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HUMAN RIGHTS VIOLATIONS AND VICTIM COMPENSATION UNDER THE CONSTITUTIONAL AND CRIMINAL JUSTICE FRAMEWORK IN INDIA

AUTHORED BY - PROF.(DR.) BHARAT B. PUROHIT

Abstract

There have been four different remedial frameworks that have evolved in India in response to crimes and 'human rights violations' by state authorities against individuals, one of which consists of recommendatory powers exercised by the human rights commissions. The avenues of redress in the public law sphere comprise compensation in the writ jurisdiction under Articles 32 and 226 of the Constitution; compensation under the more universally applicable Sections 395-399 of the Bharatiya Nagarik Suraksha Sanhita, 2023 ("BNSS"); compensation under the specific or special statutes, notably the Protection of Children from Sexual Offences Act, 2012 ("POCSO") and the Scheduled Castes/Scheduled Tribes (Prevention of Atrocities) Act, 1989; and a fourth general remedial avenue under Section 18 of the Protection of Human Rights Act, 1993 ("PHRA"). This paper proposes to demonstrate the trajectory of jurisprudence that has been generated by the various enactments, starting from Khatri and Rudul Sah, the strict-liability jurisprudence of Nilabati Behera, to the latest pronouncement in Kaushal Kishor v. State of U.P. (2023). It will then turn to examine the trend of jurisprudence on compensation that has emerged in the wake of the Manipur violence litigation, the directions on compensation for destruction of structures in 2024 and the three cases in 2025: Arif Md. Yeasin Jwadder, Bhanei Prasad @ Raju and Jyoti Praveen Khandpasole. Its thesis is that while each of these jurisprudential streams has generated a plethora of doctrines that enrich the law on victim compensation, viewed together, they generate further questions about the interactions between them, directly or indirectly, as illustrated by the unresolved jurisdictional tussle in the various High Courts on the justiciability of the recommendations of the National Human Rights Commission and the State Human Rights Commissions, which forms the subject-matter of this work's conclusion.

I. Introduction

Throughout most of India's history as a republic, the victim of a crime has been a mere witness to it, a party to the proceedings as a witness called by the prosecution, and not a party to the proceedings as a victim whose expectations the state had to consider. This began to change a few years ago, and in the last four decades, India has seen the emergence of an elaborate compensation architecture, even if there is not a single law on victim compensation that Parliament has passed in the last four decades. Courts have begun to read a right to compensation in various Articles of the Indian Constitution (Articles 21, 32, and 226 in particular), even as the Constitution makes no mention of compensation. Parliament has had other ideas, from the insertion of Section 357A into the CrPC to the current Section 396 of the BNSS, creating a statutory compensation framework. Other Acts have carved out separate compensation regimes for children, SCs/STs, and victims of acid attacks and lynching. Added to this is the general and recommendatory role of the Human Rights Commissions, which operate under the aegis of Section 18 of PHRA and whose remit is not always clear, least of all their ability to compel the state to deliver on their recommendations.

The problem with this is that all these tracks are different, none apply exclusively and exclusively in any given situation, and for any given victim, and the fact that the very existence of multiple tracks is a problem. A victim can, in principle, seek compensation on all of them simultaneously, and no authority anywhere has clarified how such a situation should ideally be handled, much less ruled on the questions of applicability or scope. May a victim seek compensation on more than one track? Does compensation awarded under any one of them affect the victim's ability to seek compensation under the others? Do findings on any one of them have any bearing on findings on the others? Can the government override recommendations by the Human Rights Commissions? Each of these is a question that a lawyer representing a victim in a custodial death or a caste-based atrocity may have to answer for a client on the day following the incident. This article attempts to describe the compensation architecture in some detail, the evolution of each of the tracks in chronological order and detail, and what, if, anything happens where these tracks intersect.

