

IN THE HIGH COURT OF JHARKHAND AT RANCHI  
Cr. M.P. No. 2194 of 2020

----

1. Sumit Kumar Shaw  
2. Amit Shaw  
3. Aweez Kamal  
4. Sanchita Malakar @ Sanchita Debnath ... **Petitioners**

**-versus-**

1. The State of Jharkhand  
2. Md. Mauman Alam ... **Opposite Parties**

----

**CORAM : HON'BLE MR. JUSTICE ANANDA SEN  
THROUGH VIDEO CONFERENCING**

----

**For the Petitioners :** Mr. Indrajit Sinha, Advocate  
**For the State:** Mr. P.A.S. Pati, S.C. IV  
**For the O.P. No.2 :** Mr. Soumitra Baroi, Advocate

----

**J U D G M E N T**

**RESERVED ON 29.01.2021**

**PRONOUNCED ON 11.02.2021**

**7/ 11.02.2021** Aggrieved by part of the order dated 20<sup>th</sup> January 2020, passed by learned Judicial Commissioner at Ranchi in A.B.P. No. 1987 of 2019, arising out of Lower Bazaar Police Station Case No. 411 of 2018, the petitioners have approached this Court, by filing this criminal miscellaneous petition, by invoking jurisdiction under Section 482 of the Code of Criminal Procedure (hereinafter referred to as 'the Code').

**2.** The petitioners herein are accused of Lower Bazar Police Station Case No.411 of 2018 registered under Sections 406 and 420 of the Indian Penal Code. These accused persons approached the Court of learned Judicial Commissioner, Ranchi praying for grant of anticipatory bail. Learned Judicial Commissioner, in A.B.P. No. 1987 of 2019, heard the petitioners and granted the privilege of anticipatory bail to them. While granting anticipatory bail, learned Judicial Commissioner, Ranchi, directed the petitioners to pay a sum of Rs.1 lakh collectively, in favour of the informant/victim, as ad-interim victim compensation. The petitioners are aggrieved by this part of the order which directs them to pay the victim compensation.

**3.** The informant/victim was noticed in this criminal miscellaneous petition. The victim/informant has appeared through their lawyer. All the parties agreed

for final disposal of this case at this stage itself, thus they argued at length to their satisfaction.

#### **SUBMISSION OF THE PETITIONERS**

4. The counsel, appearing on behalf of the petitioners, submits that learned Judicial Commissioner has committed a grave error in granting victim compensation at the stage of grant of bail by directing the petitioners to pay the said amount. He submits that at the stage of bail, these petitioners are merely an accused. As there is a presumption of innocence in their favour, the petitioners could not have been directed to compensate the informant/victim. It is his submission that without giving a concrete finding that the petitioners are guilty of the offence, no order could have been passed against them to compensate the informant/victim. As per the petitioners this finding of guilt can only be arrived at, after completion of the trial and not before that. Thus, he contends that without holding the petitioners guilty (after conclusion of a proper trial), the Court could not have ordered, nor could have directed the petitioners to compensate the victim/informant. He submits that as per section 357A of the Code the Court does not have any power to direct payment of victim compensation. As per his submission, the Court is only a recommending authority, and could not have fixed the quantum of compensation. According to the petitioners, learned Judicial Commissioner has gone beyond the scope of section 357A of the Code by fixing the quantum of compensation and also directing the petitioners to pay the said amount. He further submits that the State of Jharkhand has formulated a scheme for grant of victim compensation and as per the said scheme, there is a schedule and only the victims, who suffer the nature of injuries prescribed as per the schedule, is entitled to receive victim compensation. According to him this case does not fall within the categorised injuries or loss as mentioned in the schedules, thus, the impugned order directing payment of compensation is bad. He further submits that the Court could not have directed to make the payment of victim compensation as a condition of bail also. He submits that it is well settled principle that the Court, while granting bail, cannot impose any irrelevant condition. He submits that directing the petitioner to pay the amount as compensation, at the time of grant of bail, is an irrelevant condition, that too without considering the effect of future acquittal. He further submits that though in the impugned order it has been mentioned that the petitioners have volunteered to compensate the victim/informant, but legally speaking this

submission could not have been taken into consideration while granting bail. According to him if the impugned order is read in its entirety, it will be quite clear that the said concession was not at all a ground to grant bail, rather the anticipatory bail was granted on merits. He submits that when the Court, after finding merits in the case, had granted the privilege of anticipatory bail to the petitioners, then there was no occasion for the Court to direct the petitioners to pay victim compensation. He further submits that a submission, which is against the law, cannot be a basis for the Court to pass an order. The petitioners in support of all their contentions, made hereinabove, relied upon the following decisions: –

***(i) (2008) 12 SCC 675 [State of Uttar Pradesh & Another versus UP Rajya Khanij Vikas Nigam Sangarsh Samiti & Others];***

***(ii) 2020 (2) JBCJ 640 (HC) [Jitendra Oraon versus The State of Jharkhand];***

***(iii) (2015) 2 SCC 227 [Suresh & Another Versus State of Haryana]***

***(iv) Cr. M.P. No.4240 of 2019 [Jaffar Ansari versus The State of Jharkhand]***

***(v) (2020) SCC Online SC 964 [Arnab Manoranjan Goswami versus State of Maharashtra and Others]***

***(vi) (2020) 5 SCC 1 [Sushila Aggarwal & Others versus State (NCT of Delhi) and another]***

Counsel for the petitioners lastly submits that in view of his submission and the provision of law, especially section 357A of the Code, this criminal miscellaneous petition needs to be allowed and the direction of the Judicial Commissioner to pay victim compensation needs to be set aside.

#### **SUBMISSIONS OF THE INFORMANT**

5. Learned counsel appearing on behalf of the informant submitted that from the perusal of the impugned order dated 20.01.2020 in A.B.P. No.1987 of 2019, it would appear that the petitioners have voluntarily made a submission before the Court of learned Judicial Commissioner, Ranchi that they are ready to compensate the informant and, therefore, learned Court below has, as a

condition for grant of anticipatory bail, had directed the petitioners to deposit a sum of Rs.1,00,000/- (Rupees One Lakh) collectively in favour of the informant/ victim as ad-interim victim compensation without being prejudiced to their defence. He submits that as prima facie, from the perusal of the First Information Report, it appears that inspite of receipt of sale proceeds from the informant, due to the illegal acts of the petitioners, the informant/victim had to suffer monetary loss due to non-supply of the No Objection Certificate within time. The informant, as a result of which, could not get the insurance claim, due to which he could not even get the car repaired. The said illegal act of the petitioners has caused further loss of income to the informant, which amounts to cheating. So, as per him, the Court below has rightly directed the petitioners to pay victim compensation to the informant/victim.

