

## Rights Of Acid Attack Victims In India

S. Uma Maheswari<sup>1</sup>, Dr. Dilsad Shaik<sup>2</sup>

<sup>1</sup>M.L. (Property Law) M.L (Criminal Law), Chennai, Tamil Nadu

<sup>2</sup>Professor and Dean , School of Law, Sathyabama Institute of Science and Technology, Chennai, Tamil Nadu  
(Deemed To Be University)

### ABSTRACT

The state of being vehement against women is more often unreported unpleasant emotion caused by the threat of danger, pain, or harm and a mark of disgrace associated with a society that imposes restrictions on women from reporting an occurrence of vehemence or getting help from due authority. This research study mainly focuses on the international perspectives in awarding compensation to acid victims and critically analyze the case study wherein awarding compensation to acid victims and the reason behind the women victimized with acid need to be identified to critically evaluate the inference of acid attack on the gender status in India. And to check the reason behind the successful implementation of Haryana victims scheme features which grants compensation to acid victims. This research follows the non-doctrinal type of research and the sampling method used in this survey is a random sampling method. This analysis is done through the SPSS tool for acquiring better and accurate results and most importantly the survey was made in an authenticated way for appropriate results and also tries to reveal the actual truths regarding these issues. By this research we can understand the Pearson chi-square value is 0.000 which is less than 0.05 and it implies that there is a relationship between and Haryana Victim Compensation Scheme features effectively in awarding compensation and rehabilitation to acid victims and the null hypothesis is rejected

### Keywords

Violence, acid, women, gender bias, compensation

Article Received: 10 August 2020, Revised: 25 October 2020, Accepted: 18 November 2020

### Introduction

Acid violence indicates gender inequality and prejudicial treatment in society. More often acid violence is carried out against the particular gender because they failed to comply with the so-called stereotypic gender standards that always keep women in degrading positions in the society. Victims of acid attack witnessing marginalization from society after the attack Acid violence creates an apprehension of being attacked if they wouldn't show any conformity towards absurd traditions which always undermine the role of women in the society. Acid attacks inflict and aggravate severe physical harm, defacement, pain, mental agony, and prolonged health complications for victims.

The essential right to equality enshrined under article 14 is not a mere legal right, it should be ensured to every person which includes both citizens and non-citizens of India as a basic and essential right for their existence in the country and that right should be more of action than being mere existence as bare legal text. For such enforcement of such fundamental right, the state should take affirmative actions which affirms equal treatment for everyone. Being a woman in a country like India are more susceptible to acid violence and such violence constituted because of general discrimination in India and specialized legislation should be enacted to prevent womenkind from acid violence. Article 21 guaranteed that every person have the right to live with dignity and personal liberty, court actively played a significant role in enforcing such fundamental rights in acid attack cases through judicial activism and most of the cases held that the right to be free from inhuman and degrading treatment and Article 21 impliedly enforced the right to protection against torture or cruel, inhuman or degrading

treatment which is enunciated in various International covenants

After having wide interpretation for Article 21, the right to life to include the compensation for a breach of the right, The concept of compensatory jurisprudence has been constantly reinforced by the Supreme Court but the government machinery has yet to constructively streamline the proceedings for getting compensation which would benefit its citizens living in a world's largest democratic nation. Procedures and approach in rendering relief and compensation to the victims by the Supreme Court has been evolving from time to time. The activities of the supreme court in awarding compensation reflecting the concept called compensatory jurisprudence which established the ground reality that though offender can be punished but victim should not be left empty-handed. **The main aim of the research is to study the rights of acid victims in India.**

### Statement of research problem:

India has the highest share of acid attacks in the world, but miserably they couldn't be prosecuted and convicted before the court. But always Indian society treats this crime against women with social apathy and gender bias. The main root cause of this problem is a male chauvinistic attitude in gender-biased society. This kind of violence raises a serious question regarding the degradation status of women in India and this study is an attempt to establish the victim scheme for acid violence against women and to check regarding the effective implementation of rehabilitation schemes available for acid victims.

