

# Meting Out Complete Justice - Need For Victim Compensation: A Survey of All HC & SC Cases on 357-A CrPC

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## Synopsis

Introduction .....	400
Victim Compensation In India Under Crpc .....	400
The Original Scheme Per 1973 Act - §357.....	400
Evolution And Introduction Of §357A.....	401
Survey of Cases .....	401
APEX COURT .....	402
Allahabad High Court .....	406
Bombay High Court.....	407
Calcutta HC.....	408
DELHI HC .....	409
GAUHATI HC .....	411
GUJARAT High Court.....	415
Jharkhand High Court .....	416
KARNATAKA High Court.....	416
KERALA High Court.....	417
Madras High Court.....	417
ORISSA HIGH COURT .....	418
Patna High Court.....	419

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Punjab & Haryana High Court.....	420
Rajasthan High Court .....	420
SIKKIM High Court .....	421
TRIPURA High Court.....	422
UTTRAKHAND High Court .....	422
Brief Analysis.....	422
Conclusion With Suggestions And Proposed Reforms .....	424

## Introduction

*“Baseless victimhood is usually the last stage before outright aggression.”*

— Stefan Molyneux

Since long criminal justice system has just been focusing on just the - “criminals”. In the arduous justice process, what is most often forgotten is the most quintessential cog of the machinery i.e. victim him/herself. Oxford has defined victim as a person harmed, injured or killed as a result of a crime, accident etc.<sup>2</sup>. But this is just a very narrow interpretation of the same. Every person whose life is altered by a crime is a victim. He/she deserves to be properly treated and rehabilitated.

The theme of the paper is to address just the same. The Criminal Procedure Code has had §357 and the newly added §357A which enables the courts to provide compensation to the victim. But despite that it is used in a very sparse and limited manner. The paper does a case survey of all the cases from all courts of record in India which were decided upon §357 & §357A.

First and foremost is the introduction and how the project is to be structured. Then the paper gives out a general understanding of the concept of compensation to the victim. Both §357 and §357A have been dealt with here and position post and pre-enactment of §357A. Then one proceeds to deals with the actual survey process of all such cases. Due to the limitation of the scope of the paper, some cases which deal only with procedural and jurisprudential aspects have not been elaborated as such. Then finally the paper delineates the analysis drawn up after the survey. It also has a suggestive conclusion with proposed reforms as to what else can be done to make the process more victim friendly.

## Victim Compensation In India Under Crpc

### The Original Scheme Per 1973 Act - §357

The Code of Criminal Procedure 1973 envisaged the concept of compensation to the victim with the inclusion of §357. But this system in itself has many flaws. One of

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<sup>2</sup> Oxford Dictionary, , <http://www.oxforddictionaries.com/definition/english/victim>.

them being that the Court “*may*” or totally at its discretion award some amount of compensation to the victim out of the fine payable to him. This compensation is also to be given only when there is a fine along with the punishment given. And this too shall be provided only for four limited reasons like for losses incurred in prosecution, or to compensate for death or other injury incurred by the crime *inter alia*. Even this extremely limited compensation is not at all to be given compulsorily.

### Evolution And Introduction Of §357A

There have been many discussions and reports recommending the need to increase the scope of victim compensation in criminal law in India. The most prominent of these were the recommendations of Law Commission in its 154<sup>th</sup> Report<sup>3</sup> and that of the *Malimath* Committee<sup>4</sup> constituted in 2000 by the government to address flaws and shortcomings in the Indian Criminal Law. Both of which recommended an active government participation and setting up state and central level compensation fund schemes for victims.

Pursuant to this the government by introduced an amendment to CrPC in 2008 (notified in 2009) which sought to make several changes to make the law more victim friendly. The relevant ones for discussion are the introduction of §2(wa) which defines a ‘*victim*’ and also includes their guardian/legal heir. Also §357A which mandates for government at both Centre and state level to set up a victim compensation fund.

### Survey of Cases

For the purposes of this paper i.e. a survey of cases, all the cases on the subject matter §357 and §357A of the Criminal Procedure Code decided from enactment of 357A i.e. from 2008-2017(Aug) were taken up. It was disheartening to see that only 17 cases for Apex Court on Section 357-A. Even the High Courts on the subject decided

<sup>3</sup> LAW COMMISSION OF INDIA, 154TH REPORT ON CODE OF CRIMINAL PROCEDURE (1996), <http://lawcommissionofindia.nic.in/101-169/Report154Vol2.pdf>.

<sup>4</sup> MINISTRY OF HOME AFFAIRS, MALIMATH COMMITTEE ON REFORMS OF CRIMINAL JUSTICE SYSTEM (2003), [http://www.mha.nic.in/hindi/sites/upload\\_files/mhahindi/files/pdf/criminal\\_justice\\_system.pdf](http://www.mha.nic.in/hindi/sites/upload_files/mhahindi/files/pdf/criminal_justice_system.pdf).

very few cases. Some of the High Courts did not even have one single case related to this section in the entire time period. Majority of the high courts had decided just one single case with an even larger majority not even deciding one single case in all this time. Provided below is the list of all such cases by the various courts.

