



An Overview

of
One Day Workshop on
“Role of Principal Judges in the Family Court Matters”
&
“Victim Emancipation through Compensation”
organized on 20/02/16 (Saturday) at Nyaya Sadan, Ranchi (Jharkhand)
by
Jharkhand State Legal Services Authority

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organized on 20/02/16 (Saturday) at Nyaya Sadan, Ranchi (Jharkhand)

One Day Workshop on **Role of Principal Judges in Family Court Matters” & “Victim – Emancipation through Compensation”** was organized on 20/02/16 (Saturday) at 10:00 a.m. at Jharkhand State Legal Services Authority, Nyaya Sadan, Ranchi in three sessions including Inaugural Session, Technical Session-I and Technical Session-II. The object of the programme has been set out as under :

Tuning Mindset with Changing Law

As far back as in the year 1974, the Law Commission in its 59th report (1974)



had stressed that in dealing with disputes concerning the family, the court ought to adopt an approach radically different from that adopted in ordinary civil proceedings. The Code of Civil Procedure, 1908 was amended in 1976 to provide for Special Procedure to be adopted in suits and proceedings relating to matters concerning the family. Not much has been made by the Courts and the Courts continue to deal with the Family disputes in the same manner as other civil matters and same adversary

approach.

Therefore, the need was felt in the public interest to establish Family Courts in every city or town for speedy settlement of family disputes under the ‘Family Courts Act, 1984’

The Family Courts established under the Family Courts Act, 1984 are vested with exclusive jurisdiction for Matrimonial Disputes & Family Matters.

Despite all these provisions, the Family Courts do not change their approach in most of the cases. Hon’ble Mr. **Justice Dipak Misra**



has been pleased to observe in **Bhuvan Mohan Singh vs. Meena & Ors.** (AIR 2014 SC 2875) that :

“The two issues that pronouncedly emanate in this appeal by special leave are whether the Family Court while deciding an application under Section 7 of the Family Court Act, 1984 (for brevity, “the Act”) which includes determination of grant of maintenance to the persons as entitled under that provision, should



allow adjournments in an extremely liberal manner remaining oblivious of objects and reasons of the Act and also keeping the windows of wisdom closed and the sense of judicial responsiveness suspended to the manifest perceptibility of vagrancy, destitution, impecuniosity, struggle for survival and the emotional fracture, a wife likely to face under these circumstances and further exhibiting absolute insensitivity to her condition, who, after loosing support of the husband who has failed to husband the marital status denies the wife to have maintenance for almost nine years as that much time is consumed to decide the lis and, in addition, to restrict the grant of maintenance to the date of order on some kind of individual notion. Both the approaches, as we perceive, not only defeat the command of the legislature but also frustrate the hope of wife and children who are deprived of adequate livelihood and whose aspirations perish like mushroom and possibly the brief candle of sustenance joins the marathon race of extinction. This delay in adjudication by the Family Court is not only against human rights but also against the basic embodiment of dignity of an individual.”

Further in the matter of Victim Compensatory jurisprudence, the recent judgements of Hon’ble Supreme Court of India, namely **Ankush Shivaji Gaikwad v. State of Maharashtra** (2013) 6 SCC 770 [T.S.Thakur, J. (as His Lordship then was) and Gyan Sudha Misra, J] and **Suresh and Another v. State of Haryana** (2015) 2 SCC 227 [T.S.Thakur, J. (as His Lordship then was) and Adarsh Kumar Goel, J] are silver lining where it was observed that :

“Sec. 357 Cr.pc confers a duty on the Court to apply its mind to the question of compensation in every criminal case. It necessarily follows that the Court must disclose that it has applied its mind to this question in every criminal case.”

“The object and purpose of Section 357 A is to enable the Court to direct the State to pay compensation to the victim where the compensation under Section 357 was not adequate or where the case ended in acquittal or discharge and the victim was required to be rehabilitated. Under this provision, even if the accused is not tried but the victim needs to be rehabilitated, the victim may request the State or District Legal Services Authority to award him or her compensation.”

