala Victim Compensation Scheme, 2014	3.00 Lakhs 1.00 Lakhs
23.	The Maharastra Victim Compensation Scheme, 2014	3.00 lacs
24.	The Meghalaya Victim Compensation Scheme, 2014	3.00 lacs
25.	The U.P. Victim Compensation Scheme, 2014	3,00,000/-
26.	The M.P. Victim Compensation Scheme, 2015	3.00 Lakh 1.50 Lakh

S. No.	Union Territories	Compensation
1.	The Delhi Victims Compensation Scheme, 2011	2.00 Lakh – 3.00 Lakh 50,000 Others
2.	The Lakshadweep Victim Assistance Scheme, 2012	
3.	The Union Territory of Chandigarh Victim Assistance Scheme, 2012	2.00 lacs – 3.00 lacs 50,000/-
4.	The Union Territory of Dadar and Nagar Haveli Victim Assistance Scheme, 2012	2.00 lakh – 3.00 lakh 50,000/-

¹³ See Section 357 of the Code of Criminal Procedure, 1973.

¹⁴ See Section 357-A of the Code of Criminal Procedure, 1973 (inserted by Act 5 of 2009)

¹⁵ See Section 357-B of the Code of Criminal Procedure, 1973 (inserted by the Criminal Law (Amendment) Act, 2013)

¹⁶ Ibid.

5.	The Union Territory of Daman and Diu Victim Assistance Scheme, 2012	2.00 lacs – 3.00 lacs 50,000/-
6.	The Union Territory of Puducherry Victim Assistance Scheme, 2012	2.00 lakh – 3.00 lakh 50,000/-

Analysis:

On studying the compensation schemes, the amount provided to the acid survivor by the various states, it finds that –

- Among the states: Goa is providing the lowest amount i.e. 10,000/-, J & K –20,000/- and Bihar – 25,000/- respectively.
- But there are many states those are providing maximum amount of three lakhs – – Tamil Nadu – 3.5 lakhs, Karnataka, Kerala, Maharashtra, Meghalaya, Uttar Pradesh, and Madhya Pradesh are providing Rs 3 lakhs respectively.
- Among the Union Territories it seems that all of them are providing 2 lakhs to 3 lakhs, which is good sign for the assistance to the victims.

Challenges facing in Computing Compensation

There cannot be any strict formula to decide, what just compensation in all cases is? The quantum of compensation will, depend upon the facts and circumstances of each case. The quantum of compensation has to be determined by taking into consideration nature of crime, injury and capacity to pay compensation and compensation shall be reasonable which the accused person is able to pay. The amount of compensation cannot be arbitrary and unreasonable.

Conclusion:

The outlook of society on women is still narrow; women are regarded as a property of men and must be kept under the possession, and man is whole sole decision maker of their life. Unfortunately, women also feel happy and safe with this thinking, and even women still cannot combat for their basic rights. But when woman refuses a man (in any way or kind) then it seems as destroying the reputation, prestige and honour; and he wants to restore it, so a man chooses this kind of heinous act against women as a mark of their supremacy or dominance over her.

“The Criminal Law (Amendment) Act, 2013” is implemented by Indian government as well as “Victim Compensation Schemes” provided by various states; which bring positive & appreciated step in favour of acid attack survivor; who gets assistance in monetary form which is great help. The provisions of compensation in regard to assist the victim of acid attack play important and vital role for enforcing justice in the favour of acid survivor. The amount provided by governments of states to the victim of acid attack should be quite enough for initial treatment and redressal, it can be a step ahead in rehabilitation of the victims.

Recommendation:

Justice delivery system cannot be delivered proper Justice if the law should not be properly implemented.

- The strict penal law should be made to regulate the sale of acid in India.
- There is need of regulatory authority to monitor and make control on sale & purchase of acid.
- There is need of more effectively implementation of rehabilitation program with regards to victims of acid attack.

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