

Regarding upgradation of the eligibility criteria for financial assistance and rehabilitation under the “Manodhairya Scheme” for women and children affected by Rape/Child Sexual Assault and Acid Attack

**GOVERNMENT OF MAHARAHSTRA
Women and Child Development Department
Government Resolution No.MISC-2016/C.No.35/K-2,
New Administrative Building, 3rd Floor,
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 Honorable Bombay High Court passed 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 then Cabinet, ‘The Manodhairya Scheme’ has been started in the State by the Department of Women & Child Development according to Government

Resolution No.MISC-2011/C.No.6/K-2, Date 21st, October 2013. Understanding the challenges at the regional level for effective implementation of the Manodhairya Scheme based on the current criteria, it was proposed to change 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 honorable 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 Honorable High Court, Bombay as well as taking note of the fact that the State of Goa was providing a monetary compensation of Rs. 10 lakh, the Honorable High Court in Bombay in their order dated 08/03/2017 asked the State to develop a new scheme. Similarly based on two writ petitions in the High Court of Bombay writ petition No. 2165/2014 and petition No. 3123/2015 the honorable high court had ordered the State to remove the cut off date of 02/10/2013 under the Manodhairya Scheme and provide compensation in retrospect to the victim women and children in cases that fell in the eligibility criteria under the scheme. In consideration of all of the above the Government was thinking of improving 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 as given under:

1. Under the “Manodhairya” Scheme from the date of release of this order as per the Appendix A attached, victims 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 Chairmanship of the District Collector. However,

observing the workload of the District collector it has not been possible to call for meetings of the district board each time in each case. Because of which it has been observed that victims have not been able to be given compensation in the prescribed time period. Thus, according to the new criteria the District Legal Services Authority (DLSA) or as per the circumstances to the State Legal Services Authority (SLSA) will extend the financial assistance to victims.

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

A) RAPE (THIS INCLUDES WOMEN VICTIMS WHO ARE MENTALLY CHALLENGED)

- (i) In the case of Rape, as given in "APPENDIX A" along with (1) Rape (A) and (B) 75% of the financial compensation granted by the DLSA or as per the circumstances by the SLSA, should be kept as a fixed deposit in the name of the victim 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 after receiving 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 Victims statement recorded under Section 164 CrPC from the Police Department, the DLSA and as per the circumstances SLSA will take an immediate decision regarding the financial assistance. The concerned Officer for Women & Child Development to take action accordingly.

- (ii) While approving financial assistance based on the prevailing criteria under the Manodhairya Scheme it has been observed at a regional level that there have been attempts at availing financial assistance under the scheme based on false claims. According to the current criteria under the scheme just based on the copy of the FIR and the chargesheet the District Criminal Injuries Relief and Rehabilitation

Board approve the case the grant complete financial assistance to the victims. However in the future if the victim changes her statement against the accused and the offence is not proved the accused can be released. Thus according to the current prevailing practices under the scheme, due to false claims filed by the victim in the court, the possibility of women and men consenting and taking advantage of this scheme cannot be denied. However, to prevent these tendencies, that are involved in the incidents of rape, the following procedures should be implemented for the cases of rape mentinoed in Appendix – A 1. (C), (D) and (E).

- For offences mentioned in Appendix A (1) Rape, (C) (D) and (E) as soon as the District Women & Child Development officer receives the FIR, Medical Examination Report and the Victims statement recorded under Section 164 CrPC from the Police Department, the DLSA or based on the circumstances SLSA will give the order of payment of the interim compensation of Rs. 25,000 or 25% of the sanctioned amount whichever may be less. The concerned DWCD officer should take action accordinly.
- In such cases, it will be compulsory for the police department to attach a copy of the victims testimony under Section 164 CrPC alongwith the FIR.
- Subsequently in the case, after filing of the chargesheet in the competent court, after deducting Rs. 25,000/- or 25% of the sanctioned amount whichever may be less, from the final compensation amount will be given to the concerned victims as final compensation by the DLSA or based on the circumstances SLSA.
- With respect to the above mentioned financial compensation the concerned DWCD officer will take necessary action to keep the amount as a fixed deposit in the name of the victim in a bank account, for a period of 10 years.
- If the rape has caused serious injury/illness, or an HIV infection then the concerned should be provided with free medical treatment in Government hospitals.
- As per to the Protection of Women from Domestic Violence Act 2005, post the court proceedings if the woman is separated/divorced from her husband and after that there is a rape/sexual assault from her

husband an interim compensation of Rs. 25,000/- or 25% of the sanctioned amount whichever may be less must be provided after getting the copy of the FIR from the police, medical examination report and victims testimony under Section 164 CrPC. Subsequently after the chargesheet has been filed in a competent court the remaining compensation amount up to a limit of up to Rs 1.00 lakh should be kept under the name of the victim as a fixed deposit in the bank.