For the purposes of this paper, keeping in mind the limited approach and scope, some cases like the *Tata Steel* case by P&H High Court, *Jainath Prasad* case by Patna High Court, *Dhanne Singh* case by Rajasthan High Court have not been mentioned because they only mentioned jurisprudence of the sections involved and not any actual compensation. The detailed discussion and conflicting viewpoints regarding certain key jurisprudential aspects in these cases have not been elaborated upon. The research was done using two search engines – Manupatra & SCC Online. Only and only those cases are mentioned wherein the HC or SC itself gave any compensation order or altered any such order. The cases where mere jurisprudence is discussed or which only mention the fact that Trial Court gave compensation under 357-A are excluded from the purview of this paper. It must also be kept in mid that even after due deliberations and careful inspection of all such cases, there is bound to be scope of error, for which the author seeks forgiveness.

### APEX COURT

Sr. No.	Case Name	Date of Decision	Citation	Bench	Brief Comment
1.	State of Rajasthan and Ors. Vs. Sanyam Lodha	25.08.11	MANU/SC/0977/2011; (2011) 13 SCC 262.	R.V. Raveendran and A.K. Patnaik,	IPC Section 376 – Rape.
2.	Ankush Shivaji Gaikwad Vs. State of	03.05.13	MANU/SC/0461/2013	T.S. Thakur and Gyan Sudha Misra	IPC: §302 or §304 Pt. II (§300 Ex. 4) [Culpable homicide not amounting to Murder.]

	Maharashtra				
3.	Laxmi Vs. Union of India and Others	18.07.13	MANU/SC/0756/20 13; (2014)4SCC427	R.M. Lodha and F.M. Ibrahim Kalifulla	PIL: Guidelines for payment to Acid Attack Victims; at least ` 3 lakhs by the concerned State Government/Union Territory as the after care and rehabilitation cost. Of this amount, a sum of ` 1 lakh shall be paid to such victim within 15 days of occurrence of such incident (or being brought to the notice of the State Government/Union Territory) to facilitate immediate medical attention and expenses in this regard. The balance sum of ` 2 lakhs shall be paid as expeditiously as may be possible and positively within two months thereafter.
4.	Satya Pal Anand vs. State of Madhya Pradesh	05.08.13	MANU/SC/0825/20 13; (2014) 4 SCC 800	R.M. Lodha and Madan B. Lokur	Indian Penal Code Section 228-A (2) and Section 376, 376-A, Section 376-B and Section 376-C or Section 376-D – Rape and disclosure of Identity.
5.	Mohd. Haroon and Ors.	26.03.14	MANU/SC/0226/20 14	P. Sathasivam, (C.J.I.), Ranjana	Art. 21, 14, 32, 142, 136 of the Constitution

	Vs. Union of India (UOI) and Anr.			Prakash Desai and Ranjan Gogoi	Muzaffarnagar Riots, 2013.
6.	In Re: Indian Woman says gang-raped on orders of Village Court published in Business and Financial News	28.03.2014	MANU/SC/0242/20 14; (2014) 4 SCC 786.	P. Sathasivam, C.J.I., S.A. Bobde and N.V. Ramana, JJ.	Suo Moto cognizance by the Court under Art. 21 and 32 of the Constitution for Gang Rape victims §376(g).
7.	Suresh & Ors. Vs. State of Haryana	28.11.14	MANU/SC/1091/20 14	V. Gopala Gowda and A.K. Goel	IPC: 302 r/w 34, 364A, 201 and 120B. [Kidnapping and Murder for ransom.]
8.	Zorawar Singh Vs. Gurbax Singh Bains & Ors.	04.12.14	(2015) 2 SCC 572.	Anil R. Dave and U.U. Lalit	IPC Sections: 304-A, 279,337 and 427 (Rash Driving and Homicide)
9.	Manohar Singh Vs. State of Rajasthan	16.01.15	MANU/SC/0042/20 15	T.S. Thakur and A.K. Goel,	IPC Section 323 - Punishment for voluntarily causing hurt.
10.	State of Madhya Pradesh vs. Mehtaab	13.02.15	MANU/SC/0142/20 15; (2015) 5 SCC 197.	T.S. Thakur and A.K. Goel	IPC- Section 304A (Causing death by negligence.) IPC - Section 337 (Causing hurt by act endangering life or personal safety of others)

					IPC - Section 357A (Assault or criminal force in attempt wrongfully to confine a person.)
11.	State of Punjab Vs. Saurabh Bakshi	30.03.15	MANU/SC/0362/20 15	Dipak Misra and Prafulla C. Pant	IPC: 304A - [Death by negligence.]
12.	Parivartan Kendra Vs. Union of India (UOI) and Ors.	07.12.15	MANU/SC/1399/20 15; (2016) 3 SCC 571	M. Yusuf Eqbal and C. Nagappan	Acid Attack
13.	Tekan Alias Tekram Vs. State of Madhya Pradesh	11.02.16	MANU/SC/0156/20 16	M. Yusuf Eqbal and Arun Mishra	IPC Section 376: Punishment for rape [Rape of blind and an illiterate girl, was subjected to sexual intercourse on the promise of marriage.]
14.	Ravada Sasikala Vs. State of Andhra Pradesh and Ors.	27.02.17	MANU/SC/0207/20 17; (2017) 4 SCC 546	Dipak Misra and R. Banumathi,	IPC Section: 326 (Voluntarily causing grievous hurt by dangerous weapons or means) IPC Section: 448 (Punishment for house-trespass)
15.	Mukesh and Ors. Vs. State for NCT of Delhi and	05.05.17	MANU/SC/0575/20 17; 2017)6SCC1	Dipak Misra, Ashok Bhushan and R. Banumathi	Rarest of rare applied to give death sentence Capital punishment - Gang rape - Rarest of rare: Sections 120B, 201, 302,



	Ors. (AKA) Nirbhaya Case				307, 365, 366, 376(2)(g), 377, 395, 397 and 412 of Indian Penal Code, 1860
16.	Eera through Manjula Krippendorf Vs. State (Govt. of NCT of Delhi) and Ors.	21.07.17	MANU/SC/0876/20 17; 2017 (8) SCALE 112	Rohinton Fali Nariman and Dipak Misra	POCSO Act 2015: Section 2(d) IPC Section: 376(2)(1) – Rape of a minor.
17.	Z Vs. The State of Bihar and Ors.	17.08.17	AIR 2017 SC 3908	Dipak Misra, Amitava Roy and A.M. Khanwilkar	Compensation for Medical Negligence in termination of pregnancy.