#### **SUBMISSIONS OF THE STATE**

6. Learned counsel appearing on behalf of the State submits that the Court below has got jurisdiction to direct payment of victim compensation at any stage of a criminal proceeding. He submits that even independent of Section 357A of the Code, the Court has power to grant any relief and pass any order as a condition of bail. He submits that, in fact, the petitioners volunteered to compensate the victim/informant, thus, now they cannot backtrack and challenge the part of the order by which the Court has directed payment of victim compensation.

#### **ISSUES FOR CONSIDERATION**

7. After hearing the counsel for the parties I find that the main issues which fall for consideration in this criminal miscellaneous petition are:-

(i) Whether the Court can fix the quantum of victim compensation and/or give a direction to make payment of victim compensation under Section 357A of the Code after quantifying the same?

(ii) Whether the Court can direct an accused to pay compensation or victim compensation at the time of granting bail or at any stage prior to conclusion of the trial?

(iii) In relation to the instant case, whether the submission made by the accused persons in course of argument before the leaned Judicial Commissioner, Ranchi, while hearing the anticipatory bail application to the effect that, they are ready to pay victim

compensation can be a ground / relevant consideration to grant the relief?

**FACTS GIVING RISE TO THIS APPLICATION**

8. Before entering the aforesaid questions, it is necessary to give brief facts, which gave rise to this criminal miscellaneous petition, filed under Section 482 of the Code.

- a. The informant / OP No. 2 lodged a FIR being Lower Bazar Police Station Case No. 411 of 2018 dated 27.10.2018 alleging therein that informant had purchased a vehicle (Car having registration no. WB-06G 1050) worth Rs.3,35,000/- from Kolkata Car Bazar and paid Rs.50,000/- in cash and rest balance amount of Rs.2,85,000/- has been paid through bank transfer. Further case of the informant is that it was agreed between the parties that entire paperwork including transfer of name and issuance of NOC will be completed and sent to the informant but even after lapse of 9 months no documents related with the Car having registration No. WB-06G 1050 was received by the informant. In the meantime, said vehicle met with an accident and due to lack of documents including NOC, informant could not get benefit of insurance claim, thus he was cheated.
- b. The petitioners on coming to know about the institution of the FIR, approached the Learned Court of Judicial Commissioner, Ranchi by filing an application under section 438 of the Code praying for grant of Anticipatory Bail, which was registered as A.B.P. No. 1987 of 2019.
- c. The application for grant of anticipatory bail was taken up on 20.01.2020 and the petitioners were granted the privilege of anticipatory bail on amongst other, an additional condition to the effect that they would pay a sum of Rs.1,00,000/- collectively to the informant as ad-interim victim compensation.

- d. It may be pertinent to mention herein that learned Judicial Commissioner, Ranchi while passing the above order has, interalia, recorded that the petitioners are ready to compensate the informant.
- e. Aggrieved by the part of the order, by which the Court directed these petitioners to pay victim compensation, the petitioners filed this criminal miscellaneous petition under Section 482 of the Code, challenging that part of the order.

### **FINDINGS**

**9.** By the impugned order, Court has directed the petitioners to pay ad-interim victim compensation. Though the order does not specify that by invoking which section of the Code, the payment was directed to be made, yet from the expression “victim compensation” it can be understood that the same was passed by invoking section 357A of the Code.

**10.** The Criminal Procedure Code 1973 did not provide much in favour of the victims. Only in the year 2009, by virtue of an amendment, some rights were conferred upon the victim of a crime.

**11.** Section 357A was inserted in the Code by the Code of Criminal Procedure (Amendment) Act, 2008 (Act 5 of 2009), and this section came into effect on and from 31.12.2009. The Statement of Objects and Reasons as appearing in prefatory note to the Code of Criminal Procedure (Amendment) Bill, 2006 interalia noted that the victims are the worst sufferers in a crime and they don't have much role in the court proceedings and they need to be given certain rights and compensation, so that there is no distortion of the criminal justice system.

**12.** Since rights of victim were sought to be recognised by this Amendment Act, hence it can be said that the Amending Act is an instance of a rights-based approach and it guarantees certain rights to the victims of crime, including the right to receive compensation and it also provides for an inclusive approach which builds up on the idea of access to justice for all. The provision is victim centric and has nothing to do with the offender. The spotlight is on the victim only. This is made clear by the provision itself as it entitles an eligible victim to receive compensation thereunder even in cases where the offender is not identified, or even if the accused is acquitted or discharged. The object of

victim compensation is also to create mechanisms for rehabilitation measures by way of medical and financial aid to certain victims.

13. To appreciate the issue under consideration, the provisions of section 357-A of the Code is reproduced hereinbelow:-

**357-A. VICTIM COMPENSATION SCHEME.**

*(1) 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 have suffered loss or injury as a result of the crime and who require rehabilitation.*

*(2) Whenever a recommendation is made by the Court for compensation, the District Legal Service Authority or the State Legal Service Authority, as the case may be, shall decide the quantum of compensation to be awarded under the scheme referred to in sub-section (1).*

*(3) If the trial Court, at the conclusion of the trial, is satisfied, that the compensation awarded under section 357 is not adequate for such rehabilitation, or where the cases end in acquittal or discharge and the victim has to be rehabilitated, it may make recommendation for compensation.*

*(4) Where the offender is not traced or identified, but the victim is identified, and where no trial takes place, the victim or his dependents may make an application to the State or the District Legal Services Authority for award of compensation.*

*(5) On receipt of such recommendations or on the application under sub-section (4), the State or the District Legal Services Authority shall, after due enquiry award adequate compensation by completing the enquiry within two months.*

*(6) The State or the District Legal Services Authority, as the case may be, to alleviate the suffering of the victim, may order for immediate first-aid facility or medical benefits to be made available free of cost on the certificate of the police officer not below the rank of the officer in charge of the police station or a Magistrate of*

*the area concerned, or any other interim relief as the appropriate authority deems fit.*