- Additionally, in the incidence of death due to rape, the heir allowed a compensation of Rs. 1 lakh if the deceased woman is a non-earning member of the family and of Rs. 2 lakh if the deceased woman is a 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 VICTIMS WHO ARE MENTALLY CHALLENGED)

- (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 circumstances by the 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 District Women & Child Development. Before which an approval on the basis of the FIR related to the incident and medical examination report, from the DLSA or based on the circumstance SLSA will be required. If there is permanent disability then compensation upto Rs. 10 lakh to be sanctioned.

In such incidents, as soon as the District Women & Child Development officer receives the FIR, Medical Examination Report and the Victims statement recorded under Section 164 CrPC from the Police Department, the DLSA and as per the circumstances SLSA will take an immediate decision regarding the financial assistance. The concerned Officer for Women & Child Development to take action accordingly.

(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 Victims statement recorded under Section 164 CrPC is received from the Police Department, an interim compensation of Rs. 25,000 or 25% of the sanctioned amount whichever may be less to be sanctioned by the DLSA or based on the circumstances SLSA. The concerned DWCD officer should take immediate action accordingly.
- In such cases, it will be compulsory for the police department to attach a copy of the victims testimony under Section 164 CrPC alongwith the FIR.
 - Subsequently in the case, after filing of the chargesheet in the competent court, Rs. 25,000/- or 25% of the sanctioned amount whichever may be less, sanctioned by the DLSA or based on the circumstances the SLSA, to be deducted from the final compensation amount the remaining compensation amount up to a limit of up to Rs 1.00 lakh will be given to the concerned victims as final compensation by the DLSA or based on the circumstances SLSA.
 - With respect to the 75% of the approved compensation the concerned DWCD officer will take necessary steps to keep the amount as a fixed deposit in the name of the victim in a bank account, for a period of 10 years. This to be done once there is approval from the DLSA or based on the circumstances SLSA.
 - The said amount to be given to the parent of the child, 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 honorable court the guardian of the child will remain as a heir, the said amount to be kept in the name of the child as a fixed deposit in a bank. While keeping the amount as a fixed deposit premature withdrawal of the amount before the child completes the age of 18 years will not be possible, this rule will be imposed on the bank and it would be mandatory for the bank to stamp the receipt of the fixed deposit stating the same.

- If the rape leads to death of the child, then 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 honorable court the guardian of the child who is the heir, 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 honorable court the guardian of the child who is the heir, 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 receipt of the fixed deposit stating the same. After 10 years, the deposit will roll over for another 10 years. The interest gained on this amount can be spent by the parent or the legal heir for taking care of the victims.

C) REGARDING COMPENSATION TO BE PROVIDED TO VICTIMS OF ACID ATTACKS

- (i) In the case of Acid Attacks, as given in "APPENDIX A" along with (3) Acid Attacks (A) 75% of the financial compensation granted by the DLSA or as per the circumstances by the SLSA, will be kept as a fixed deposit in the name of the victim in a bank account, for a period of 10 years. The concerned District Women & Child Development officer should immediately complete procedures to hand over the 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 of the Government's Home Department, they will not be entitled to compensation under the Manodhairya Scheme.
- (ii) In the case of Acid Attacks, as given in "APPENDIX A" along with Acid Attacks (3) (B), 75% of the granted compensation by the DLSA or as per the circumstances by SLSA, will be kept as a fixed deposit in the name of the victim in a bank account, 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 the expenses for the surgery to be sanctioned by the DLSA or as per the circumstances by SLSA.

4. In the writ petition No. 2165/2014 in the Bombay High Court and writ petition No. 3123/2015 the honorable high court had ordered the State to provide compensation under the Manodhairya scheme in retrospect. Accordingly accompanying statements in cases of Rape falling in the categories 1(A) and (B), under POCSO Act 2012 statements in the categories 2(A) and (B), and Acid attacks cases falling in the category 3(A). For cases eligible since 31/12/2009, financial compensation will be given under the Manodhairya Scheme as per the criteria of the government's resolution on the date of October 21, 2013. The financial compensation will be payable only if an FIR was lodged at the time of the incident.