### Allahabad High Court

Sr. No.	Case Name	Date of Decision	Citation	Bench	Brief Comment
1.	Ganesh Prasad vs. L.D.A Lucknow & Ors.	21.10.11	MANU/UP/2479/2 011; 2011 SCC OnLine All 1718.	D.P. Singh and Virendra Kumar Dixit	The Lucknow Development Authority deprived the Petitioners of plots which were lawfully allotted to them through lottery system and that too, when the entire cost of the plots was deposited by the Petitioners in terms of the schedule prescribed by the LDA. Court directed the government to compensate such victims.
2.	Smt. Savitri Devi	04.10.13	MANU/UP/2435/2 013; 2013 SCC OnLine All 13977	Mushaffey Ahmad	(IPC) - Section 307 Section 323; Section 325; Section 34; Section 504; Section 506

	Vs. State of U.P and Others				
3.	“A” through her Father “F” vs. State of U.P. and Ors.	03.11.15	MANU/UP/1846/2 015; 2015 SCC OnLine All 4735	Shabihul Hasnain and D.K. Upadhyay	Section 376, 506 IPC & Section 3/4 of Prevention of Children from Sexual Offenses Act – Rape of a minor
4.	Mohd. Kaleem Vs. State of UP	24.11.15	2015 SCC OnLine All 7077	Sudhir Kumar Saxena	Appellant had been found guilty of causing grievous injuries to Haseen Abbas in an acid attack. He was sentenced to 10 years R.I under Sections 307/506 I.P.C
5.	Raja Ram Kewat and Ors. Vs. State of U.P.	19.04.17	MANU/UP/0784/2 017	Bharat Bhushan and Shailendra Kumar Agrawal	IPC Section 302- Murder
6.	Manoj Kumar vs. State of U.P.	23.05.17	MANU/UP/1287/2 017	Pradeep Kumar Singh Baghel	Acid Attack - Conviction - Sections 326, 307 and 506 of Indian Penal Code (IPC) 1860

### Bombay High Court

Sr. No	Case Name	Date of Decision	Citation	Bench	Brief Comment
1.	Rajubhai Dhamirbhai Baria Vs. The State of Gujarat and Ors.	10.07.12	2012(114)BomLR3 549; MANU/MH/141 5/2012	V.M. Kanade & P.D. Kode	Best Bakery Bomb Blast Case; IPC Sections 143, 147, 324 read with 149, 326 read with 149, 302 read with 149 of IPC.
2.	The State of Maharashtra	25.04.16	2016 SCC OnLine Bom 2297	A.I.S Cheema	Motor Vehicles Act, 1988 – S. 184

	Vs. Madhav Vitthal Bansode				
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### Calcutta HC

Sr. No.	Case Name	Date of Decision	Citation	Bench	Brief Comment
1.	Sabana Khatun vs. The State of West Bengal and Ors.	28.02.2014	MANU/WB/1215/2014	Ashim Kumar Roy	Writ Petition under Art. 226 by an acid attack victim.
2.	Sufiar Rahaman @ Sk. Sufiar Rahaman vs. State of West Bengal	06.07.2015	MANU/WB/0598/2015; 2015 SCC OnLine Cal 1591	Nadira Patherya and Indrajit Chatterjee	Sections §302 r/w §149 & 307 r/w §149 of the Indian Penal Code – Murder & Attempt to Murder.
3.	Nirmala Chakraborty vs. State of West Bengal & Ors	17.07.2015	MANU/WB/0572/2015; 2015 SCC OnLine Cal 1901.	Tapabrata Chakraborty	Section 302 - IPC
4.	Sunil Dhak vs. The State of West Bengal	10.09.2015	MANU/WB/0768/2015	Indrajit Chatterjee	Retrial for a conviction under Section 304 IPC. Compensation was still granted to the victim.
5.	Shib Shankar Das vs. State of West Bengal	05.10.2015	MANU/WB/0853/2015	Indrajit Chatterjee	Conviction under Section 304 Part-II is altered to Section 326 of the Indian Penal Code.
6.	Rupam Bhakta vs. State of West Bengal	14.10.2015	MANU/WB/0878/2015	Indrajit Chatterjee	Sections 148/304 Part-II of the IPC.
7.	Arjun Singh and Ors. vs. The State of West	18.03.2016	MANU/WB/0184/2016	Indira Banerjee and Indrajit	Section 302 read with Section 34 of the IPC

	Bengal and Ors.			Chatterjee	
8.	Bijan Behari Maiti vs. The State of West Bengal and Ors.	16.08.2016	MANU/WB/1276/2016	Joymalya Bagchi	Writ Petition under Art. 226 by an acid attack victim.
9.	Bijoy vs. The State of West Bengal	02.03.2017	MANU/WB/0140/2017	Joymalya Bagchi	Section 8 of Protection of Children from Sexual Offences Act
10.	Gangadhar Maity and Ors. vs. The State of West Bengal	12.05.2017	MANU/WB/0329/2017	Siddhartha Chattopadhyay	Sections 3(1), 4, 5(1), 6(1), 9(1) of Immoral Traffic Act
11.	Kashim Sk. and Ors. vs. The State of West Bengal	30.06.2017	MANU/WB/0456/2017	Aniruddha Bose and Sankar Acharyya	Sections 448/376(2)(g) of the Indian Penal Code
12.	Piyali Dutta vs. The State of West Bengal and Ors.	07.07.2017	MANU/WB/0474/2017	Debangsu Basak	Writ Petition under Art. 226 by an acid attack victim.