II. Constitutional Foundations of Compensatory Jurisprudence

A. Genesis: Khatri and Rudul Sah

In the text of Article 32 or Article 226, there is no mention of monetary compensation; it is an

invention of the Court.¹ The first trace of it is in *Khatri v. State of Bihar*, the Bhagalpur blinding case, where the Court, having accepted at least in principle the liability of the State for the illegal use of acid by the police, spoke of compensation for the eyes blinded.² The principle was further developed and turned into a doctrine two years later in *Rudul Sah v. State of Bihar*. The petitioner had spent more than fourteen years in custody after his acquittal. The Supreme Court, while recognizing that the petitioner could pursue a civil suit for damages, held that if the jurisdiction of Article 32 was narrowed down to a release order, its very existence would be undermined.³

B. Strict Liability: Nilabati Behera

A decade later in *Nilabati Behera v. State of Orissa*, the custodial-death case, the doctrine received its first analytical exposition. The Court actually drew a line between two areas of law, broadly similar in their formulations but different in essence: the private-law tort damages and public-law compensation for a constitutional wrong. It was the latter, the Court held, and that sovereign immunity was not a bar to the State's strict liability for.⁴ The distinction, as it was further developed, still informs the law, but one of the formulas advanced by the Court, that it would not prevent the operation of any other rule of liability arising from the same wrong, was never expanded upon as a set-off doctrine.

C. Institutionalisation and Extension: D.K. Basu and Chandrima Das

In *D.K. Basu v. State of West Bengal*, the Court mandated eleven directions on arrest and detention and provided for the State's liability for custodial death or torture irrespective of criminal proceedings against the erring officials.⁵ Who could have guessed that the very next case, *Railway Board v. Chandrima Das*, which dealt with the gang rape of a Bangladeshi national at the station premises – would extend the doctrine to the jurisdiction of the State in respect of the actions of private agencies? The Court reiterated the principles of State's liability under Article 21 and held that they are not contingent upon the citizenship of the victim.⁶

D. Horizontal Application: Kaushal Kishor (2023)

¹ *Constitution of India, 1950, arts. 32, 226.*

² *Khatri v. State of Bihar, (1981) 1 SCC 627 (India).*

³ *Rudul Sah v. State of Bihar, (1983) 4 SCC 141 (India).*

⁴ *Nilabati Behera v. State of Orissa, (1993) 2 SCC 746 (India).*

⁵ *D.K. Basu v. State of West Bengal, (1997) 1 SCC 416 (India).*

⁶ *Chairman, Railway Board v. Chandrima Das, (2000) 2 SCC 465 (India).*

But the most momentous development of recent times, which actually took place in 2023, was the five-judge Constitution Bench decision in *Kaushal Kishor v. State of Uttar Pradesh*, which was provoked by the Union minister's abusive and threatening remarks addressed to the victim of sexual violence. In a 4:1 majority judgment, with Nagarathna J. dissenting, the Court held that the citizen's right to freedom of expression under Article 19 was not alienated from him by his rights under Article 21 and that the two were mutually exclusive in the sense that the State's obligations under Article 21 were not suspended by the exercise of the freedom under Article 19.⁷ Thus, while stopping short of reading the minister's remarks as an official act on the part of the State, the majority held that the very fact of the incident constituted an obligation on the part of the State to protect the victim's rights under Article 21. In doing so, it reiterated the constitutional tort principles enshrined in *Nilabati Behera* but went even further in expanding the scope of the State's "protective obligations", a doctrine that has direct bearing on the compensation for mob violence as well.

III. The Statutory and Institutional Architecture for Victim Compensation

A. The Mandatory Character of Section 357 CrPC

In *Palaniappa Gounder v. State of Tamil Nadu*, the court held that an amount higher than the fine, to increase the amount of the compensation would not widen the ambit of the above provision of Section 357 CrPC.⁸ The power was not often used for the next 30 years or so after that; if compensation was paid, it was as part of the sentence. In *Ankush Shivaji Gaikwad v. State of Maharashtra*, the court corrected its approach to compensation, which it said must be applied in all cases, and must record reasons in every case where no compensation was awarded, and must not be a mere adjunct to the punishment of imprisonment.⁹

B. Section 357A to Section 396 BNSS

The Law Commission and Justice Malimath Committee had recommended the enactment of Section 357A in the year 2009, which placed the obligation of all the States to establish a Victim Compensation Scheme, even if the accused was not convicted and even if the accused

⁷ *Kaushal Kishor v. State of Uttar Pradesh*, (2023) 4 SCC 1 (India).