Chief Guest : Hon’ble Mr. **Justice Dipak Misra**, Judge, Supreme Court of India, New Delhi

Presided By : Hon’ble Mr. **Justice Adarsh Kumar Goel**, Judge, Supreme Court of India, New Delhi

- Guest of Honour** : Hon'ble the **Chief Justice Virender Singh**, Jharkhand High Court cum Patron-in-Chief, JHALSA,
- Special Guests** : Hon'ble Mr. **Justice D.N. Patel**, Judge, Jharkhand High Court and Executive Chairman, JHALSA,
Hon'ble Mr. **Justice Prashant Kumar**, Judge, Jharkhand High Court
- Dignitaries** : The Workshop was attended by Ld. Advocate General, Addl. Advocate Generals, Addl. Solicitor General, Chairman, Jharkhand State Bar Council Jharkhand, Members of Bar, Pr. Judicial Commissioner, Ranchi, Registrar General and the members of Registry, Sri N.N. Pandey, IAS, Home Secretary, Govt. of Jharkhand, Smt. Suman Gupta, IPS I.G. (Prison), Jharkhand, Director Prosecution, Director, Judicial Academy.

List of Participants of 12 Districts namely; Chatra, Chaibasa, Jamtara, Khunti, Koderma, Latehar, Lohardaga, Pakur, Ramgarh, Sahebganj, Seraikela and Simdega

Principal District Judges-cum-Chairmen, DLSA	Principal Judges, Family Courts	Secretaries of Jharkhand	Dy. Commissioners cum Vice Chairman, DLSA	Superintendent of Police cum Member, DLSA	Public Prosecutors	Probation Officers	Jail Superintendents	PLVs	Legal Services Panel Lawyers
12	21	12	12	12	12	12	12	5	10

In the Introductory-cum-Welcome Address by Hon'ble Mr. **Justice D.N. Patel**, Judge, High Court of Jharkhand and Executive Chairman, JHALSA, His Lordship welcomed the Chief Guest, Guests of Honour, Special Guest and other dignitaries present. His Lordship touched upon the theme of the programme and noted the important role of Principal Judges in Family Court matters and called for greater synergy in the matter of **Victim Compensatory Jurisprudence**. In his



remark His Lordship said that out of total Civil and Criminal disputes in the Courts about **25% matters** belongs to the category of Family matters. His Lordship further pointed out the importance of compensation to the victims and outlined disparity in compensation amount fixed by different states and said that compensation fixed by different States for an acid attack victim ranges from 20 Thousand to 10 Lac, the highest being given by Goa. His Lordship further emphasised the importance of correct approach in family matters by the Courts. His Lordship observed that even for bickerings in the family the FIR is lodged against

the husband and family members and the other civil remedies suitable for such trivial disputes of the family in the Protection of Women from Domestic Violence Act, 2005 or Maintenance under Section 125 of Cr.P.C. are seldom invoked. His Lordship noted that in every district there is a well equipped **Mediation and Conciliation Centre**, therefore, awareness is the need amongst police officials to refer suitable matter to the concerned District Legal Services Authority (DLSA) for resolution of family disputes at pre-litigation stage.

Hon'ble the **Chief Justice Virender Singh**, Jharkhand High Court-cum-Patron-in-Chief, JHALSA in his address said that breaking of marriage is a huge tragedy for the couple and children of such couples and laid emphasis on digging deeper into the cause behind family disputes as litigants rarely approach a Family Court over trivial matters of day-to-day life. His Lordship emphasised on going into the root cause of litigation.



Further in Criminal Justice System His Lordship viewed to ensure emancipation of victims by adequately compensating them. His Lordship observed that breaking of marriage is like **sinking of Titanic**. His Lordship mentioned that there are in total 21 Family Courts in the State of Jharkhand and said that the Family Court Judges should prioritize saving marriages from sinking. "No one gets married to be divorced is a truth and it is a universal truth that there always remains some differences between the spouses", His Lordship deliberated.