### DELHI HC

Sr. No.	Case Name	Date of Decision	Citation	Bench	Brief Comment
1.	Abrar Ahmad vs. State	27.09.2013	MANU/DE/3441/2013	J.R. Midha	FIR under Sec. 304A of the IPC quashed. Compensation granted to victim.
2.	Satya Prakash vs. State	11.10.2013	2013 SCC OnLine Del 4151; MANU/DE/3921/2	J.R. Midha	Sections 279/304A of IPC; Landmark guidelines for grant of Compensation to victims of

			013		Motor Accidents.
3.	Beeru vs. State NCT of Delhi	11.12.2013	MANU/DE/4563/2 013	Kailash Gambhir and Indermeet Kaur	Sections 376/506 of Indian Penal Code.
4.	Lokesh Mishra vs. State of NCT of Delhi	12.03.2014	MANU/DE/0658/2 014	Kailash Gambhir and Sunita Gupta	Sections 376/506 of Indian Penal Code.
5.	State vs. Intezar	08.09.2014	MANU/DE/2108/2 014	Dr. S. Muralidhar	Sections 279 and 304A IPC.
6.	Ghanshyam vs. State	12.09.2014	2014 SCC OnLine Del 4720; MANU/DE/2282/2 014	Sunita Gupta	Sections 307 of the IPC.
7.	Vikas Yadav and Ors. vs. State of U.P. and Ors.	06.02.2015	2015 SCC OnLine Del 7129; MANU/DE/0294/2 015	Gita Mittal and J.R. Midha	Section 201, 302 and 364 of the IPC
8.	Shikha Beniwal vs. State and Ors.	18.02.2015	MANU/DE/1417/2 015	Sunita Gupta	Section 307 of the IPC
9.	Chaman vs. The State (NCT of Delhi)	20.03.2015	MANU/DE/0855/2 015	Sunita Gupta	Section 376(2)(f) of the IPC.
10.	Deepak Kumar vs. State (Govt. of NCT) of Delhi	08.09.2015	MANU/DE/2766/2 015	Sanjiv Khanna and R.K. Gauba	Sections 302, 363, 376 and 201 of the IPC.
11.	Bhola Rishi vs. State of NCT of Delhi	16.05.2016	MANU/DE/1172/2 016	Pradeep Nandrajog	Section 376(2) (g) of the Indian Penal Code
12.	Bhagwan Dass vs. State	16.05.2016	MANU/DE/1173/2 016	Pradeep Nandrajog	Section 376/365 of the Indian Penal Code
13.	Simran and Ors. vs. State and	27.05.2016	MANU/DE/1295/2 016; 2016 SCC	Sunita Gupta	Sections 120B, 307 and 326 of

	Ors.		OnLine Del 3325		the IPC.
14.	Mukesh and Ors. vs. State	10.08.2016	MANU/DE/2022/2016	Hima Kohli	Section 376(2) (g) of the Indian Penal Code.
15.	Yashwinder Malik and Ors. vs. State and Ors.	08.12.2016	MANU/DE/3306/2016	S.P. Garg	Acid Attack, Charges framed against accused set aside due to lack of preliminary evidence. Compensation still granted.
16.	Gaya Prasad Pal vs. State	09.12.2016	2016 SCC OnLine Del 6214; MANU/DE/3290/2016	Gita Mittal and R.K. Gauba	Sections 354, 506, 376 IPC; Section 4 of POCSO.
17.	Sachindra Mishra vs. Sunita and Ors.	04.05.2017	MANU/DE/1437/2017	J.R. Midha	Section 304-A of the Indian Penal Code.
18.	Zahid vs. State	28.06.2017	2017 SCC OnLine Del 8923; MANU/DE/1801/2017	G.S. Sistani and Vinod Goel	Sections 302 of the IPC.
19.	Sushil Kumar vs. State	28.06.2017	MANU/DE/1802/2017; 2017 SCC OnLine Del 8924	G.S. Sistani and Vinod Goel	Sections 302 of the IPC.
20.	Kalu vs. State	08.09.2017	2017 SCC OnLine Del 10269; MANU/DE/2705/2017	G.S. Sistani and Vinod Goel	Sections 302 of the IPC.

### GAUHATI HC

Sr. No.	Case Name	Date of Decision	Citation	Bench	Brief Comment
1.	Sri. Torang Munda & Anr. vs. State of	11.01.2012	MANU/GH/0455/2012	A.K. Goel, CJ and Arun Chandra	Section 302/149 of I.P.C.