### Objectives:

- To study about the international perspectives in awarding compensation to acid victims
- To study on case study wherein awarding compensation to acid victims
- To find out the reason of women victimized with acid.
- To critically analyze the implication of the acid attack on the gender status in India.
- To study the legal perspectives of acid attacks in India.
- To study about Haryana victims scheme features which grants compensation to acid victims

### Research Question

- What is the international perspective in awarding compensation to acid victims?
- Does Haryana Victim Compensation Scheme features effective in awarding compensation and rehabilitation to acid victims?

### Review of literature

**Jane Welsh, 2009**, Author explored acid attack violence as a draconian form of violence and it is cruel and perpetrators who are involved in such crime as a cruel intention of disfiguration of any other person, and he did a comparative analysis in different countries like Bangladesh, Cambodia and Pakistan to determine the extent of prevalence of acid violence in those countries.

**A Mannan, 2004**, Author specifically concerned over the prevalence of acid violence in Bangladesh where the rate of acid violence is increasing day by day and he analyzed the impediments in preventing such crime by developing country like Bangladesh and measures have been taken by the government side like seeking assistance from NGOs to specially dealt with this problem and also government facilitates investment from foreign countries to enable burn care facilities with the person who has surgical expertise.

**Mamta Patel, 2014** Author explained the mental and physical trauma faced by girls who faced acid attacks and she enumerated the struggling phase and aftermath effects of acid violence in the lives of Indian girls and this paper identified that most acid attacks on girls were happened because of the intention of revenge rooted in the minds of patriarchal society and analyses how victims struggled to meet the surgical expenses.

**Ms. Nargis Yeasmeen, 2013** Author elaborately advocated that violence against women is a bitter aspect of women's lives all over the globe and this paper identified that seeking for sexual advance and rejection for marriage proposal was the reason behind such acid victims in India, but still Indian law categorized this violence as a grievous hurt and punishing in a lenient manner which indirectly increases the rate of such crime in India and victims subjected to long-drawn treatment and couldn't bear such expenses in their lifetime.

### International Perspectives In Awarding Compensation To Acid Victims

#### Afghanistan

Afghanistan is one of the countries which declared themselves as Muslim country which leads to violence against minority women and also Muslim women who are not showing conformity towards religious extremists and especially they target women and girls who didn't wear hijab and. Religious extremists employed this terror attack against girls who aspire to attend the school. Laws in Afghanistan declared Acid attack as a criminal offense and which facilitates offenders to punished from 10 years to life sentence for convicted offenders

#### Pakistan

Pakistan has enacted laws to combat acid attacks and which imposes a sentence of 14 years to life and fine up to one crore of Pakistani rupees and the statement, objectives and reason for enacting this law is to convict the offenders who commit acid attack which arises from domestic violence between married couples and this law facilitates the speedy judiciary process in convicting the offenders. In addition to this legislation, judicial activism in Pakistan played a vital role in combating acid attacks and asserting speedy justice and Supreme Court in Pakistan took a special interest in dealing cases related to acid attacks but these legislation doesn't concentrate on victim compensation and only focusing on convictions and another reason is patriarchal mentality spread to every part of the society which creates impediments in police and judiciary to give compensation to survivors of acid attacks.

#### Bangladesh

The country which has witnessed more number of acid attacks in Bangladesh and it made them frame most detailed statute which denotes and comprises Bangladesh's Acid Crime Control Act (2002) and Acid Crime Prevention Act (2002) are sample laws which emphasizes and elaborates prevention and control of acid attack

### Case Study

#### 1. Laxmi vs. Union of India and others

This case plays a vital role in awarding compensation to the victims and purposively interpreted CrPC section 357 A which paves a way to fix a minimum level of compensation of Rs. 3 lakhs should be ascertained for victims of acid attacks. This case took 7 years of litigation and concluded that these kind of accidents continue to be happening and court asserted that the root cause for such incidents were inactive participation of government in preventing and controlling acid attack violence in India and identified three key areas on which government should concentrate on to provide speedy justice to the acid victims such as the imminent need for legislation which controls and prohibits the sale and storage of acid, treating victims with proper

care by due authority with the establishment of rehabilitation and medical centre and actively implement the victims compensation scheme as envisaged under sec 357A of CrPC and the prominence of this case ruling was court-ordered to award interim compensation of 1lakh rupees from 15 days of the acid attack until full compensation get sanctioned and this rulings enabled all states to implement victims compensation scheme and most successful model was Haryana victims compensation because it covers both physical and mental care .