⁸ *Palaniappa Gounder v. State of Tamil Nadu*, (1977) 2 SCC 634 (India).

⁹ *Ankush Shivaji Gaikwad v. State of Maharashtra*, (2013) 6 SCC 770 (India).

was never traced.¹⁰ This was incorporated as an additional to compensation in the fine system by Section 357B (which was introduced in 2013) and placed a duty on all hospitals, on the basis of no will to the contrary, to treat free of charge all persons who were assaulted with sexual violence or acid attack. All these provisions exist in the BNSS, with some amendments, as of 1 July 2024: Sections 395–396 shorten the time limit of enquiry to two months, and make compensation expressly additional to any fine payable under BNS Sections 65, 70(1) and 124 (1)¹¹, Section 398 becomes statutory what was already administratively laid down by *Mahender Chawla v. Union of India* in 2018, the witness protection regime¹²; Section 399 retains the same contours, with some refinements, of a nominal compensation limit for groundless arrest.

C. Protection of Children and NALSA Scheme

Under Section 33(8) of the POCSO Act¹³, which came into force in 2020 under POCSO Rule 9, Special Courts have the power to award interim compensation for trauma suffered by a child victim, different from the final award that would be made at the end of the trial.¹⁴ In *Nipun Saxena v. Union of India*, the Special Courts were asked to take up the issue of compensation from the time of filing FIR and reference was made to NALSA's Compensation Scheme for Women Victim/Survivors of Sexual Assault/Other Crimes, 2018 as the framework.¹⁵ That scheme sets Rs. 4–7 lakh for rape, Rs. 5–10 lakh, if the offence is gang rape or results in death. The Court itself later raised the figure to Rs. 7–8 lakh in the case of an acid attack on a minor¹⁶, which it exceeded in *Bhanei Prasad @ Raju* under Article 142.

D. SC/ST Rules, Acid attacks and Mob violence

Relief under the SC/ST (Prevention of Atrocities) Rules, 1995 is governed by a different design, which is Rule 12 read with the Schedule, which provides for the payment to be made through the FIR, chargesheet and conviction and expressly states that this relief will be given in addition to anything provided by the law.¹⁷ Acid-attack compensation took a similar,

¹⁰ Code of Criminal Procedure, 1973, § 357A (inserted by Act 5 of 2009) (India); Law Commission of India, Report No. 154 (1996); Committee on Reforms of Criminal Justice System, Report (2003).

¹¹ Bharatiya Nagarik Suraksha Sanhita, 2023, SS. 395–396(7) (India); Bharatiya Nyaya Sanhita, 2023, SS. 65, 70(1), 124(1) (India).

¹² *Mahender Chawla v. Union of India*, 2018 SCC OnLine SC 2679 (India).

¹³ Protection of Children from Sexual Offences Act, 2012, S. 33(8) (India).

¹⁴ Protection of Children from Sexual Offences Rules, 2020, r. 9 (India).

¹⁵ *Nipun Saxena v. Union of India*, (2019) 2 SCC 703 (India).

¹⁶ NALSA, Compensation Scheme for Women Victims/Survivors of Sexual Assault/Other Crimes (2018); “Follow NALSA Scheme To Compensate Child Abuse Victims”, *Hindustan Times* (Sept. 5, 2018).