**14.** From perusal of Section 357A of the Code, I find that Sub Section 1 therein provides that the State, in coordination with the Central Government, has to prepare a scheme to provide fund for compensation to the victim or the dependent, who suffered loss or injury and would require rehabilitation. Sub Section 2 provides that the District Legal Services Authority or the State Legal Services Authority shall decide the quantum of compensation to be awarded under the scheme on the recommendation of the Court. As per Sub Section 3, at the conclusion of trial, if the court feels that the compensation in terms of Section 357 of the Code is not adequate for rehabilitation, or in the case where the accused is discharged or acquitted, but the victim has to be rehabilitated, the Court may make recommendation for compensation. Sub Section 4 caters the situation when the offender is not traced or identified but the victim is identified. In a situation when no trial takes place, the victim or his/her dependent may make an application to the Legal Services Authority for awarding compensation. Sub Section 5 provides for a due enquiry before awarding compensation either on recommendation or on application. Sub Section 6 gives power to the Legal Services Authority to provide for immediate relief by way of interim measure.

**15.** Thus, if Section 357A of the Code is analysed, the following important features can be culled out:

- a) a scheme has to be prepared for providing funds for the purpose of payment of compensation.
- b) Compensation has to be paid to the victim or his/her dependents who have suffered loss or injury as a result of the crime and requires rehabilitation.
- c) Court has to make recommendation for payment of compensation to the District Legal Services Authority or the State Legal Services Authority.
- d) On such recommendation from the Court, the concerned Legal Services Authority shall decide the quantum of compensation to be awarded under the scheme.
- e) The victim or his/her dependent can make application to the State or District Legal Services Authority for award of compensation.



- f) The District or State Legal Services Authority has to make an enquiry and only on completion of enquiry has to award adequate compensation.
- g) The State or the District Legal Services Authority, to alleviate the suffering of the victim, may grant interim relief to him/her.

**16.** From the provision of law i.e. Section 357A of the Code it is clear that there has to be a fund, so created for the purpose of paying compensation. The fund is created to enable payment of compensation from the said fund. The intention of the legislature is clear that the amount of compensation to be paid to the victim or the dependent of the victim has to be from the fund itself. No alternative source has been provided by the statute to make payment of victim compensation in terms of Section 357A of the Code. Further analysis of Sub Section 1 of Section 357A of the Code, I find that the victim or the dependent of the victim, whom the victim compensation has to be paid under the aforesaid section, must suffer loss or injury as a result of the crime and should require rehabilitation. From simple reading of the aforesaid provision, it is clear that not only the victim has to suffer loss or injury as a result of the crime, but, must also require rehabilitation. The word '**and**' is used with a purpose. This conjunctive word joins the two conditions, i.e., **(i) suffering loss or injury; and (ii) requires rehabilitation**. Both these two conditions must co-exist, to qualify for grant of compensation. So the requirement of rehabilitation of victim is an important factor in granting victim compensation under Section 357A of the Code. Thus, merely suffering a loss, by itself, will not attract payment of compensation in terms of Section 357A of the Code, simultaneous requirement of rehabilitation is also necessary. Similarly, if no loss or injury is caused, there is no question of rehabilitation. This view is fortified by the schedule framed and appended to the notification dated 3<sup>rd</sup> August, 2012 and subsequent notifications, amending the Scheme, issued by the State of Jharkhand (the scheme framed under Section 357A of the Code). The schedule provides for payment of compensation to the victim, whose injuries relates to the life and limb of the person. If the nature of the injuries mentioned in the Schedule is seen, then it can be deduced that if a person suffers those injuries he/she definitely needs rehabilitation. In case of death, his/her dependents need to be rehabilitated. Thus, as observed earlier, necessity to rehabilitate is a ground for consideration of payment of victim compensation.

**17.** Further the role of the Court is defined in the aforesaid Section. As per the provision, the role of the Court is only to recommend payment of victim compensation. The Court, here is not limited to Trial Court only. In Sub Section 2 of Section 357A of the Code, the term 'Court' is used, whereas in Sub Section 3, the legislature uses the word "Trial Court". Thus, as per the provision of the Code, both the Trial court and the Superior Court is vested with the power to recommend payment of victim compensation. As per the statute, the recommendation has to be made to the District Legal Services Authority or the State Legal Services Authority. As per Sub Section 2 of Section 357A of the Code, whenever recommendation is received by the Legal Services Authority, either the State or the District, it is the said Authority, who shall decide the quantum of compensation to be awarded under the scheme. The same is the position as per Sub Section 5 of Section 357A of the Code. As per the said provision also it is the District or the State Legal Services Authority, who after due enquiry, award adequate compensation. Thus, in every scenario either the quantum of compensation or the adequacy of the compensation, is to be adjudged and decided by the State or District Legal Services Authority. The Court is not vested with the power under Section 357A of the Code to quantify the amount of compensation, rather that power is vested with the Legal Services Authority. This is because the provision provides for holding an enquiry to assess and ascertain the loss sustained, injury caused and the extent and nature of rehabilitation required. This enquiry cannot be done by the Court, as per the Code. Thus, in my view, a Court cannot fix or determine the quantum of victim compensation under Section 357A of the Code.

**18.** The State of Jharkhand, in exercise of powers conferred under Section 357A of the Code, have framed a scheme for providing funds for the purpose of compensation to the victim or to his/her dependents, who have suffered loss or injury as a result of crime and who requires rehabilitation. Clause 3 of the said scheme provides for creation of a fund. Sub Clause 'क' constitutes the fund from which the amount of victim compensation has to be paid. As per the said scheme, it is the State Government, who shall allot a separate budget every year for the purpose of the scheme. The Director Prosecution is the Chairman of the State Committee, who will control the fund. The procedure for grant of compensation has been laid down in Clause 5 of the scheme. As per the said Clause also, the Court has to give its recommendation for payment of victim compensation. The recommendation has to be made to the State or

District Legal Services Authority. The said Authority has to verify the claim with regard to the loss or injury caused to the victim arising out of the criminal activity. The genuineness of the claim has to be verified by the authority. After verifying the claim, so put forth, the District or State Legal Services Authority shall award the compensation in terms of Sub Clause 'ग' of Clause 5. It is the District Legal Services Authority, who is vested with the power to decide the quantum of compensation. The compensation may vary from case to case, depending on facts of each case. As per the said scheme, the quantum of compensation cannot exceed the maximum limit, nor can be lower than the limit as prescribed in the schedule of the scheme. Sub clause 'ङ' of Clause 5, specifically provides that the amount of compensation under the scheme shall be paid from the fund. A provision of appeal is also provided in the said scheme.