#### **b. Campaign and Struggle against acid attacks on women (CSAAAW) vs. Department of Women and Child Welfare, State of Karnataka and others.**

In the CSAAAW PIL, The appellate court clubbed all three appeal petitions in the single petition and dealt three main issues such as the accused filed an appellate petition for quashing the order of sentencing him to 5 years and 3 months of imprisonments and fine and on the other side state represented for victims was aggrieved by the order of acquittal under sec 307 of IPC and enhancement of punishment under sec 326 of IPC. The Court criticized that the court (trial) had done immense mistakes and committed error about the attempt to murder objective, lack of compatibility about material particulars, and in rigorous punishment of five years under Section 326 of IPC, in the “light of the grievous nature of injuries especially like losing both the eyesight, disintegration of the entire face of a beautiful girl, is very lenient one.” and court-ordered to pay compensation to victims as mentioned under section 357A of CrPC.

#### **Critical Analysis Victim Compensation Scheme**

In pursuance to Laxmi vs UOI, many schemes have been enacted but none of them could achieve what the Haryana compensation scheme did in availing compensation to the acid victims, and that scheme seen as a model compensation scheme which guides every other state in enacting similar scheme. This scheme broadly divided into four facets like application procedure, DLC, rehabilitation, and financial assistance. The application which seeking for compensation by acid victims should be filed within 15 days and essential documents such as medical report and copy of FIR / Complaint should attach with the application.

After analyzing the essentials documents, authorities should avail reasonable sum of compensation of Rs 3 lakhs for injured which includes partial defacement and whole defacement of the face or any body parts and availing compensation should be in two phases like interim compensation of 1lakh should be paid within 15 days of acid attack as an immediate health care and remaining amount should be paid within 2 months and In case of death, compensation should be paid to her legal representatives

### **Materials And Methods**

The study deals with empirical research I.e non-doctrinal study. It deals with both primary as well as secondary sources of data and various secondary sources like books, articles, research papers, etc. were used as a reference. The

study deals with the survey method and the main tool for calculating or analyzing the results in the Pearson chi-square table and cross-tabulation count. The method of collecting is through direct survey methods by getting people’s opinions and answers to the questionnaires.

#### **Sampling method:**

A random sampling method was used for this study.

#### **sample size:**

There are a total of 1360 samples collected concerning this study.

#### **Independent variable :**

1. Educational qualifications

#### **Dependent variable:**

1. International perspective in awarding compensation to acid victims
2. Haryana Victim Compensation Scheme features effective in awarding compensation and rehabilitation to acid victims.

#### **Result Analysis**

**Educational qualification \***. Whether the international perspective in awarding compensation to acid victims is effective in protecting acid violence?

#### **Alternative hypothesis:**

There is a significant association between education and international perspective in awarding compensation to acid victims in protecting acid violence

#### **Null hypothesis:**

There is a significant association between education and international perspective in awarding compensation to acid victims in protecting acid violence

**Table 1**

Crosstab

Count		Whether an international perspective in awarding compensation is effective in protecting acid violence?					Total
		Strongly Agree	Agree	Neutral	Disagree	Strongly Disagree	
4	SS	25	26	35	20	2	108
	LC	51	85	103	17	3	259
	+2	121	300	95	145	22	683
	U	92	82	30	38	68	310
	G						
	PG						
Total		289	493	263	220	95	1360

### Interpretation

From the above table 1, In this research out of 1360 responses majority of the respondents were completed UG degree which is 683 and in that 121 of the respondents strongly agreed that the international perspective in awarding compensation to acid victims in protecting acid violence effective in protecting acid violence and in that 145 of the respondents disagreed that international perspective in awarding compensation to acid victims in protecting acid violence effective in protecting acid violence.