Recounting the experience of his recent visit to a family court in Melbourne, Chief Justice said that courts abroad take proper care of children and the system is so managed that the child remains untouched by his parents' matrimonial dispute and the child plays in the play room situated in the court premises.

Hon'ble Mr. **Justice Adarsh Kumar Goel**, Judge, Supreme Court of India discussed in detail the Role of Principal Judges in Family Court matters and victim compensatory jurisprudence. His Lordship appreciated the work done by JHALSA in the field of victim compensation and said that India's USP is that people are happy with a stable family life, whereas in the west, the survival rates of marriages are comparatively lower and dissolution of marriage has serious impact on the society.



His Lordship further said that Courts are expected to diagnose the causes of divorce and treat them rather than jumping to pass plain order granting divorce. Hon'ble **Justice Goel** further pointed out that under sec357(A) of the Code of Criminal Procedure, Judges have inherent powers to order for payment of interim compensation to the victim of the crime.



The Chief Guest Hon'ble Mr. **Justice Dipak Misra**, Judge, Supreme Court of India noted the importance of **"Adjustment and Patience"** in marital life as 'matrimonial life is all about harmony and not aggression'. His Lordship, Mr. Justice Misra said that the **institution of marriage** saves society from anarchy.

His Lordship added that the Principal Judges of Family Courts, dealing with matrimonial cases, were not judges in the true sense of the word and noted "If you scan the anatomy of the Act and various Supreme Court as well as High Court judgments, it can be found out that Principal Judges of Family Court are expected to establish a rapport with the Litigants for better Adjudication and also give due importance to the fact that Judges should be patient and look for ways of amicable solution". His Lordship viewed that a judge has a participatory role and a judge has to inculcate faith in the speedy settlement of dispute between the parties. Therefore, his Lordship called upon the need for **Rationalization of Emotions**. His Lordship emphasized that neither of the spouse is commodity in possession of the other and noted with caution the requirement of avoiding the mindset of **Commodity in Possession**.

"The judges need to hit at the root of the problem and not dispose of the matter summarily. A Family Court functions in an informal manner with some ambit of formality and it can take help from experts, psychologists, medical practitioners and associations as deems fit in such cases," added by His Lordship.

In the field of victim compensation, His Lordship lauded the work done by JHALSA.

At last, Hon'ble Mr. **Justice Prashant Kumar**, Judge, Jharkhand High Court proposed the Vote of Thanks to the Chief Guest Hon'ble Mr. Justice Dipak Misra, Judge, Supreme Court of India, Hon'ble Mr. **Justice Adarsh Kumar Goel**, Judge, Supreme Court of India, Hon'ble the **Chief Justice Virender Singh**, Jharkhand High Court cum Patron-in-Chief, JHALSA and Hon'ble Mr. **Justice D.N. Patel**, Judge, High Court of Jharkhand and Executive Chairman, JHALSA for participating in the said Workshop and blessing the occasion. His Lordship also thanked all the Hon'ble Judges of High Court of Jharkhand and the dignitaries present for attending the programme including the Media persons and general public.

Statistical data of Beneficiaries of Victim Compensation on 20/02/16

SI No.	Name of DLSA	Number of Cases identified by DLSA under Victim Compensation Scheme 2012	Compensation Amount (in Rs.)	Number of cases under Victim Welfare Fund Rules 2014	Compensation Amount (in Rs.)
1	Chatra	15 (4- U/s 357A, 5 u/s 302 6- SC/ST)	590000 (employment to 4 persons)	1	87829
2	Chaibasa	2 (U/s 302)	200000		
3	Jamtara	15(6-U/s 302, 6-POCSO)	875000		
4	Khunti	5 (1 U/s 302, 4- Naxal Violence)	600000	7	274800
5	Koderma	4 (1-U/s 302, 2- POCSO, 1-368 A)	310000		
6	Latehar	5(U/s 302)	300000 (employment to 3 persons)		
7	Lohardaga	2(U/s 376)	85000		
8	Pakur	5 (1-U/s 377,3-SC/ST atrocity,1 -POCSO)	250000		
9	Ramgarh	4	750000		
10	Sahibganj	2 (U/s 302)	300000		
11	Seraikela	7(4-U/s 302, 1- U/s 376, 2-POCSO)	860000	4	72686
12	Simdega	4 (1-U/s307, 3-U/s 302)	650000	6	
Total		70	Rs. 5770000	18	Rs. 435315