**19.** If schedules of the Scheme are perused, I find that it provides therein, that a person sustaining the specified categories of injuries are entitled to receive victim compensation in terms of Section 357A of the Code.

By notification dated 29.09.2016, Victim Compensation (Amendment) Scheme, 2016 was introduced wherein at Schedule 1 the following amount of minimum compensation has been specified against each category of injuries. The probable English translation of the Schedule 1 is quoted hereinbelow:-

#### Schedule 1

Sl. No.	Particulars of loss/injury	Minimum Amount of Compensation
1.	Acid Attack	Rs.3 Lakh
2.	Rape	Rs.3 Lakh
3.	Physical Torture of Minor	Rs.2 Lakh
4	Rehabilitation of Victim of Human Trafficking	Rs.1 Lakh
5	Sexual Assault (not rape)	Rs.50000/-
6	Death	Rs.2 Lakh
7	Permanent Disability (80% or more)	Rs.2 Lakh
8	Partial Disability (40% to 80%)	Rs.1 Lakh
9	Burn injury of more than 25% of the body (other than the case of acid attack)	Rs.2 Lakh
10	Loss of Foetus	Rs.50,000/-
11	Loss of Fertility	Rs.1.5 lakh
12	Victim woman in firing from both side at Border	
a.	Death with Permanent Disability (80% or more)	Rs.2 Lakh
b.	Partial disability (40% to 80%)	Rs.1 Lakh
13	Disability less than 40% due to loss of a body part or portion	Rs.50,000/-
14	Normal loss or injury of minor victim	Rs.10,000/-
15.	Rehabilitation of any other victim	Rs.50,000/-

Subsequently, by notification dated 30.07.2019, the State of Jharkhand introduced Victim Compensation (Amendment) Scheme, 2019, wherein at

Schedule II the following amount of compensation has been specified with minimum and maximum limit against each category of injuries:-

अनुसूची II  
महिला पीड़ितों के लिए प्रतिकार की अनुसूची

Sl. No.	Particulars of loss or injury	Minimum Limit of Compensation	Upper Limit of Compensation
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 or above	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.	Victim of Burning:		
a.	In case of disfigurement of face	Rs.7 Lakh	Rs.8 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.7 Lakh
d.	In case of injury less than 20%	Rs.2 Lakh	Rs.3 Lakh
13.	Victims of Acid attack		
a.	In case of disfigurement of face	Rs.7 Lakh	Rs.8 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

The quantum of compensation has also been provided for each category of injuries/loss, prescribing therein minimum limit and the maximum limit.

**20.** The Scheme, which was framed on 3<sup>rd</sup> August 2012, was amended by notification dated 29.09.2016 and 30.07,2019, by which the types of loss and injury, in the schedule provided, has been added but the basic structure of the scheme remained the same. Thus, Section 357A of the Code read with the scheme framed by the state of Jharkhand is self-contained, wherein the procedure is also prescribed.

**21.** It is well settled that where the statute provides for a thing to be done in a particular manner, then it has to be done in that manner and in no other manner. This proposition of law laid down in *Taylor Vs. Taylor (1875) 1 Ch D 426,431* was first adopted in *Nazir Ahmed Vs. King Emperor* reported in *AIR 1936 PC 253* and then followed by a bench of three Judges of the Hon'ble Supreme Court in *Rao Shiv Bahadur Singh Vs. State of Vindhya Pradesh*

reported in **AIR 1954 SC 322**. This proposition was further explained in paragraph 8 of **State of U.P. Vs. Singhara Singh** by a bench of three Judges reported in **AIR 1964 SC 358** in the following words:-

*“8. The rule adopted in Taylor v. Taylor is well recognised and is founded on sound principle. Its result is that if a statute has conferred a power to do an act and has laid down the method in which that power has to be exercised, it necessarily prohibits the doing of the act in any other manner than that which has been prescribed. The principle behind the rule is that if this were not so, the statutory provision might as well not have been enacted....”*

In **Chandra Kishore Jha vs. Mahavir Prasad**, reported in **(1999) 8 SCC 266**, the Supreme Court has held that it is a well-settled salutary principle that if a statute provides for a thing to be done in a particular manner, then it has to be done in that manner and in no other manner. In **Dhananjaya Reddy vs. State of Karnataka**, reported in **(2001) 4 SCC 9**, the Hon'ble Supreme Court has reiterated the said principle of law that where a power is given to do a certain thing in a certain manner, the thing must be done in that way or not at all.

**22.** Thus, it is now well settled that a procedure that has been laid down in a Statute has to be strictly followed and if a statute provides for performing a particular act in a particular way, the same has to be performed in a way or in the manner as prescribed in the statute itself. There cannot be any deviation.

**23.** As discussed above, from Section 357A of the Code and the scheme framed by the State of Jharkhand in exercise of the powers under Section 357A of the Code, the power to determine and fix the quantum of compensation is only vested with the State or District Legal Services Authority and a Court can only recommend payment of victim compensation, quantum of which has to be ascertained and determined by the State or the District Legal Services Authority.

**24.** Section 357 of the Code and Section 357A of the Code are the two provisions, relying on which compensation and victim compensation is granted. In terms of Section 357, the Court has been vested with the power to award compensation and fix the quantum of compensation too. To fix the quantum of compensation, many factors have to be looked into, like the nature

of injuries and loss suffered, the capacity of the accused to pay the said compensation etc. Section 357 comes to play at the time of awarding sentence after conclusion of the trial, when the guilt of the accused is proved and the accused no longer remains an accused, rather becomes a convict. The Court can grant or refuse compensation under Section 357 of the Code, but, while doing so, the Court must apply its mind to the question of compensation, in each criminal case. The Hon'ble Supreme Court, in the case of **Ankush Shivaji Gaikwad versus State of Maharashtra** reported in **(2013) 6 SCC 770 (at paragraph 66)** has held that it is also beyond dispute that the occasion to consider the question of award of compensation would logically arise only after the Court records conviction of the accused. Capacity of the accused to pay, which constitutes an important aspect of any order under Section 357 of the Code would involve a certain inquiry, albeit summary, unless of course, the facts, as emerging in the course of the trial are so clear that the Court considers it unnecessary to do so. Such an inquiry can precede an order on sentence to enable the Court to take a view both on the question of sentence and compensation, that it may in its wisdom, decide to award to the victim or his/her family.

