

Regarding modifications to the criteria of financial assistance in the “Manodhairya Scheme” currently being implemented for providing financial assistance and rehabilitation of women and child victims of Rape/Child Sexual Assault and Acid Attack

GOVERNMENT OF MAHARASHTRA
Women and Child Development Department
Government Resolution No.MISC-2016/C.No.35/K-2,
New Administrative Building, 3rd Floor,
Madam Cama Road, Hutatma Rajguru Chowk,
Mantralaya, Mumbai-400032.
Date: 1st August, 2017

REFERENCE TO –

1. Government Resolution No.MISC-2011/C.No.6/K-2, Date: 21st October 2013.
2. Semi Official Letters from the Central Ministry of Women & Child Development dated 09/12/2010.
3. Order passed by the Honourable High Court of Bombay on 8th March 2017, in Writ Petition No. 2951/2016.

INTRODUCTION:-

Based on the directive from the Central Government to provide for financial compensation and rehabilitation for victims of Rape/Child Sexual Assault and Acid Attack, and following the decision of the

erstwhile Hon.Cabinet, the Department of Women & Child Development initiated the “Manodhairya Scheme” in the State according to Government Resolution No. MISC-2011/C.No.6/K-2, Date 21st October 2013. Given the challenges at the regional level for effective implementation of the Manodhairya Scheme based on the current criteria, it was proposed to revise the criteria according to the guidelines given in the semi-official letters by the Central Government dated 09/12/2010.

2. In the meanwhile based on the order by the Honourable Supreme Court in the Criminal Appeal No. 884 of 2015 Tekan Alias Tekram v/s the State of Madhya Pradesh in the Writ Petition No. 2951/2016 filed in the Honourable High Court of Bombay as well as taking note of the fact that the State of Goa in a similar scheme was providing monetary compensation of INR 10 lakh, the Honourable High Court of Bombay in their order dated 08/03/2017 directed the State to revamp the scheme. Inter alia based on two other writ petitions in the Honourable High Court of Mumbai; Writ Petition No. 2165/2014 and petition No. 3123/2015 the Honourable High court ordered the State to remove the cut-off date of 02/10/2013 under the Manodhairya Scheme and provide compensation with retrospective effect to the women and children falling within the eligibility criteria of the scheme. In consideration of all of the above, the Government was contemplating amending certain criteria in the current “Manodhairya” Scheme.

GOVERNMENT RESOLUTION:-

Based on the above background the amendments in the eligibility criteria under the Manodhairya scheme operational under the Women & Child Development Department since 02/10/2013 for financial assistance and rehabilitation of victims of Rape/Child Sexual Assault and Acid Attack are given as under:

1. Under the “Manodhairya” Scheme from the date of release of the aforementioned order as per the Appendix - A attached, women and child survivors of Rape/Child Sexual Assault and Acid Attack will be given revised compensation.
2. According to the prevailing criteria under the “Manodhairya” scheme the power to extend financial compensation has been given to the District Criminal Injuries Relief and Rehabilitation Board set up under the Chairpersonship of the District Collector. However, observing the workload of the District Collector it is not possible to convene meetings of the District Board each time for every case.

Hence, it has been observed that victims could not be given compensation in the prescribed time frame. Thus, henceforth, according to the new criteria the District Legal Services Authority (DLSA) or as per the given circumstances the State Legal Services Authority (SLSA) are authorized to provide the financial assistance to victims.

3. Based on the new criteria attached in “Appendix - A” under the “Manodhairya” Scheme the procedure to be followed while providing financial compensation to victims is as follows.

A) RAPE (THIS INCLUDES MENTALLY CHALLENGED WOMEN VICTIMS)

- (i) In the case of rape, as mentioned in “Appendix - A” (1) Rape (A) and (B); 75% of the financial compensation granted by the DLSA or as per the given circumstances by the SLSA, should be kept as a fixed deposit in the name of the victims in a bank account, for a period of 10 years. 25% of the amount to be paid to the victim by cheque, by the concerned District Women & Child Development officer on receipt of the order of the DLSA or SLSA.

In such incidents, as soon as the District Women & Child Development officer receives the FIR, Medical Examination Report and the Victim Statement in accordance with Section 164 CrPC, the DLSA or as per the given circumstances SLSA will take an immediate decision regarding the financial assistance. The concerned District Women & Child Development officer to take action accordingly.