Total = 88 Cases

Amount = Rs. 6205315

Some of the details of cheques distributed to the victims as compensation during the programme and some of such victims are:

Name	Amount (in Rs.)	Nature of Crime
Mosmat. Lilawati Devi	Rs. 100000/-	MURDER by Naxalites on 12-1-13
Most. Rita Devi	Rs. 100000/-	MURDER in Naxal Violence
Most. Basanti Devi	Rs. 100000/-	MURDER in Extremists Violence on 19-6-07
Aamti Devi	Rs. 200000/-	MURDER on 13-3-15
Mosmat. Rekha Devi	Rs. 100000/-	MURDER in Extremists Violence on 16-4-14.
Most. Farni	Rs. 200000/-	MURDER on 15-5-11
Most. Parvati Devi	Rs. 100000/-	MURDER in Extremists Violence on 20-1-14
Sarpati Devi, Wife	Rs. 100000/-	Murder in 2009
Sumitra Sirca	Rs. 200000/-	Murder in 2010
Deepak Kerketta Aarti Kerketta	Rs. 200000/-	Murder on 26.12.2015
Munni Devi	Rs. 100000/-	Murder in Naxal Violence on 25-2-2012
Raily Sardar and Gurwa Sardar	Rs. 200000/-	Murder on 21-8-14
Birang Sardar	Rs. 200000/-	Murder on 21-5-14
Bhuneshwar Prasad	Rs. 200000/-	The girl was sacrificed (killed) in name of god on 4-6-14
Rohit Marandi	Rs. 200000/-	Murder in 2013

PROGRAMME SCHEDULE

INAUGURAL SESSION

(09.00 A.M. to 11:15 A.M.)

09:00 AM	:	Registration of Participants
10:00 AM	:	Arrival of Hon'ble Chief Guest Hon'ble Mr. Justice Dipak Misra, Judge, Supreme Court of India, Hon'ble Mr. Justice Adarsh Kumar Goel, Judge, Supreme Court of India, Hon'ble Mr. Justice Virender Singh, Chief Justice, Jharkhand High Court and Hon'ble Judges of High Court of Jharkhand
	:	Escorting Hon'ble Chief Guest and Hon'ble Dignitaries to the Dais
	:	Presentation of Book/Bouquet
	:	Deep Prajwalan
10:05 AM	:	Introductory-cum-Welcome Address by Hon'ble Mr. Justice D.N. Patel, Judge, High Court of Jharkhand & Executive Chairman, Jharkhand State Legal Services Authority, Ranchi
10:10 AM	:	Address by Hon'ble Mr. Justice Virender Singh, Chief Justice, Jharkhand High Court cum Patron-in-Chief, JHALSA
10:20 AM	:	Address by Hon'ble Mr. Justice Adarsh Kumar Goel, Judge, Supreme Court of India
10:35 AM	:	<ul style="list-style-type: none">• Release of "Compilation of Landmark Judgements of Hon'ble Mr. Justice Dipak Misra, Judge, Supreme Court of India on Inclusive Justice for vulnerable groups of society including women, children and victims of undeserved want."• Distribution of Cheques of Compensation to the Victims of Crime
10:45 AM	:	Inaugural Address by Hon'ble Mr. Justice Dipak Misra, Judge, Supreme Court of India
	:	<ul style="list-style-type: none">• Presentation of Mementoes• Vote of Thanks by Hon'ble Mr. Justice Prashant Kumar, Judge, High Court of Jharkhand• National Anthem
11:15 AM	:	High Tea

TECHNICAL SESSION- I

(11:30 A.M. – 01:30 P.M.)