This judgment was delivered by the Hon'ble Supreme Court, considering Section 357 of the Code.

**25.** From the aforesaid interpretation, it is quite clear that before granting compensation, there has to be some inquiry. When Section 357A of the Code is read, it is seen that Sub Section 5 of Section 357A also provides for some inquiry for awarding adequate compensation. So, what would be adequate compensation depends upon the result of enquiry. If any Court, under Section 357A of the Code, quantifies the amount of compensation, the same cannot be without an inquiry as to whether the compensation is adequate or not. Thus, legislature, in its wisdom, has vested the power of inquiry, as envisaged in Section 357A (5), with the State or District Legal Services Authority and the Court has only been vested with a power to recommend payment of victim compensation. This recommendation should be without quantifying the amount.

**26.** As held above, the procedure of making payment of victim compensation has already been laid down in Section 357A of the Code. The process starts after (i) recommendation made by the Court; and (ii) on application made by the victim. When either of the two is received by the State

or District Legal Services Authority, in terms of Sub Section 5 of Section 357A of the Code, an enquiry has to be made by the said Authority and thereafter only an award for payment of adequate compensation has to be made. This procedure has to be followed as the procedure is enshrined in the statute itself.

**27.** Further, I find that as per the Scheme formulated by the State, there is a provision of appeal against denial of compensation by the aggrieved victim. Clause 9 is the provision of appeal, which says that any victim aggrieved by the denial of compensation by the District Legal Service Authority may file an appeal before the State Committee within a period of six months. "Denial of compensation" does not mean and cannot be limited to a case where the entire amount is denied. Schedule I of the Scheme though provides the lower limit, but, there is no upper limit prescribed for payment of compensation. Schedule II of the Scheme provides for minimum and maximum amount of compensation, which can be paid. This means that if the District Legal Services Authority awards compensation, which is less than the maximum amount, and/or the victim is aggrieved by the quantum so fixed, he/she can file an appeal before the State Committee. Keeping this provision in mind, if, in a situation, the Court directly quantifies the compensation in terms of Section 357A of the Code and the District Legal Services Authority pays the said amount and the victim is aggrieved by the said quantum, though the victim has a statutory appellate remedy, but, the forum of the said appeal being the State Committee, will not be competent to decide the appeal as the quantification has been done by the Court. In simple words, there may be an anomalous situation as the order of the Court on the quantum of compensation, as per the appellate provision, will be heard by the State Committee, which is an inferior forum to that of a Court. So, keeping in view the interpretation made above, I am of the view that quantification of compensation cannot be done by the Court. Further, a direction of the Court to make payment of victim compensation, quantifying the amount, may in certain cases result in payment of inadequate compensation also, as the same would be without an appropriate enquiry. It is needless to say that the provision of the Act provides for conducting an enquiry before payment of victim compensation.

**28.** Directly quantifying the amount by a Court and giving direction to make payment of victim compensation, according to me, will go against the provision of Section 357A itself. This means the statutory provision of enquiry is being

done away with. Now, the question is whether the Court can pass any order, which amounts to doing away with any of the procedure prescribed by a statute. A Five Judges Bench of the Hon'ble Supreme Court, in the case of **Central Bureau of Investigation & Others versus Keshub Mahindra and Others** reported in **(2011) 6 SCC 216 (at paragraph 11)** has held that no decision by any Court, nor even that of a Supreme Court, can be read in a manner as to nullify the express provisions of an Act or a Code. This also means that there cannot be any order or judgment passed by the Court, which nullifies an express provision of law. In this case, there is an express provision of law to hold an enquiry before fixing the quantum thus passing any order fixing quantum of compensation will mean bypassing the statutory provision of holding enquiry, which, I feel, is not permissible.

29. Further, the Hon'ble Supreme Court in the case of **Union of India versus Hansoli Devi** reported in **(2002) 7 SCC 273** (at paragraph 9), has held:-

***“9. .... it is cardinal principle of construction of a statute that when the language of the statute is plain and unambiguous, then the Court must give effect to the words used in the statute and it would not be open to the Courts to adopt a hypothetical construction on the ground that such construction is more consistent with the alleged object and the policy of the Act.”***

30. Further, in **Gurudevdatto VKSSS Maryadit and Others versus State of Maharashtra and Others** reported in **(2001) 4 SCC 534** at paragraph 26 thereof, the Hon'ble Supreme Court has held as under: -

***26. .... It is cardinal principle of interpretation of statute that the words of a statute must be understood in their natural, ordinary or popular sense and construed according to their grammatical meaning, unless such construction leads to some absurdity or unless there is something in the context or in the object of the statute to suggest to the contrary. The golden rule is that the words of a statute must prima facie be given their ordinary meaning. It is yet another rule of construction that when the words of the statute are clear, plain and unambiguous, then the courts are bound to give effect to that meaning, irrespective of the consequences. It is said that the words themselves***



*best declare the intention of the law-giver. The courts have adhered to the principle that efforts should be made to give meaning to each and every word used by the legislature and it is not a sound principle of construction to brush aside words in a statute as being inapposite surpluses, if they can have a proper application in circumstances conceivable within the contemplation of the nature. ....”*

31. Further, the aforesaid principle has been reiterated by the Hon'ble Supreme Court, after considering and relying upon several judgments, in the case of ***B. Premanand and Others versus Mohan Koikal and Others*** reported in ***(2011) 4 SCC 266***. It is necessary to quote paragraph 24 of the aforesaid judgment: -

*“24. The literal rule of interpretation really means that there should be no interpretation. In other words, we should read the statute as it is, without distorting or twisting its language. We may mention here that the literal rule of interpretation is not only followed by Judges and lawyers, but it is also followed by the layman in his ordinary life. To give an illustration, if a person says “this is a pencil”, then he means that it is a pencil; and it is not that when he says that the object is a pencil, he means that it is a horse, donkey or an elephant. In other words, the literal rule of interpretation simply means that we mean what we say and we say what we mean. If we do not follow the literal rule of interpretation, social life will become impossible, and we will not understand each other. If we say that a certain object is a book, then we mean it is a book. If we say it is a book, but we mean it is a horse, table or an elephant, then we will not be able to communicate with each other. Life will become impossible. Hence, the meaning of the literal rule of interpretation is simply that we mean what we say and we say what we mean.”*

32. The wordings of Section 357A are already simple, plain and unambiguous. Construction of the same does not lead to any absurdity. Thus, the words used therein should be construed according to its grammatical meaning and should be given their ordinary meaning. Plain and simple reading of the provision provides that the Court is a recommending authority and the

quantification has to be done by the Legal Services Authority, after proper enquiry. If the provision is interpreted that the Court has the power to quantify the victim compensation and also has the power to direct making of such payment, then there will be conflict with the provisions of the law.