**Table 2**

#### Chi-Square Tests

	Value	Df	Asymp. Sig. (2-sided)
Pearson Chi-Square	288.824 <sup>a</sup>	12	.000
Likelihood Ratio	257.778	12	.000
Linear-by-Linear Association	6.596	1	.010
N of Valid Cases	1360		

a. 0 cells (0.0%) have expected count less than 5. The minimum expected count is 7.54.

### Interpretation

From the above table 2, the Pearson chi-square value is **0.000** which is less than **0.05** and it implies that there is a relationship between independent variable is educational qualification and the dependent variable is an international perspective in awarding compensation to acid victims in protecting acid violence effective in protecting acid violence and the null hypothesis is rejected.

**Table 3**

#### Crosstab Count

		Haryana Victim Compensation Scheme features effective in awarding compensation and rehabilitation to acid victims		Total
		Yes	No	
4 Educational qualification	SS LC	49	59	108
	+2	162	97	259
	UG	397	286	683
	PG	148	162	310
Total		756	604	1360

Educational qualification \*Haryana Victim Compensation Scheme features effective in awarding compensation and rehabilitation to acid victims.

### Alternative hypothesis:

There is a significant association between education and Haryana Victim Compensation Scheme features effective in awarding compensation and rehabilitation to acid victims

### Null hypothesis:

There is no significant association between education and Haryana Victim Compensation Scheme features effective in awarding compensation and rehabilitation to acid victims

### Interpretation

From the above table 3, In this research out of 1360 responses majority of the respondents were completed UG degree which is 683 and in that 397 of the respondents said that the and Haryana Victim Compensation Scheme features effectively in awarding compensation and rehabilitation to acid victims and in that 286 of the respondents said that and Haryana Victim Compensation Scheme features ineffective in awarding compensation and rehabilitation to acid victims.

**Table 4**

#### Chi-Square Tests

	Value	Df	Asymp. Sig. (2-sided)
Pearson Chi-Square	19.162 <sup>a</sup>	3	.000
Likelihood Ratio	19.144	3	.000
Linear-by-Linear Association	1.697	1	.193
N of Valid Cases	1360		

a. 0 cells (0.0%) have expected count less than 5. The minimum expected count is 47.96.

### Interpretation

From the above table 4, the Pearson chi-square value is **0.000** which is less than **0.05** and it implies that there is a relationship between and Haryana Victim Compensation Scheme features effectively in awarding compensation and rehabilitation to acid victims and the null hypothesis is rejected

## Conclusions

Nowhere in the constitution, fundamental right to have compensation is not presented but the courts recognized it as implied right under Article 21 and 357A of criminal procedure code in several catena of judgments and this kind of judicial activism on sensitive issues reflect how Indian judiciary acts as a protector of will and wish of every citizen in India. But seriousness in such issues was not caught the attention of the government and police officials

Since not any more uniform premise has been detailed for the awards of compensation granted have varied from two or three thousand rupees now and again to lakhs of rupees in others. This vulnerability doesn't improve the situation. Altering the privilege to life might be valuable to universalize the option to look for pay, yet the need of great importance is to order enactment to set out the boundaries on which remuneration ought to be allowed. In any case, there is a requirement for formalized, organized and separate law to profit sensible fiscal rivalry if there should arise an occurrence of any gross infringement of right to life and right to individual freedom set up a conventional structure to allow financial remuneration if there should be an occurrence of infringement of the privilege to life and individual freedom. The enactment should concentrate on offering remuneration to casualties as opposed to giving a writ cure under Article 32 and 226 of the constitution.