- ii) While approving financial assistance based on the prevalent criteria under the Manodhairya Scheme it has been observed at the regional level that attempts have been made to avail of the financial compensation under the aforementioned scheme by making false claims. Under the scheme’s current criteria on the basis of the mere receipt of the copy of the FIR and the chargesheet the District Criminal Injuries Relief and Rehabilitation Board accepts the version and sanctions disbursement of the entire compensation amount to the victim. However, in future if the aforementioned victim retracts her witness statement against the accused thereby rendering the offence unproven the accused can be released. Hence, due to current prevalent practices under the Manodhairya Scheme, in such cases the victim filing false claims in the Honourable High Court

to take advantage of this scheme, the possibility of collusion between the women and men associated with the scheme cannot be denied. Nonetheless, to thwart these tendencies in the incidents of rape, the accompanying "Appendix - A" for the sections on Rape (1) (C), (D) and (E) the following procedures be implemented.

- **For offences mentioned in Appendix - A (1) Rape, (C) (D) and (E)** as soon as the FIR, Medical Examination Report and the Victim Statement in accordance with Section 164 CrPC is received from the District Women & Child Development (DWCD) officer, the DLSA or as per the given circumstances SLSA will give the order for payment of the interim compensation of INR 25,000/- or 25% of the sanctioned amount whichever may be less. The concerned DWCD Officer to complete the necessary procedural formalities.
- In such cases, it is mandatory for the police department to attach a copy of the Victim Statement in accordance with Section 164 CrPC alongwith the FIR.
- Subsequently in the aforementioned case, after filing of the chargesheet in the competent court, after deducting INR 25,000/- or 25% of the amount whichever may be less, sanctioned by the DLSA or as per the given circumstances SLSA, the remaining amount will be disbursed to the concerned victim as financial compensation following an order given by the DLSA or as per the given circumstances SLSA.
- With respect to the above sanctioned financial compensation the concerned DWCD officer will take necessary steps to keep the amount in a fixed deposit bank account in the name of the victim for a period of 10 years.
- If the rape offence has caused serious injury/illness, an HIV infection has been transmitted then the concerned shall be provided with free medical treatment for the same in Government hospitals.
- As per the Protection of Women from Domestic Violence Act 2005, if the woman is separated/divorced from her husband post the proceedings of the Honourable Court and subsequently she is subject to the offence of rape/sexual assault by her husband; INR 25,000/- or 25% of the sanctioned amount, whichever may be less be provided as interim compensation to the victim after getting the copy of the police FIR, Medical Examination Report and Victim Statement in accordance with Section 164 CrPC. Subsequently after the

chargesheet has been filed in a competent court the above compensation amount up to a limit of up to INR 1 lakh in the name of the victim as a fixed deposit in the bank should be approved.

- Inter alia, in the incidence of death due to rape, the heir be allowed a compensation of INR 1 lakh if the deceased woman is a non-earning member of the family and of INR 2 lakh if the deceased woman is an earning member of the family. However, this amount should be kept in the bank as a fixed deposit in the name of their minor children.

B) CHILD SEXUAL ASSAULT AS PER POCSO Act, 2012 (THIS INCLUDES MENTALLY CHALLENGED VICTIMS)

- (i) In cases of Child Sexual Assault as per the POCSO Act 2012, as mentioned in "Appendix - A" along with incidences under (2) (A) and (B) 75% of the financial compensation granted by the DLSA or as per the given circumstances by SLSA, should be kept as a fixed deposit in the name of the victim in a bank account, for a period of 10 years. After completing the necessary procedures 25% of the amount to be paid to the victim by cheque, by the concerned DWCD officer. Prior to which an approval on the basis of the related FIR and Medical Examination Report, from the DLSA or as per the given circumstance SLSA is mandatory. If there is permanent disability then compensation upto INR 10 lakh to be sanctioned.

In such cases, as soon as the District Women & Child Development officer receives the FIR, Medical Examination Report and the Victim Statement in accordance with Section 164 CrPC, the DLSA and as per the given circumstances SLSA will take an immediate decision regarding the financial assistance. The concerned DWCD Officer to complete the necessary procedural formalities.