¹⁷ Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Rules, 1995, r. 12 & Sch. (India).

iterative path: *Laxmi v. Union of India* set Rs. 3 lakh floor and tightened rules around retail acid sales¹⁸, after which *Parivartan Kendra v. Union of India* pushed the figure to Rs.10 lakh on its own facts while making clear the earlier sum was a floor rather than a ceiling.¹⁹ The same was extended to the case of mob lynching where in *Tehseen S. Poonawalla v. Union of India* the State was given a month's time to put in place a compensation procedure for mob lynching, and an interim relief of 30 days was granted after mob lynching.²⁰

E. The Human Rights Commissions are a Fourth Track.

A fourth avenue is also available through Section 18 PHRA, which allows the NHRC and the SHRCs to “recommend” compensation for human-rights abuses by public servants.²¹ As per *N.C. Dhoundial v. Union of India*, interpretation of powers taken by the Commission was limited to one year limitation bar in Section 36(2)²² but has been extended by various High Courts to the advisory nature of Section 18 recommendation.

IV. Comparative Analysis: Four Tracks to Compensation

Feature	Art. 32/226	S. 396 BNSS	NALSA/POCSO/SC-ST	NHRC/SHRC (S. 18)
Basis	Judge-made public-law remedy	Legislative, State-funded	Court-endorsed scheme / statutory schedule	Statutory recommendatory power
Forum	Supreme Court / High Courts	Trial court recommends; DLSA/SLSA decides	Special Court / DLSA-SLSA / staggered payout	NHRC or SHRC
Fault standard	Strict liability; no sovereign immunity	No-fault; survives acquittal/discharge	No-fault; interim relief on FIR alone	Inquiry-based
Quantum	Unstructured judicial	State schedule; varies widely	Capped/scheduled; Art. 142 can exceed	Recommended sum; no fixed

¹⁸ *Laxmi v. Union of India*, (2014) 4 SCC 427 (India).

¹⁹ *Parivartan Kendra v. Union of India*, (2016) 3 SCC 571 (India).

²⁰ *Tehseen S. Poonawalla v. Union of India*, (2018) 9 SCC 501 (India).

²¹ *Protection of Human Rights Act, 1993, S.18 (India)*.

²² *C. Dhoundial v. Union of India*, (2004) 2 SCC 579 (India).

	discretion			schedule
Binding	Binding court order	Binding once quantified	Binding once quantified	Contested across High Courts

V. Emerging Judicial Trends (2020–2026): Case Studies

The doctrine of compensation did not evolve in a straight line towards its current rights-based formulation. It has transitioned from ad-hoc custodial-death relief to institutionalization pioneered by D.K. Basu and Section 357A, to nearing entitlement, though still confined to the custodial-violence paradigm. The following decisions reflect the jurisprudential trajectory, and show a trend towards not only the expansion of compensation entitlement under various pretexts, including even the non-pecuniary ones, during the period 2020-26. In fact, the trend suggests a healthy debate continues even at the time of this writing.

A. Evidenced Infrastructure: Paramvir Singh Saini (2020)

While reviewing the implementation of its crime-scene videography directions, the Court mandated the setting up of Central and State-level Oversight Committees to interrogate each police station's CCTV footage.²³ The infrastructure built around videography is not directly concerned with compensation. But evidence extracted from the footage has catalysed several compensation claims in cases of custodial violence.

B. Systemic Oversight: The Manipur Violence Litigation (2023-25)

After the ethnic violence in Manipur, in May 2023, the Court asked a three-member committee, with the Retd. Justice Gita Mittal as its Chairperson, to look into relief, rehabilitation and compensation, as also oversee the thousands of FIRs that were registered.²⁴ In fact, the very functioning of the Committee exposed a rule that disallowed compensation to those covered by other schemes, and also revealed how long it took for ex-gratia compensation to reach the victims, thus illustrating both the powers and the limitations of the Court's Article 32 reach, in a situation of systemic inadequacy.

C. Personal Liability for Executive Excess: Demolition of Structures (2024)

The Court's judgment on the demolition of the structures of ordinary accused persons, without following due process, held that the demolition itself was violative of Articles 14, 21 and the

²³ *Paramvir Singh Saini v. Baljit Singh*, (2020) 7 SCC 397 (India).