With regards to other offences since 2009, there is a possibility that victims might have been rehabilitated. Thus in the current situation respecting the privacy of the victims, it will be inappropriate to interfere now in their private lives in relation to the earlier incidents.

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

6. It has been observed during the implementation of the Manodhairya scheme that while providing for financial compensation to victims the necessary paperwork needed from them is incomplete. There is a lot of time that goes by in the process. Also, when a letter is sent to the contact address of the victim, and the victim is not available at the address there are difficulties in providing financial assistance leading to a lot of delay in the proceedings. In such a case, the DLSA or as per the circumstances the SLSA, will ensure that maximum efforts are being taken for not more than a period of 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 in this regard to be followed by the concerned DWCD officer.

7. To avail of the financial compensation under the Manodhairya scheme it would be necessary for the victims/ children of the victims to have a Aadhar number and it will be necessary to provide the information related to their Aadhar linked bank account to the DLSA or as per the circumstances the SLSA. The responsibility of opening a Aadhar Linked bank account is with the victim and the victims parents.

8. Also, as per the above new criteria under the “Manodhairya” scheme it is mandatory to submit the medical examination as per the Public Health Departments Government circular no – miscellaneous – 2013 / C.No. 55/ Health – 3, Date 10/05/2013.

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 attacks 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 circumstances SLSA should deposit the amount of the financial compensation as a cheque in the name of the victim in their Aadhar linked bank account.

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

13. This Government Resolution is being issued with the approval of the Public Health Department and the Department of Finance, and with the

consent of the Finance Department in their informal reference no. 159/17 /Expenditure 6, Date 26/7/2017

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)
Under Secretary,
Government of
Maharashtra

Copy,

1. The Secretary to the Hon. Governor, Rajbhavan, Mumbai
2. The Principal Secretary to the Hon. Chief Minister, Mantralaya, Mumbai
3. The Head / Vice President Guidance, Maharashtra Govt. Mumbai
4. The Deputy Chief Minister of Maharashtra, Maharashtra Govt. Mumbai
5. The Opposition Leader, Assembly/ Legislative Council, Maharashtra Govt. Mumbai.
6. The Private Secretary to the Hon. Minister, Women and Child Development, Mantralaya, Mumbai
7. The Hon. Chief Secretary/Joint Secretary, Mantralaya, Mumbai.
8. Additional Chief Secretaries/ Home department, Mantralaya, Mumbai.
9. Additional Chief Secretaries/ Finances department, Mantralaya, Mumbai.

10. Principle Secretaries/ Planning Department, Mantralaya, Mumbai.
11. Additional Chief Secretaries/Principal Secretaries/Secretaries, all Ministerial Department.
12. Maharashtra State Law Service 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 Functioning, Women and Child Development Department, New Administrative Building, Mumbai.
21. Select File/K-2.

Government Resolution NO.MISC-2016/ C.NO.32/K-2 dated 01.08.2017

Appendix –A

The revised financial assistance and the new criteria under the Manodhairya Compensation Scheme.

Sr No.	Description	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 Rs.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. 25% of the amount will be released after the District Legal Service Authority or as per the circumstances the State legal Service Authority issue an order to that effect.
	B) In cases where the woman has been subjected to gang rape and has suffered serious and grievous physical injury.	Upto Rs.10,00,000/-	As mentioned above

<p>2.</p>	<p>Child Sexual Assault under POCSO :-</p> <p>A) In cases where on account of the incident, the child/ minor girl is permanently mentally retarded/ disabled</p>	<p>Upto Rs. 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. 25% of the amount will be released after the District Legal Service Authority or as per the circumstances the State legal Service Authority issue an order to that effect.</p>
	<p>B) In cases where on the account of the incident, the child/minor girl gets serious greivous physically injured</p>	<p>Upto Rs. 10,000/-</p>	<p>As mentioned above</p>
	<p>C) In cases of rape of a minor involving adultery, false promise of marriage</p>	<p>Upto Rs. 10,00,000/-</p>	<p>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 judgement is in the favour of the victim in the court.</p> <p>However in cases where the victim changes or retracts her statement in court, the entire sanctioned amount will be recovered from her.</p>

3.	ACID ATTACKS:- A) In the incident, the face of the victim woman is disfigured, damage to the visible part of her body, or permanent disability	Upto Rs. 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. 25% of the amount will be released within 15 days, after the District Legal Service Authority or as per the circumstances the State legal Service Authority issue an order to that effect.
	B) Injuries due to the acid attack	Upto Rs. 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