	Assam			Upadhyay	
2.	Sri. Ganesh Karmakar vs. State of Assam	19.01.2012	2012 SCC OnLine Gau 13.	A.K. Goel CJ and C.R. Sarma	Section 302 of Indian Penal Code.
3.	Sri Mona Urang, Sri Robi Urang, Sri Chabi Urang vs. State of Assam	19.01.2012	2012 SCC OnLine Gau 14.	A.K. Goel CJ and C.R. Sarma	Section 302 of Indian Penal Code.
4.	Sri. Gobinda Swargiary vs. State of Assam	20.01.2012	2012 SCC OnLine Gau 19.	A.K. Goel CJ and C.R. Sarma	Section 302 of Indian Penal Code.
5.	Sri. Binod Karmakar vs. State of Assam	20.01.2012	2012 SCC OnLine Gau 20.	A.K. Goel CJ and C.R. Sarma	Convert the conviction of the appellant from Section 302 to 304 Part I of the IPC.
6.	Sri. Dwigendra Das vs. State of Assam	27.01.2012	MANU/GH/0461/2012	A.K. Goel, CJ and C.R. Sarma	Sections 302 of the IPC.
7.	Shawan Kasta vs. State of Assam	27.01.2012	2012 SCC OnLine Gau 34.	A.K. Goel CJ and C.R. Sarma	Section 302 of Indian Penal Code.
8.	Tileswar Murari vs. The State of Assam	03.08.2012	MANU/GH/0354/2012	A.K. Goel CJ and Dr. (Mrs.) Justice Indira Shah	Conviction of accused under Section 302 IPC is modified and converted into the conviction under Section 304 (Part-1) IPC
9.	Sukul Majhi vs. The State of Assam	06.08.2012	MANU/GH/0401/2012	A.K. Goel CJ and B.D. Agarwal	Sections 302 r/w 34 of Indian Penal Code.
10.	Sri Sunil Gore @ Sunil Gorh vs. The State of Assam	08.08.2012	MANU/GH/0357/2012	A.K. Goel CJ and B.D. Agarwal	Convert the conviction from Section 302 to Section 304 Part-I IPC.
11.	Sri Akla Orang	08.08.2012	MANU/GH/0391/	A.K. Goel CJ	Sections 323 & 302 of the IPC.

	vs. State of Assam		2012	and Dr. (Mrs.) Justice Indira Shah	
12.	Sri Binoy Ganju vs. State of Assam	08.08.2012	MANU/GH/0390/2012	A.K. Goel CJ and Dr. (Mrs.) Justice Indira Shah	Section 302 of the IPC
13.	Sri Monai Tanti vs. State of Assam.	08.08.2012	MANU/GH/0388/2012	A.K. Goel CJ and Dr. (Mrs.) Justice Indira Shah	Sections 447, 323 and 302 of IPC.
14.	Sri Rajen Tanti, Lahophiya Tea Estate, Jorhat vs. State of Assam	08.08.2012	MANU/GH/0386/2012	A.K. Goel CJ and Dr. (Mrs.) Justice Indira Shah	Conviction of the accused persons under Section 302 IPC is set aside. However, the conviction of accused persons under Section 341 IPC is maintained. The accused persons are convicted under Section 341 and 326 IPC read with Section 34 IPC.
15.	The State of Assam vs. Golbar Hussain & Ors.	31.08.2012	MANU/GH/0402/2012	A.K. Goel CJ and B.D. Agarwal	Section 302 r/w Section 149 of the IPC.
16.	Intaz Ali vs. State of Assam	21.09.2012	MANU/GH/0723/2012	A.K. Goel, C.J. and C.R. Sarma	Conviction and sentence under 302 IPC are set aside. Compensation still granted.
17.	Jahan Lagun vs. State of Assam	21.09.2012	MANU/GH/0724/2012	A.K. Goel, C.J. and C.R. Sarma	Conviction and sentence under 302 IPC are set aside. Compensation still granted.
18.	Ratan Singh & Anr. vs. State of Assam.	05.10.2012	MANU/GH/0702/2012	A.K. Goel, C.J. and C.R. Sarma	Conviction and sentence under 302 IPC are set aside. Compensation still granted.
19.	Amit Lahkhowa	15.10.2012	MANU/GH/0717/	A.K. Goel,	Section 302 of the IPC.



	vs. State of Assam		2012	C.J. and C.R. Sarma	
20.	Parul Rabha and Anr. vs. State of Assam	31.07.2013	MANU/GH/0408/2013	I.A. Ansari and Dr. Indira Shah	Conviction and sentence under 302 IPC are set aside. Compensation still granted.
21.	Sri Harka Bahadur Subba vs. The State of Assam	07.10.2013	MANU/GH/0419/2013	B.D. Agarwal and Indira Shah	Convert the conviction of the appellant from Section 302 to 304 Part II of the IPC.
22.	Sri Bidya Tanti vs. The State of Assam	08.10.2013	MANU/GH/0420/2013	B.D. Agarwal and Prasanta Kumar Saikia	Convert the conviction of the appellant from Section 302 to 304 Part II of the IPC.
23.	Shri Dipak Tirky vs. The State of Assam	19.03.2014	MANU/GH/0053/2014	Brojendra Prasad Katakey and M.R. Pathak	Sections 302 & 324 of the IPC.
24.	Saleh Ahmed vs. The State of Assam	06.05.2014	MANU/GH/0118/2014	Brojendra Prasad Katakey and Dr. Indira Shah	Conviction and sentence under 302 IPC are set aside. Compensation still granted.
25.	Rahmat Ali and Hiramoni Mazumdar vs. The State of Assam	22.05.2014	MANU/GH/0169/2014	Brojendra Prasad Katakey and Prasanta Kumar Saikia	Convert the conviction of the appellant from Section 302 to 304 Part II of the IPC.
26.	Md. Saidul Islam and Md. Esub Ali @ Esab @ Yusuf vs. The State of Assam	23.05.2014	MANU/GH/0167/2014	Brojendra Prasad Katakey and Prasanta Kumar Saikia	Conviction and sentence under 302 IPC are set aside. Compensation still granted.