- (ii) In cases of Child Sexual Assault as per the POCSO Act 2012, as mentioned in "Appendix - A" along with incidences under (2) (C) the following procedures are to be followed

- As soon as the FIR, Medical Examination Report and the Victim Statement in accordance with Section 164 CrPC is received from the Police Department, an interim compensation of INR 25,000/- or 25% of the sanctioned amount whichever may be less to be sanctioned by the DLSA or as per the given circumstances SLSA. The concerned DWCD officer should take immediate action accordingly.
- In such cases, it is mandatory for the police department to attach a copy of the Victim Statement in accordance with Section 164 CrPC along with the FIR.
- Subsequently, in the aforementioned case, after filing of the chargesheet in the competent court, after deducting INR 25,000/- or 25% of the amount whichever may be less, sanctioned by the DLSA or as per the given circumstances SLSA, the remaining amount will be disbursed to the concerned victim as financial compensation following an order given by the DLSA or as per the given circumstances SLSA.
- The concerned DWCD officer will take necessary steps to keep 75% of the above sanctioned financial compensation amount in a fixed deposit bank account in the name of the victim for a period of 10 years on approval by the DLSA or as per the given circumstances SLSA.
- The above mentioned amount to be given to the parent of the deceased child such as the non-offending mother, if the mother is deceased then the non-offending father, if both the parents are deceased then based on the decision taken by the Honourable Court the person who has guardianship or inheritance right will remain as a heir, the above mentioned amount to be kept in the name of the child as a fixed deposit in a bank till the child attains 18 years of age. While keeping the above mentioned amount as a fixed deposit premature withdrawal of the amount before the child completes the age of 18 years is not permissible, this restriction will be imposed on the bank and it would be mandatory for the bank to stamp the fixed deposit receipt stating the same.
- If the rape leads to death of the child, then in the name of the non-offending mother, if the mother is deceased then in the name of the non-offending father, if both the parents are deceased then based on the decision taken by the Honourable Court the person who has guardianship or inheritance right, will be paid the compensation.

- In this regard, the compensation amount to be paid to the non-offending mother, if the mother is deceased then the non-offending father, if both the parents are deceased then based on the decision taken by the Honourable Court the person who has guardianship or inheritance right, will be paid in the first phase and kept as a fixed deposit for a period of 10 years. This amount cannot be withdrawn for 10 years, this restriction will be imposed on the bank and it would be mandatory for the bank to stamp the fixed deposit receipt stating the same. After 10 years, the deposit will roll over for another 10 years. The monthly interest earned on this amount can be spent by the parent/legal heir for the the upbringing of the victim.

C) REGARDING COMPENSATION TO BE PROVIDED TO VICTIMS OF ACID ATTACK....

- (i) In the case of Acid Attack, as given in "Appendix - A" (3) Acid Attack (A) offences, 75% of the financial compensation sanctioned by the DLSA or as per the given circumstances by the SLSA, will be kept as a fixed deposit bank account in the name of the victim for a period of 10 years. The concerned District Women & Child Development officer should immediately complete procedures to hand over 25% of the compensation amount to be paid to the victim by cheque. However, if financial assistance is provided to the victims under the the Victim Compensation Scheme, 2014 of the Government's Home Department, they will not be entitled to compensation under the Manodhairya Scheme.
- (ii) In the case of Acid Attack, as given in Appendix - A Acid Attack (3) (B)) offences, 75% of the granted compensation by the DLSA or as per the circumstances by SLSA, will be kept as a fixed deposit bank account in the name of the victim for a period of 10 years.
- (iii) In cases where the face is disfigured due to the acid attack the plastic surgery to be carried out in the hospital decided by the Government and all expenses for the surgery to be sanctioned by the DLSA or as per the given circumstances by SLSA.

4. In Writ Petition No. 2165/2014 in the High Court of Bombay and Writ Petition No. 3123/2015 the Honourable High Court ordered the State to provide compensation under the Manodhairya scheme with retrospective effect. Accordingly, in cases eligible since 31/12/2009 falling within relevant definitions of Rape under Sections 1(a) and (b), under POCSO Act 2012 definitions in Sections 2(a) and (b), and Acid Attack definitions under Section 3(a) in cases, financial compensation will be given under the prevalent Manodhairya Scheme as per the criteria of the Government Resolution dated October 21, 2013. Inter alia the above mentioned financial compensation will be payable only if there is a police record of the FIR lodged at the time of the incident.