"Role of Principal Judges in Family Court Matters"

Chair	:	Hon'ble Mr. Justice Dipak Misra, Judge, Supreme Court of India
Co-Chair	:	<ul style="list-style-type: none">• Hon'ble Mr. Justice Adarsh Kumar Goel, Judge, Supreme Court of India• Hon'ble Mr. Justice D.N. Patel, Judge, High Court of Jharkhand & Executive Chairman, JHALSA• Hon'ble Mr. Justice Aparesh Kumar Singh, Judge, High Court of Jharkhand

Topic for Discussion

- ◆ Principal Judges : The linchpin of Family Court
- ◆ Role of Principal Judges under the Family Courts Act, 1984
- ◆ Maintenance including nature and scope of proceedings under Chapter IX of the Code of Criminal Procedure, 1973 (Sec. 125 to Sec. 128 of Cr.P.C., 1973)
- ◆ Matrimonial reliefs, including nullity of marriage, judicial separation, divorce, restitution of conjugal rights, or declaration as to the validity of marriage or as to the matrimonial status of any person, guardianship of a person or the custody of any minor etc.
- ◆ Mediation & Conciliation for resolution of disputes in Family Courts.

11:30 AM	:	Background speech by Hon'ble Chair
12:00 PM	:	1st Speaker: Hon'ble Mr. Justice Aparesh Kumar Singh, Judge, High Court of Jharkhand on Role of Principal Judges under Family Court Act, 1984 & Mediation & Conciliation for resolution of disputes in Family Courts.
12:30 PM	:	2nd Speaker: Smt. Seema Sinha, Registrar (Vigilance) High Court of Jharkhand on Maintenance including nature and scope of proceedings under Chapter IX of Code of Criminal Procedure, 1973 (Sec. 125 to Sec. 128 of Cr.P.C., 1973) & other provisions related to matrimonial issues.
01:00 PM	:	Open House Discussion: Interactive Sessions
01:30 PM	:	Concluding Remarks by Chair and Co-Chair
01:30 PM to 02:30 PM	:	LUNCH

TECHNICAL SESSION- II

(02:30 P.M. – 04:30 P.M.)

"Victim-Emancipation through Compensation"

Chair	:	Hon'ble Mr. Justice Dipak Misra, Judge, Supreme Court of India
Co-Chair	:	<ul style="list-style-type: none">• Hon'ble Mr. Justice Adarsh Kumar Goel, Judge, Supreme Court of India• Hon'ble Mr. Justice D.N. Patel, Judge, High Court of Jharkhand & Executive Chairman, JHALSA

Topic for Discussion

- ◆ To locate victim in criminal justice system
- ◆ Role of courts in awarding victim compensation
- ◆ Statutory obligation of all stake holders in effective implementation of various schemes for compensation to the victims of offence U/s 357 & 357A of Cr.P.C., 1973
- ◆ Issues relating to Jharkhand Victim Compensation Scheme, 2012

- ◆ Issues relating to compensation under Victim Compensation Fund Rules, 2014
- ◆ Rights of victim & duties of State towards victim in Criminal Justice System
- ◆ Any other ancillary matter with the permission of Hon'ble chair

- 02:30 PM : Background speech by Hon'ble Chair
Highlighting genesis of compensatory jurisprudence in Criminal Justice System by Hon'ble Mr. Justice Adarsh Kumar Goel, Judge, Supreme Court of India
- 03:15PM : Sri A.V.Singh, Principal Judicial Commissioner-cum-Chairman, DLSA, Ranchi to highlight Locating Victim in Criminal Justice System & Role of Court and other Stakeholders in effective implementation of various Schemes for Compensation to the victims of offence
- 03:25 PM : Ms. Suman Gupta, IPS, I.G (Prison), State of Jharkhand on Victim Compensation Fund Rules, 2014 & Issues Relating to identification of Victim or his successors in time bound manner.
- 03:35 PM : Ms. Anubha Rawat Chaudhary, Advocate, Jharkhand High Court, Ranchi to highlight Right of Victim and & Duties of State towards victim in Criminal Justice System.
- 03:45 PM : Sharing of Experience by Sri Pradeep Srivastava, Pr. District Judge, Chaibasa.
- 03:50 PM : Sharing of Experience by Sri J.P.N. Pandey, Pr. District Judge, Chatra
- 03:55 PM : Open House Discussion (Queries on the topic is highly solicited)
Concluding Remarks by Chair and Co-Chairs
- 04:30 PM : End of the programme followed by Tea



SUCCESS STORIES

1. District : Chatra

Relief : Appointment

Appointment to the dependent of the deceased.