**33.** Thus, in view of what has been held above and as per interpretation of Section 357A of the Code, I hold that while exercising jurisdiction under Section 357A of the Code, the role of the Court is recommendatory in nature and the Court cannot fix any quantum of victim compensation nor can direct the authority to make payment of the same to the victim. The Court has the power only to recommend to the District or State Legal Service Authority to pay compensation, without quantifying the amount, which has to be quantified and assessed adequately by the State or District Legal Services Authority after an enquiry.

**34.** Now, the second issue, which falls for consideration is, as to whether the Court can direct an accused to pay compensation or victim compensation at the time of granting bail or at any stage prior to conclusion of the trial.

**35.** The term 'compensation' has not been defined in the Code. The word 'compensation' is not uncommon to legal proceedings. **Black's Law Dictionary (7<sup>th</sup> Edition)**, inter alia, defines compensation to mean "Payment of Damages, or any other act that a Court orders to be done by a person who has caused injury to another and must therefore make the other whole.

**36.** A person, who has perpetrated the crime, is also liable to compensate the victim of the crime. When a First Information Report is lodged with an allegation made against any person, to have committed the crime, the said allegation is a mere accusation. Making accusation against a person does not make him guilty of an offence. The accusation against the said person has to be established beyond all reasonable doubts. Till the accusation/allegation is not established beyond all reasonable doubts, the person remains as an accused. The presumption remains in favour of the accused that he is innocent. Only when the Court holds the accused guilty of the crime, then only there is confirmation that the accused is guilty of the offence. This is done only after conclusion of the trial, when the judgment is pronounced. Immediately when the accused is found to be guilty of the offence, his status changes to that of a 'convict' from an 'accused', as the Court convicts him of the offence.

37. The above foundational principle has been recently reiterated by the Hon'ble Supreme Court in the case of ***Pradeep Kumar Sonthalia versus Dhiraj Prasad Sahu @ Dhiraj Sahu and Another*** reported in **2020 SCC Online SC 1039**, while deciding as to from when a person can be termed as a convict, has held as follows: -

*“35. In our view to hold that Member of the Legislative Assembly stood disqualified even before he was convicted would grossly violate his substantive right to be treated as innocent until proved guilty. In Australia this principle has been described as an aspect of the rule of law ‘known both to Parliament and the Courts, upon which statutory language will be interpreted.*

*36. In the present case, it would be significant to add that it is not necessary to make a declaration incompatible in the use of the word ‘date’ with the general rule of law since the word ‘date’ is quite capable of meaning the point of time when the event took place rather than the whole day.*

*37. The well-known presumption that a man is innocent until he is found guilty, cannot be subverted because the words can accommodate both competing circumstances. While it is known that an acquittal operates on nativity, no case has been cited before us for the proposition that a conviction takes effect even a minute prior to itself. Moreover, the word ‘date’ can be used to denote occasion, time, year etc. It is also used for denoting the time up to the present when it is used in the phrase “the two dates”. Significantly, the word ‘date’ can also be used to denote a point of time etc. (See Roget’s International Thesaurus third edition Note 114.4)*

*38. To say that this presumption of innocence would evaporate from 00.01 A.M., though the conviction was handed over at 14.30 P.M. would strike at the very root of the most fundamental principle of Criminal Jurisprudence.”*

In the aforesaid case, the Hon'ble Supreme Court has held that since the conviction took place at 14.30 p.m., till 14.30 p.m. he is presumed to be innocent.

**38.** Thus, only after conviction, it is proved that he is the person, who has perpetrated the crime against the victim. Thus, when it is proved that the said accused has committed a crime against the victim, the victim is also entitled to be compensated by the said convict. When a person is an accused and the Court is not sure as to whether he has committed the offence or not, in that situation, when there is uncertainty, the accused cannot be saddled with the liability to pay compensation. A person, who has not committed the crime, by no stretch of imagination, can be directed to pay compensation. At a stage of hearing of bail plea, the guilt of the accused is not proved or established. What is established at that stage, is the identity of the victim and the fact that the said victim has suffered some loss and needs rehabilitation. Thus, at that stage, the victim qualifies to be compensated, but, the said compensation cannot be from the accused, whose guilt is yet to be proved.

**39.** As per Section 357A of the Code and the Scheme, even if the accused is not identified or he is discharged or acquitted, the victim is entitled to get compensation from the fund, which is created by the State. In other words, it is the State, who has to compensate the victim. The State being the paramount protector of the life and liberty of each and every citizen, has some responsibility towards them. Even if the accused is acquitted or discharged or even if the accused is not identified, it is the duty of the State to protect its citizens and to rehabilitate them if they suffer loss and injury arising out of a crime. When these crimes are heinous and affects the social fabric, and victim is downtrodden and belongs from the lower strata of the society, the responsibility of the State increases manifold. Thus, it is the State who has to compensate the victim of these type of crimes, irrespective of the fact whether the accused has been identified or not or whether the accused has been discharged/acquitted. This is the reason as to why, in terms of Section 357A of the Code, the State is saddled with the liability to compensate and rehabilitate the victim and not the accused, whose guilt is yet to be proved.

**40.** In a situation, if at the stage of grant of bail or at any stage prior to pronouncement of judgment, the Court directs the accused to pay compensation to the victim, then, ultimately, if the accused is acquitted holding him to be innocent, then, by virtue of the order of the Court, an innocent person, who has not committed the offence will be forced to pay the compensation. This is not what the law provides for. A person, who has got no connection with the offence or has got nothing to do with the offence or is

innocent, cannot be directed to compensate any one. If ultimately, the accused is declared innocent and is acquitted, he will have a right to recover the amount he has paid as compensation pursuant to the order passed by the Court. This will not only give rise to unnecessary litigation, but, will also cause undue and uncalled for harassment and hardship to the victim, who by that time, may have utilized the entire money.