Public participation through campaigning is most important aspects in implementing any legislation which prevents the



acid violence to get rid of it because a formal legislation can give compensation to the victims and convict the offenders but aftermath effects like isolating the women from society and made them confined to four walls of their houses, so to prevent such isolation from the larger part of society because we are living in a patriarchal society where rooted with thoughts of women discrimination and society should accept without any hesitation

### References (APA 6<sup>th</sup> edition)

- [1] A, Freeman Marsha, et al. "Violence Against Women." The UN Convention on the Elimination of All Forms of Discrimination Against Women, 2012, doi:10.5422/fso/9780199565061.003.0019
- [2] Bagcchi, Sanjeet. "Acid Attack Victims Should Have Same Rights as Disabled People, Indian Supreme Court Rules." *BMJ*, vol. 351, British Medical Journal Publishing Group, Dec. 2015, p. h6787.
- [3] "Home:: Bangladesh Research Publications." Bangladesh Research Publication, <http://bdresearchpublications.com/>. Accessed 4 Nov. 2019.
- [4] Kalantry, Sital, and Jocelyn Getgen Kestenbaum. *Combating Acid Violence in Bangladesh, India and Cambodia*. June 2011, doi:10.2139/ssrn.1861218.
- [5] "Law and Human Rights: Lara Stemple - Center for the Study of Women." Center for the Study of Women, 28 Oct. 2014, <https://csw.ucla.edu/2014/10/28/law-and-human-rights-lara-stemple/>.
- [6] [No Title]. <http://lawcommissionofindia.nic.in/reports/report226.pdf>. Accessed 26 Oct. 2019.
- [7] <http://vc.bridgew.edu/cgi/viewcontent.cgi?article=1785&context=jiws>. Accessed 5 Nov. 2019.
- [8] <http://www.advancedjournal.com/download/884/2-6-273-504.pdf>. Accessed 5 Nov. 2019.
- [9] "SAGE Journals: Your Gateway to World-Class Research Journals." SAGE Journals, <https://journals.sagepub.com/action/cookieAbsent>. Accessed 4 Nov. 2019.
- [10] Sterling, Christopher H. "Agence France-Presse." *Encyclopedia of Journalism*, doi:10.4135/9781412972048.n14.
- [11] "The code of criminal procedure: (ACT V OF 1898) as amended by the criminal law amendment Act, XII OF 1923 and criminal procedure code amendment Act, XVIII of 1923, and as amended upto date with the criminal law amendment Act, 1933." *A Textbook of Medical Jurisprudence and Toxicology*, 2013, pp. xxxi – xlix, doi:10.1016/b978-1-4831-6824-1.50045-9.
- [12] Thomas, Reshma, et al. "Gender Inequality In Modern India –Scenario and Solutions." *IOSR Journal Of Humanities And Social Science*, vol. 13, no. 3, 2013, pp. 48–50, doi:10.9790/0837-1334850.
- [13] United Nations, and United Nations. Office of the High Commissioner for Human Rights. *Promoting and Protecting Minority Rights: A Guide for Advocates*. United Nations Publications, 2012.
- [14] Website. [www.acidviolence.org/index.php/acidviolence](http://www.acidviolence.org/index.php/acidviolence). Accessed 5 Nov. 2019.
- [15] <http://lawyersupdate.co.in>. Accessed 5 Nov. 2019.
- [16] <http://lawyersupdate.co.in/>. Accessed 4 Nov. 2019.
- [17] See Dexter Filkins, "Afghan Girls, Scarred by Acid, Defy Terror, Embracing School," *New York Times*, 1 January 2009 available at: [http://www.nytimes.com/2009/01/14/world/asia/14kandahar.html?\\_r=0](http://www.nytimes.com/2009/01/14/world/asia/14kandahar.html?_r=0). Accessed 6 Nov. 2019.
- [18] [www.humanrights.asia/resources/journals-magazines/eia/eiav4a1/3-acid-attacks-a-serious-concern-in-Pakistan](http://www.humanrights.asia/resources/journals-magazines/eia/eiav4a1/3-acid-attacks-a-serious-concern-in-Pakistan). Accessed 6 Nov. 2019.
- [19] World Organisation Against Torture (OMCT) - Global Network Fighting against Torture and Other Human Rights Violations. [www.omct.org](http://www.omct.org). Accessed 5 Nov. 2019.