27.	Hiren Das vs. State of Assam	23.06.2014	MANU/GH/0267/ 2014	Brojendra Prasad Katakey and M.R. Pathak	Conviction and sentence under 302/326 r/w 34 of IPC are set aside. Compensation still granted.
28.	Albert Tiru vs. State of Assam	04.03.2015	MANU/GH/0166/ 2015	M.R. Pathak	Accused under 376 and convicted by trial court. Found out later he was juvenile by HC. Sentence set aside. Matter now be remitted to the District Juvenile Justice Board.  Compensation still granted
29.	Chutu Gorh vs. State of Assam	13.10.2015	MANU/GH/0831/ 2015	Prasanta Kumar Saikia and Rumi Kumari Phukan	Sections 302 of Indian Penal Code.
30.	Shyamendu Deb and Ors. vs. State of Assam	17.05.2017	MANU/GH/0161/ 2017	Ujjal Bhuyan and Paran Kumar Phukan	Sections 302 r/w 34 of Indian Penal Code.

### GUJARAT High Court

Sr. No.	Case Name	Date of Decision	Citation	Bench	Brief Comment
1.	Lakshmanbhai Baburao Masaekar vs. State of Gujarat	06.05.2013	2013 SCC OnLine Guj 2608	G.R Udhwani	Compensation under 357A given to a riot victim. Even though the claimant unable to prove 2 lakhs rupees worth of loss successfully, around 25,000 rupees worth compensation given to meet the ends of justice.
2.	Abdul Afiz	23.07.2015	MANU/GJ/1186/2	Sonia Gokani	Section 279, 304(A) & 338 IPC.

	Gulamrasul Vohra vs. State of Gujarat		015		Section 184 of the Motor Vehicles Act, 1988
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### Jharkhand High Court

Sr. No.	Case Name	Date of Decision	Citation	Bench	Brief Comment
1.	Mojib Ansari & Ors. Vs. State of Jharkhand	13.08.15	2015 SCC OnLine Jhar 361	Virender Singh CJ and P.P Bhatt	Section: 366, 376(2), 307, 379/120B - Kidnapping, rape, attempt to murder and theft.

### KARNATAKA High Court

Sr. No.	Case Name	Date of Decision	Citation	Bench	Brief Comment
1.	The State of Karnataka vs. Rangaswamy	09.09.2015	MANU/KA/3058/ 2015	Mohan M. Shantanagou dar and Budihal R.B.	Acquittal Order passed by both Trial Court and High Court under Section 436 of IPC. Compensation was still granted to the victim for loss by fire.
2.	Mogalappa vs. The State of Karnatka	01.10.2015	MANU/KA/2449/ 2015	H.G. Ramesh and A.V. Chandrashek ara	Sections §304 Part II of the Indian Penal Code.
3.	Ranganatha vs. The State of Karnataka	20.11.2015	MANU/KA/3418/ 2015	A.V. Chandrashek ara	Sections 304B and 498A of IPC and Sections 3 and 4 of Dowry Prohibition Act, 1961
4.	Kengaiyah and Ors. vs. State of Karnataka	30.03.2016	MANU/KA/0802/ 2016.	H. Billappa	Sections 143, 148, 323 and 326 r/w 149 of IPC.

**KERALA High Court**

Sr. No.	Case Name	Date of Decision	Citation	Bench	Brief Comment
1.	State of Kerala & Ors. vs. M. Gopalan	19.11.2014	2014 SCC OnLine Ker 23824; MANU/KE/1935/2014	Ashok Bhushan, Actg. C.J. and A.M. Shaffique	State inaction allegedly responsible for petitioner's son's murder & compensation awarded to grieving father.
2.	Sabu E.K. and Ors. vs. State and Ors.	31.03.2016	2016 SCC OnLine Ker 22210; MANU/KE/0324/2016	P.D. Rajan	Interim Compensation granted even though trial is pending. Framed charge against A1 to A3 under Secs. 323, 331, 348 and 302 read with Sec. 34 of the Indian Penal Code and also charge sheeted A1 to A7 under Sec. 120B read with Sec. 201, 167, 466 and 474 of the Indian Penal Code.

**Madras High Court**

Sr. No.	Case Name	Date of Decision	Citation	Bench	Brief Comment
1.	Katturaja Vs. State of Tamil Nadu	29.10.2013	2013 SCC OnLine Mad 3210.	M. Jaichandren and S. Nagamuthu, JJ.	Sections: 302 r/w 34 & 449 IPC, SC/ST Atrocities Prevention Act Section 3(2)(v) – Brutal killing of 4 persons including 2 children of a family.