With regards to other offences since 2009, there is a possibility that victims may have been rehabilitated by now. Thus in the current situation public acknowledgment of such a victim by reference to a past incident will be inappropriate as it will be an invasion of her privacy.

5.If victims are to avail of monetary compensation under the “Manodhairya” Scheme then they will not be entitled to financial compensation under any other scheme.

6. It has been observed during the implementation of the Manodhairya Scheme that there is considerable delay in obtaining the necessary paperwork from victims for providing them financial compensation. Moreover, when a letter is sent to the contact address of the victim, and the victim is not available at the address it creates hurdles in providing financial assistance leading to proceedings getting considerably delayed. In such a case, the DLSA or as per the given circumstances the SLSA, will ensure that maximum efforts are being taken for a minimum 3 months, in locating the address of the victim or completion of the necessary paperwork, after which they will pass an order to deposit the compensation amount in the State Treasury. Accordingly the procedures for follow-up in this regard to be undertaken by the concerned DWCD officer.

7. To avail of the financial compensation under the “Manodhairya” Scheme it would be necessary for the victim/ children of the victim to

have an Aadhaar number and it will be necessary to provide the information related to their Aadhaar linked bank account to the DLSA or as per the given circumstances SLSA. The responsibility of opening an Aadhaar linked bank account rests with the victim and the victim's parents.

8. Inter alia, as per the above new criteria under the "Manodhairya" scheme it is mandatory for a female victim to submit the medical examination in accordance with Government Circular No – Miscellaneous – 2013 / C.No. 55/ Health – 3, Date 10/05/2013 of the Public Health Department.

9. For the effective implementation of the "Manodhairya" Scheme no other rules, other than the modified procedures prescribed will apply.

10. Women and child victims of Rape, Child Sexual Assault under the POCSO Act, 2012 and Acid Attack will be allowed financial assistance/rehabilitation/compensation only under one scheme, either under the Victim Compensation Scheme or the revised Manodhairya Scheme.

11. DLSA or as per the given circumstances SLSA should deposit the sanctioned amount of the financial compensation via cheque in the name of the victim in their Aadhaar linked bank account.

12. The non – recurring expenditure under the scheme is INR 111.84 crores and recurring expenditure INR 18.80 crores, incremental expenditure of INR 130. 64 crores has been approved by the Honourable Cabinet.

13. This Government Resolution with the consent of the Public Health Department and the Department of Finance, is being issued through Informal Reference No. 159/17 /Expenditure 6, Date 26/7/2017 of the Department of Finance.

The said Government Resolution has been made available on the Government of Maharashtra Website www.maharashtra.gov.in and the

code number is 201708011134427630. This Order is being issued by authentication through Digital Signature.

In the name and under the Order of the Governor of Maharashtra,

(Smita Nivatkar)
Deputy Secretary,
Government of
Maharashtra

Copy,

1. Secretary, to the Hon. Governor, Rajbhavan, Mumbai
2. Principal Secretary to the Hon. Chief Minister, Mantralaya, Mumbai
3. Hon. Chairperson/Deputy Chairperson, Assembly, Maharashtra Legislature, Mumbai
4. Hon. Chairperson/Deputy Chairperson, Legislative Council, Maharashtra Legislature
5. Hon. Opposition Leader, Assembly/ Legislative Council, Maharashtra Legislature, Mumbai.
6. The Private Secretary to the Hon. Minister/Minister of State, Women and Child Development, Mantralaya, Mumbai
7. Hon. Chief Secretary and his Joint Secretary, Mantralaya, Mumbai
8. Additional Chief Secretaries/ Home Department, Mantralaya, Mumbai
9. Additional Chief Secretaries/ Finance Department, Mantralaya, Mumbai
10. Principle Secretaries/ Planning Department, Mantralaya, Mumbai
11. Additional Chief Secretaries/Principal Secretaries/Secretaries, all Ministerial Departments
12. Maharashtra State Legal Services Authority, High Court, Mumbai

13. All the District Legal Services Authority. (Through Commissioner).
14. The Commissioner, Women and Child Development, Pune.
15. Commissioner, Integrated Child Development Program, Navi Mumbai.
16. All Deputy Secretaries, Women and Child Development, New Administrative Building, Mumbai.
17. Deputy Commissioner, Directorate of Women and Child Development, Maharashtra, Pune.
18. All District Women and Child Development Officers, (Through Commissioners)
19. All District Collectors.
20. All Functionaries, Women and Child Development Department, New Administrative Building, Mumbai.
21. Select File/K-2.