Nature of Occurrence : **MURDER in Extremists Violence on 3.3.2009**

Name of deceased : *Late Naim Ansari*

Name of the dependent/victim to receive compensation : ***Mosmat. Sabina Khatoon, Wife***

Compensation: Mosmat. Sabina Khatoon, to be appointed as Class-IV employee at District Collectariate, Chatra



2. District : Latehar

Relief : APPOINTMENT

Appointment to the dependent of the deceased.

Nature of Occurrence : **MURDER by Naxalites on 3.3.11**

Name of deceased : *Late Guni Yadav*

Name of victim: **Masomat Anita Devi, Wife**

Compensation : Masomat Anita Devi, to be provided service of Constable/Police in District Police Force, Latehar

Compensation Amount:Rs. 100000/-

NB:- Late Guni Yadav was a carpenter whom the Naxals took away from his home and shot dead and he was survived by his wife Anita Devi who worked as labourer and she has four children and all are minors and the youngest one is 5 years old.

3. District Chatra

Relief : APPOINTMENT

Appointment to the dependent of the deceased.

Nature of Occurrence : **MURDER in Extremists Violence on 14-12-07**

Name of victim : *Late Arbind Tiwari*

Name of the dependent/victim to receive compensation : **Rahul Kumar Tiwari, Son**

Compensation: Rahul Kumar Tiwari to be appointed as Class-IV employee at District Collectorate, Chatra

4. District : Latehar

Relief : APPOINTMENT

Appointment to the dependent of the deceased.

Nature of Occurrence : **MURDER by naxals on 6-4-14**

Name of deceased : *Late Naresh Prasad*

Name of victim: **Masomat Versa Devi wife**

Compensation : Masomat Versa Devi being provided service of Constable/Police in District Police Force, Latehar

NB: Late Naresh Prasad was taken away and shot dead by naxals and dead body was thrown in the goods train boggie and he was survived by his wife Versa Devi and 3 minor children.



Retrospection

On earlier occasion on 23.01.2016 (Saturday), A State Level Colloquium on "Victim-Emancipation through Compensation organised at NYAYA Sadan, JHALSA, Ranchi for 12 districts, namely, Ranchi, Bokaro, Deoghar, Dhanbad, Dumka, Garhwa, Giridih, Godda, Hazaribagh, Jamshedpur, Palamau and Gumla.



Statistical Data of Beneficiaries of Victim Compensation on 23-1-16

Sl No.	Name of DLSA	Number of Cases identified by DLSA under Victim Compensation Scheme 2012	Compensation Amount (in Rs.)	Number of cases under Victim Welfare Fund Rules 2014	Compensation Amount (in Rs.)
1	Bokaro	4 (U/s 376)	170000	--	--
2	Deoghar	6 (U/s 376)	105000	--	--
3	Dumka	11 (U/s 302)	112480	--	--
4	Garhwa	2 (POCSO)	100000	--	--
5	Giridih	--	--	15	--
6	Godda	1(U/s 376)	40000	--	--
7	Hazaribagh	15 (10 U/s 302 and 5 U/s 376)	413680	--	--
8	Jamshedpur	1 (POCSO)	250000	6	101410
9	Palamau	--	--	11	441910
10	Gumla	1	200000	--	--
11	Ranchi	50 (26 POCSO, 24 Adult rape)	1000000	18	323200
12	Total	91	Rs. 2391160	50	Rs. 866250

Total = 141 Cases

Amount = Rs. 3257410