					Even though conviction reversed, compensation per 357A given.
2.	Suresh Kumar vs. State of Tamil Nadu	28.06.16	MANU/TN/1193/2016	S. Nagamuthu and V. Bharathidasan,	302 IPC: Punishment for Murder 324 IPC: Voluntarily causing hurt by dangerous weapons of means.
3.	S. Santhi vs. State of Tamil Nadu	30.08.16	2016 SCC OnLine Mad 23080	K.K Sasidharan	Sections 302 and 380 IPC against unknown accused.
4.	Bhanumathi vs. State of Tamil Nadu	16.12.16	2016 SCC OnLine Mad 32436	M.V Muralidaran,	Custodial torture and police brutality

### ORISSA HIGH COURT

Sr. No.	Case Name	Date of Decision	Citation	Bench	Brief Comment
1.	Abdul Rashid Vs. State of Odisha & Ors.	11.12.13	MANU/OR/0458/2013; 2013 SCC OnLine Ori 493	A.K. Goel CJ and Dr. Akshaya Kumar Rath	State inaction responsible for a child laborer's death. Constitution Of India - Article 21, Article 38, Article 39A, Article 41, Article 51A; Family Courts Act, 1984 - Section 7(2)(a)

## Patna High Court

Sr. No.	Case Name	Date of Decision	Citation	Bench	Brief Comment
1.	Parmeshwar Mandal Vs. State of Bihar & Ors.	26.11.13	MANU/BH/0654/2013	Jayanandan Singh and Aditya Kumar Trivedi	Sections: 341, 342 & 302/34 of IPC - Wrongful restraint/confinement and murder.  Compensation order reversed as the accused were acquitted and the claimants i.e. the cousin father-in-law of the deceased were deemed to "far-off" for having suffered any 'loss' or 'injury' as and to qualify as a 'victim'.
2.	Upendra Paswan Vs. The State of Bihar	25.11.16	MANU/BH/1104/2016	Samarendra Pratap Singh and Aditya Kumar Trivedi	Code of Criminal Procedure, 1973 (CrPC) - Section 125; Section 357-A; Section 357A; Family Courts Act, 1984 - Section 7(2)(a);  Indian Penal Code 1860, (IPC) - Section 325; Section 326; Section 34  [Only as per Manupatra, the judgment was silent on the factual matrix.]  Directed to DLSA for compensation.

### Punjab & Haryana High Court

Sr. No.	Case Name	Date of Decision	Citation	Bench	Brief Comment
1.	Harkishan vs. State of Punjab	05.12.2015	2015 SCC OnLine P&H 17282	Darshan Singh	Section 307, 324, 323 of IPC.
2.	Kamlesh Sharma vs. State of Haryana	17.08.2016	2016 SCC OnLine P&H 6955	M. Jeyapaul and Tejinder Singh Dhindsa	Interim Compensation granted even though trial is pending. Framed charge under Secs. 302 & 376 of IPC.

### Rajasthan High Court

Sr. No.	Case Name	Date of Decision	Citation	Bench	Brief Comment
1.	Nanu vs. The State of Rajasthan and Anr.	14.05.2013	MANU/RH/1357/2013	Sandeep Mehta	Sections §323 & 324 & 326 of the Indian Penal Code.
2.	Shiva @ Savaram vs. State of Rajasthan	08.11.2013	MANU/RH/1375/2013	Kanwaljit Singh Ahluwalia	Section 354, 376, 506 & 509. Juvenile Justice (care And Protection Of Children) Act, 2000 - Section 23, Juvenile Justice (care And Protection Of Children) Act, 2000 - Section 26; Protection Of Children From Sexual Offences Act, 2012 - Section 8
3.	Kailash Chand vs. State of Rajasthan	14.07.2015	MANU/RH/1725/2015	Kanwaljit Singh Ahluwalia and Banwari Lal Sharma	Section 376 read with Section 323 of the IPC.
4.	Ram Narain vs	12.08.2015	2015 SCC OnLine	Kanwaljit	Sections §304-B & 498-A of the

	State of Rajasthan		Raj 9834	Singh Ahluwalia and Banwari Lal Sharma	Indian Penal Code.
5.	Heeralal vs. State of Rajasthan	08.03.2017	MANU/RH/0256/2017	Gopal Krishan Vyas and G.R. Moolchanda ni	Prevention of Children from Sexual Offences Act, 2012, Sec. 5(N)/6 (POCSO Act) and Penal Code, Sec. 376 and 164.
6.	Ranga vs. State of Rajasthan	03.05.2017	MANU/RH/0294/2017.	Gopal Krishan Vyas and G.R. Moolchanda ni	Section 354, 376 & 456 - IPC
7.	Harja Ram and Ors. vs. State of Rajasthan	25.05.2017	MANU/RH/0418/2017	Gopal Krishan Vyas and Inderjeet Singh	Section 304 Part-I of IPC.
8.	Narayan Singh vs. State of Rajasthan	08.06.2017	MANU/RH/0456/2017	Gopal Krishan Vyas and Arun Bhansali	Sections 304 Part-II and 450 of IPC.

### SIKKIM High Court

Sr. No.	Case Name	Date of Decision	Citation	Bench	Brief Comment
1.	Deo Kumar Rai vs. State of Sikkim	13.09.2017	2017 SCC OnLine Sikk 152; MANU/SI/0045/2017	Bhaskar Raj Pradhan	Section 9(m) and 9(n) of Protection of Children from Sexual Offences Act, 2012.



### TRIPURA High Court

Sr. No.	Case Name	Date of Decision	Citation	Bench	Brief Comment
1.	Shib Sankar vs. The State of Tripura	10.03.2017	MANU/TR/005 1/2017	T. Vaiphei, C.J. and S.C. Das	Conviction and sentence under 376 of IPC set aside. Compensation still granted.

### UTTRAKHAND High Court

Sr. No.	Case Name	Date of Decision	Citation	Bench	Brief Comment
1.	State of Uttarakhand vs. Ajam	12.06.2017	MANU/UC/017 5/2017	Rajiv Sharma and Sharad Kumar Sharma	Writ Petition under Art. 226 by an acid attack victim.