**41.** I find that as per Section 357A(1) of the Code, a scheme has to be prepared for providing fund for payment of compensation to the victim. The State of Jharkhand has framed the scheme.

**42.** Neither Section 357A of the Code nor the Scheme formulated by the State of Jharkhand provides that an accused has to make payment of compensation. The entire scheme provides that the compensation has to be paid from a fund, which is so created by the State. So far as the State of Jharkhand is concerned, a fund has been created by the State with a yearly budgetary allocation.

**43.** Compensation under Section 357A of the Code is directed to be paid to a victim when the victim suffers some loss and injury and needs rehabilitation. The point that the victim is entitled to receive a compensation has nothing to do with the accused or with the trial, which is evident from perusal of Section 357A of the Code or the Scheme formulated under the said provision. Similarly, if Section 357 of the Code is read, I find that in terms of the said provision, it is only the convict (perpetrator of the crime), who has to pay compensation.

**44.** A conjoint reading of Section 357 and 357A(3), would clarify that if the convict is not in a position to compensate the victim adequately and the Court feels so, may recommend payment of further compensation, by invoking Section 357A(3) of the Code. The "Inadquate Compensation", which the convict pays in terms of Section 357 of the Code is made "adequate" by payment of additional compensation, which has to be paid by the State in terms of Section 357A(3) of the Code. Thus, the intent of the legislature is quite clear that the victim compensation, which has to be paid in terms of Section 357A of the Code has to be paid by the State from the fund, so created, and not by the accused. It is only by invoking Section 357 of the Code, after conclusion of trial, holding the guilt of the accused, the convict should be directed to pay compensation.

45. Compensation is ordered to be paid by a Court only after a finding is arrived that the person, directed to pay compensation, has caused any injury by committing a wrong or has committed a breach of a legal obligation, be it statutory or contractual. Thus, to direct an accused to pay any compensation or victim compensation under Section 357A of the Code at the stage of bail by terming it as a condition of bail also may amount to prejudging the guilt of an accused and such a course of action runs completely contrary to the basic principle of criminal jurisprudence, i.e., presumption of innocence until proven guilty.

46. Further, as held earlier, the Court cannot direct to make payment of victim compensation, rather, can only recommend.

47. So far as the question as to whether at the stage of grant of bail, the Court can direct payment or recommend victim compensation, is concerned, as discussed, earlier, the Court being a recommending authority, as per Section 357A, can only recommend. In view of Section 357A(6), any interim relief can be granted to the victim. This interim relief can also be by way of interim victim compensation. The Hon'ble Supreme Court in the case of **Suresh & Another versus State of Haryana** reported in **(2015) 2 SCC 227** has held that at any stage of the trial victim compensation can be paid. Once the victim is identified, there is no embargo in paying victim compensation even at the stage of consideration of bail of the accused, which is an interlocutory phase. If the Court feels that the victim needs interim relief, the Court can very well recommend for payment of victim compensation in terms of Section 357A of the Code. There is no embargo upon the Court to make such recommendation. Thus, I hold that at any stage of the proceeding, including at the stage of considering bail application, the Court can recommend payment of victim compensation by way of interim measure, to the victim.

48. Thus, on issue No.2, it is held that before conclusively holding the accused guilty of committing the crime, even at the stage of bail, he cannot be saddled with the liability of making payment of any compensation under Section 357A of the Code to the victim. The Court has power to recommend payment of victim compensation under Section 357A of the Code at any stage of the trial, even after conviction, and any compensation recommended to be paid by invoking Section 357A of the Code, has to be paid from the fund, so created.

49. The last question, which falls for consideration is whether the submission made by the accused persons in course of argument before the learned Judicial Commissioner, Ranchi, while hearing the anticipatory bail application to the effect that, they are ready to pay victim compensation can be a ground / relevant consideration to grant the relief.

50. A bail is a rule and jail is an exception. This principle has been reiterated by the Hon'ble Supreme Court of India in many of its pronouncements. Very recently, in the case of **Arnab Manoranjan Goswami versus State of Maharashtra and others** reported in **2020 SCC OnLine SC 964**, the Hon'ble Supreme Court reiterated the aforesaid principle that bail is rule and refusal is exception. In paragraph 78, the Hon'ble Supreme Court has observed as follows: -

*“78. More than four decades ago, in a celebrated judgment in State of Rajasthan, Jaipur versus Balchand, Justice Krishna Iyer pithily reminded us that the basic rule of our criminal justice system is ‘bail, not jail’. The High Courts and Courts in the district judiciary of India must enforce this principle in practice, and not forego that duty, leaving this Court to intervene at all times. We must in particular also emphasize the role of the district judiciary, which provides the first point of interface to the citizen. Our district judiciary is wrongly referred to as the ‘subordinate judiciary’. It may be subordinate in hierarchy but it is not subordinate in terms of its importance in the lives of citizens or in terms of the duty to render justice to them. High Courts get burdened when courts of first instance decline to grant anticipatory bail or bail in deserving cases. This continues in the Supreme Court as well, when High Courts do not grant bail or anticipatory bail in cases falling within the parameters of the law. The consequence for those who suffer incarceration are serious. Common citizens without the means or resources to move the High Courts or this Court languish as undertrials. Courts must be alive to the situation as it prevails on the ground – in the jails and police stations where human dignity has no protector. As judges, we would do well to remind ourselves that it is through the instrumentality of bail that our criminal justice system’s primordial interest in*

*preserving the presumption of innocence finds its most eloquent expression. The remedy of bail is the solemn expression of the humaneness of the justice system. Tasked as we are with the primary responsibility of preserving the liberty of all citizens, we cannot countenance an approach that has the consequence of applying this basic rule in an inverted form. We have given expression to our anguish in a case where a citizen has approached this court. We have done so in order to reiterate principles which must govern countless other faces whose voices should not go unheard.”*