Government Resolution NO.MISC-2016/ C.NO.35/K-2 dated 01.08.2017

Appendix –A

Particulars of the new criteria for the Amended financial compensation to be sanctioned under the Manodhairya Scheme.

Sr No.	Description of Offence	Financial Assistance	Remarks
1	Rape: A) In cases where on account of the incident, if woman is mentally traumatized and acquires permanent retardation/ disability.	Upto INR 10,00,000/-	75% of the sanctioned amount will be placed in a fixed deposit in a bank account in the name of the victim for a period of 10 years. A cheque of 25% of the amount will be released after the District Legal Services Authority or as per the given circumstances the State Legal Services Authority issues an order to that effect.
	B) In cases of gang rape or such instances where the woman has suffered serious and grievous physical injury.	Upto INR 10,00,000/-	As mentioned above.

	<p>C) Cases of rape involving deception, false promise of marriage.</p>	<p>Upto INR 1,00,000/-</p>	<p>75% of the sanctioned amount will be placed as fixed deposit in the Aadhaar linked bank account of the victim for a period of 10 years if the Hon. Court passes a ruling in favour of the woman.</p> <p>However in cases where the victim retracts her statement in court/colludes, the entire sanctioned amount will be recovered from her.</p>
	<p>D) Under The Protection of Women from Domestic Violence Act, 2005 in case where a women after judicial separation/divorce is raped by her husband.</p>	<p>Upto INR 1,00,000/-</p>	<p>75% of the sanctioned amount will be placed as fixed deposit in an Aadhaar linked bank account in the name of the victim for a period of 10 years.</p> <p>However in cases where the victim retracts her statement in court/colludes, the entire sanctioned amount will be recovered from her.</p>

	<p>E) In cases, where rape leads to death of the woman.</p> <p>1) If the deceased woman is a non-earning member of family.</p> <p>2) If the deceased woman is an earning member of the family.</p>	<p>Upto INR 1,00,000/-</p> <p>Upto INR 2,00,000/-</p>	<p>75% of the sanctioned amount will be placed as fixed deposit in an Aadhaar linked bank account in the name of the victim's heirs for a period of 10 years and the interest on the amount will be given to them.</p>
<p>2.</p>	<p>Child Sexual Assault under POCSO :-</p> <p>A) In cases where on account of the incident, the child/ minor girl becomes permanently mentally retarded/disabled.</p>	<p>Upto INR 10,00,000/-</p>	<p>75% of the sanctioned amount will be placed in a fixed deposit in a bank account in the name of the victim for a period of 10 years. A cheque of 25% of the amount will be released after the District Legal Services Authority or as per the given circumstances the State Legal Services Authority issues an order to that effect.</p>

	B) In cases where on the account of the incident, the child/minor girl suffers serious and grievous physical injuries.	Upto INR 10,00,000/-	As mentioned above.
	C) In cases of rape of a minor involving deception, false promise of marriage.	Upto INR 10,00,000/-	75% of the sanctioned amount will be placed as fixed deposit in an Aadhar linked bank account of the victim for a period of 10 years if the Hon. Court passes a ruling in favour of the victim. However in cases where the victim changes or retracts her statement in court, the entire sanctioned amount will be recovered from her.
3.	ACID ATTACK:- A) In the incident, the face of the victim woman/child is disfigured, damage to the visible part of her body, or permanent disability.	Upto INR 10,00,000/-	75% of the sanctioned amount will be placed in a fixed deposit in the Aadhaar linked bank account in the name of the victim for a period of 10 years. A cheque of 25% of the amount will be released within 15 days of the District Legal Services Authority or as per the given circumstances the State Legal

			Services Authority issuing an order to that effect.
	B) Injuries due to the acid attack.	Upto INR 3,00,000/-	75% of the sanctioned amount will be placed in a fixed deposit in the Aadhaar linked bank account in the name of the victim for a period of 10 years.

(Smita Nivatkar)
Deputy Secretary, Government of Maharashtra