### Brief Analysis

- It was found that the trend of the courts is getting more humane and a lot towards awarding compensation to the victim, even if such a change is gradual in nature.
- 357A/357(3) was very rarely resorted to as evident by the fact that only around 116 judgements from “*all the courts of record in India*” were passed between “2008-2017(Aug)” *all of which have been used in this project.*
- Out of 24 Hon’ble High Courts in India, only 17 of them passed a verdict granting actual compensation to the victim. Many of these High Courts have passed barely one or a few orders (less than 10). Only 3 High Courts have been seen to pass orders more than 10 in number actually granting Compensation to the victims. Some of the High Courts like Chhattisgarh HC in *State of Chhattisgarh*

*vs. Dilip Verma and Ors in 2017*<sup>5</sup>, (not mentioned in the above analysis), asked its State Government to quickly provide for a victim compensation fund to begin with.

- Many a times, as it is seen, a particular judge or a particular Division Bench decides upon almost similar types of offences (usually 302/302 or 376) and would successively pass many similar such orders within a day or a week.
- An interesting point seen was that of all the high courts, a relatively small one i.e. Guwahati High Court had the largest number of cases around 30 under 357/357A. The researcher saw that of all the 30 cases decided by the court around 19 were decided where Hon'ble Mr. Justice A.K. Goel presided.
- In general, of all the 116 cases, 23 (1 Orissa + 3 Apex Court + 19 Guwahati) or *one-fifth* of the cases were decided by A.K. Goel which shows that he is a very humane judge.
- Very rare cases where compensation wasn't granted was when the charges levelled against the accused couldn't be proven at all and there was no merit in complainant's plea or the complainant was far too remote to qualify as an appropriate "victim".
- Overall trend shows that the highest beneficiaries of victim compensation, were those victims who were afflicted with grievous injuries particularly homicide, assault and sexual offences, as compared to the victims of crimes like those under negotiable instruments acts etc.
- In a couple of cases like *State of Gujarat vs Dalwadi Jashmat Ranchhod*<sup>6</sup>, *State of Karnataka vs Arjun*<sup>7</sup>, *State of Karnataka vs Ranjana*<sup>8</sup> even though the High Courts mentioned 357-A (compensation by state), they still asked the convict to pay the compensation. This suggests a limited understanding of the law.

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<sup>5</sup> 2017 SCC OnLine Chh 510; MANU/CG/0206/2017.

<sup>6</sup> MANU/GJ/0325/2016

<sup>7</sup> MANU/KA/0047/2017

<sup>8</sup> MANU/KA/0985/2016

- Some interesting cases (not included in the above survey) seemed to stand out. For instance, *Kulwinder Singh vs State of Punjab in 2013*, the P&H HC didn't use 357-A but rather used its inherent powers to do justice to provide compensation to dependents of victim of custodial death. In another case of *Sri Petuka Kharia vs State of Assam*<sup>9</sup>, the Gauhati High Court specifically did not grant compensation as it was the murder convict was the brother of the victim, if an order of 357-A would've been passed, the convict himself would have been eligible for such compensation. In yet another case of *Mahesh Sharma vs State of Himachal Pradesh in 2013*, the HP High Court rebuked the state for cutting prisoner's salary to provide for Victim Compensation Fund.
- Almost exclusively, all the cases deal with majorly homicide (§302/§304 IPC) or sexual offences or of grievous hurt. However, cases like violence (say for rioting and police inaction) or other cases of state negligence etc. compensation was granted in very few such instances.

### Conclusion With Suggestions And Proposed Reforms

*"Hear those who cannot shout;*

*Listen to those who cannot speak"*

All 116 odd cases till date concerning §357/357A were just for grievous offences like bodily/sexual injuries and very rarely for compensating for other criminal *albeit* lesser serious offences. It shows a major mental block in judiciary's attitude which needs to change. They should implement these provisions as liberally as possible, a point which has been reiterated by the Apex Court itself, but not to much avail. The term "*May*" in §357(1) & (3) provides far too many discretionary leeway to the judges, a fact due to which victims are compensated in an extremely limited number. So, one of the very first things that should be done is to amend the discretionary powers to fully legally required mandate where judges have to decide a minimum and adequate amount of compensation that must be given. Another important factor

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<sup>9</sup> MANU/GH/0304/2013

being that there should be development and proper upgrades of such victim compensation schemes by the states as well as the Centre as envisaged under §357A. It won't be much useful for a judge to pronounce a judgement under such provisions only to find out that they can't be implemented at all!

Many developed countries criminal code provide for such rehabilitation at all stages as they keep in mind the harshness of the situation especially from a victim's perspective. There have been two very profound statements from American courts like *"just as the murderer should be considered as an individual, so too the victim is an individual whose death represents a unique loss to society and in particular to his family"* by White J.<sup>10</sup> and *"justice, though due to the accused, is due to the accuser also. The concept of fairness must not be strained till it is narrowed to a filament. We are to keep the balance true"* by Cardozo J.<sup>11</sup> Another thing that has to be taken in mind that the accused and the victim are usually both from an impoverished background. So, the convict can't be reasonably expected to reimburse the victim adequately for moral/financial/medical aspects out of his own meager earnings especially in a prison backdrop. So, such mechanisms should be evolved by the government so that the victim doesn't have to rely upon the "judge's mercy" or "convict's pocket" when all the while he is suffering and not rehabilitated.

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<sup>10</sup> Booth vs. Maryland, 482 U.S. 496 (1987).

<sup>11</sup> Snyder vs. Massachusetts, 291 U.S. 97 (1934).