51. After noticing the principles that the Supreme Court of India has evolved over a period of time and after taking note of the judgments rendered in the cases of ***Prahlad Singh Bhati versus NCT, Delhi [(2001) 4 SCC 280]***; ***Ram Govind Upadhyay versus Sudarshan Singh [(2002) 3 SCC 598]***; ***State of UP through CBI versus Amarmani Tripathi [(2005) 8 SCC 21]***; ***Prasanta Kumar Sarkar versus Ashis Chatterjee [(2010) 14 SCC 496]***; ***Sanjay Chandra versus CBI [(2012) 1 SCC 40]***; and ***P. Chidambaram versus Central Bureau of Investigation [(2019) SCC OnLine SC 1380]***, the Hon'ble Supreme Court in the case of ***Arnab Manoranjan Goswami (supra)*** summarized the factors for grant of bail to be as follows:-

- (i) The nature of the alleged offence, the nature of the accusation and the severity of the punishment in the case of a conviction;
- (ii) Whether there exists a reasonable apprehension of the accused tampering with the witnesses or being a threat to the complainant or the witnesses;
- (iii) The possibility of securing the presence of the accused at the trial or the likelihood of the accused fleeing from justice;
- (iv) The antecedents of and circumstances which are peculiar to the accused.
- (v) Whether *prima facie* the ingredients of the offence are made out, on the basis of the allegations as they stand, in the FIR; and
- (vi) The significant interests of the public or the State and other similar considerations.



52. More recently on 19.01.2021, in the case of ***Dalip Singh versus State of Madhya Pradesh and Another [Criminal Appeal No.53 of 2021]*** the Hon'ble Supreme Court, while reiterating the above factors for grant of bail / anticipatory bail also observed at paragraph 5 as follows: -

*It is well settled by a plethora of decisions of this Court that criminal proceedings are not for realization of disputed dues. It is open to a Court to grant or refuse the prayer for anticipatory bail, depending on the facts and circumstances of the particular case. The factors to be taken into consideration, while considering an application for bail are the nature of accusation and the severity of the punishment in the case of conviction and the nature of the materials relied upon by the prosecution; reasonable apprehension of tampering with the witnesses or apprehension of threat to the complainant or the witnesses; reasonable possibility of securing the presence of the accused at the time of trial or the likelihood of his abscondence; character behaviour and standing of the accused; and the circumstances which are peculiar or the accused and larger interest of the public or the State and similar other considerations. A criminal court, exercising jurisdiction to grant bail / anticipatory bail, is not expected to act as a recovery agent to realise the dues of the complainant, and that too, without any trial."*

53. Thus, what can be culled out from the aforesaid decision is that while considering bail or anticipatory bail, prime consideration would be nature of the alleged offence and the accusation and the severity of the punishment in case of conviction. Whether prima facie the ingredients of the offence are made out or not also needs to be evaluated. It is also to be seen whether there exists any reasonable apprehension of the accused tampering with the witnesses or being a threat to the witness. Further, whether the accused will face trial or not or there is any possibility of accused being fleeing from trial is also to be considered. Antecedents of the accused and the circumstances, which are peculiar, related to the accused, should also be considered by the Court. Thus, I am of the opinion that payment of compensation or victim compensation cannot be a consideration or a ground for grant of bail. Even if an accused volunteers to pay compensation, the same cannot be of any consideration at all. The said submission would be a submission not related to the

consideration on which a bail is granted. An accused, who is in custody or who is apprehending arrest, and is praying for bail, can make any submission before the Court, as for him his only concern is that he should be granted bail, whatever may be the conditions imposed. The Court should not be swayed by those submissions made by the parties, rather should evaluate and base his order on correct perspective. It is the Court, who has to decide, whether those submissions are within the parameters defined by law. If payment of compensation becomes a consideration for grant of bail, not only the same will be against the provision of law, but will also have a catastrophic effect upon the criminal justice administration. In that event, there will be persons with criminal intent in their mind, who will be roaming in the society with a knife in one hand and a purse full of money in another. Thus, any submission on behalf of the accused volunteering to pay compensation to the victim, in lieu of grant of bail, should not, at all, be considered by the Court.

**54.** In the instant case, while going through the impugned order, I find that bail was not granted solely on the aforesaid submission made by the accused persons. The bail was granted on merits after considering the relevant considerations, which is necessary to consider for grant of bail. Just because there is some submission made at the time of hearing, that the accused are ready to pay victim compensation, the Court has imposed a condition that the accused jointly will pay Rs.1,00,000/- as victim compensation to the complainant / informant. As held earlier, in this judgment, that an accused cannot be saddled with payment of victim compensation, as the same is not in consonance with Section 357A nor with the Scheme, the Court could not have directed the petitioners to pay the said amount as victim compensation. Any such submission also by the accused is also not in consonance with the provision of law, which cannot be legalised by the Court by accepting such submission. Thus, the direction given by the Court / the condition imposed upon the petitioners, to pay Rs.1,00,000/- jointly to the complainant / informant is not in consonance with Section 357A. Further, the Court could not have also quantified the amount of victim compensation, as held in this judgment. On the facts of the complaint, the case is allegedly of cheating. The offence alleged therein and the nature of injury, if any, caused to the victim is not covered by the schedules of Victim Compensation Scheme framed by the State of Jharkhand. Thus, when the loss or injury so allegedly caused, is not expressly covered under the Schedules of the Scheme, there cannot be any recommendation far less a direction to pay victim compensation. Directing the

accused to pay victim compensation as a condition of bail will be against the provision of law.

**55.** Thus, the part of the order dated 20<sup>th</sup> January 2020 passed by the Judicial Commissioner, Ranchi in A.B.P. No. 1987 of 2019, directing the petitioners to make payment of victim compensation to the tune of Rs.1,00,000/-, being bad in law, is quashed and set aside. Interim order dated 12.11.2020 passed in this case is made absolute.

**56.** As a result of what has been discussed and held above, it is held that a Court cannot quantify and fix the amount of victim compensation under Section 357A of the Code. As per the aforesaid provision of law, the Court can only recommend payment of compensation, which has to be quantified after adjudging the adequacy of the same, by the State or District Legal Services Authority after a proper enquiry. Further, it is held that a Court, at any stage of trial, even at the stage of grant of bail, or even after conclusion of trial, can recommend payment of victim compensation under Section 357A of the Code. Further, I hold that the amount of victim compensation under Section 357A of the Code has to be paid from the fund, so created in terms of the Scheme, by the State only and an accused cannot be directed to pay victim compensation.

**57.** Thus, this criminal miscellaneous petition stands allowed.

**(Ananda Sen, J.)**