²⁴ *In Re: Manipur Violence*, W.P. (CrL.) No. 217 of 2023 and connected matters (Supreme Court of India, order dated Aug. 7, 2023).

separation of powers.²⁵ By demolishing without giving advance notice of fifteen days, a hearing and videography of the demolition, the authorities were directed to pay damages out of their pockets for contempt of court, to make good the deficiencies of the law in this domain. Personal liability for compensation, restitution and damages adds another dimension to the emerging doctrine of compensation, beyond even the institutionalized liability envisioned by Nilabati Behera's case.

D. Encounter Killings: Arif Md. Yeasin Jwadder (2025)

In response to around eighty fake encounter reports in Assam, the Court has taken cognizance that the encounter guidelines issued by the *PUCL v. Maharashtra*²⁶ judgment are applicable, under Article 141, even if no action has been taken by the victim's next of kin, and directed an independent inquiry by the Assam Human Rights Commission.²⁷

E. Beyond the NALSA Ceiling @ Bhanei Prasad @ Raju (2025)

The Court's judgment, in relation to life imprisonment awarded to the accused for repeated aggravated penetrative sexual assault of a minor, went beyond the NALSA guidelines to invoke the full compensation of 50% over and above the NALSA ceiling of Rs.10.5 lakh, by directing the offender to pay Rs.10.5 lakh as compensation. While the NALSA scheme is a floor, and not a ceiling, this is perhaps the first instance where the Court has gone beyond the statutory directive.²⁸

F. Compliance of trial courts: Jyoti Praveen Khandpasole (2025)

A decadal review of compensation orders by trial courts revealed widespread evasion, in response to which the Court mandated that no trial court could refuse to make a compensation order and directed that such orders be circulated to the Principal District Judges, as also included in the syllabus for judges in judicial academies.²⁹

G. Custodial Violence: Contemporary Illustrations

The *Khursheed Ahmad Chohan v. Union Territory of Jammu & Kashmir* (2025) case granted interim relief ad-interim to the victim for custodial torture and reiterated the non-existence of

²⁵ *In Re: Directions in the Matter of Demolition of Structures*, 2024 INSC 866 (India).

²⁶ *People's Union for Civil Liberties v. State of Maharashtra*, (2014) 10 SCC 635 (India).

²⁷ *Arif Md. Yeasin Jwadder v. State of Assam*, 2025 INSC 785 (India).

²⁸ *Bhanei Prasad @ Raju v. State of Himachal Pradesh*, 2025 INSC 934 (India).

²⁹ *Jyoti Praveen Khandpasole v. Union of India*, W.P. (C) No. 989 of 2025 (Supreme Court of India, order dated Nov. 2025).

an anti-torture law in India.³⁰ A split decision in *Manik v. State of Maharashtra* (2024) on the conviction for custodial death illustrates the difficulties in such cases, even on “grave facts”.³¹ Even more significantly, the Sathankulam custodial deaths trial concluded on 6 April 2026 with nine police personnel convicted of life imprisonment and the family of the deceased awarded Rs.1.40 crore in compensation, the final confirmation of which awaits the Madras High Court.³²

H. The NHRC/SHRC Binding-or-Advisory Conflict

In *Kiran Singh v. NHRC*, the Delhi High Court’s ruling on the ‘advisory’ status of the NHRC’s recommendations illustrates the tension between the NHRC and the judiciary. If the recommendations are merely that, the very basis of the NHRC’s statutory existence is undercut, but a recommendation of Rs. 5 lakh in a staged encounter was held to be binding by the Delhi High Court, in any case.³³ The Allahabad High Court, in *State of U.P. v. NHRC*³⁴ and *Abdul Sathar v. Principal Secretary to Government*³⁵, and the Full Bench of the Madras High Court in *Chhattisgarh State Electricity Board v. Chhattisgarh Human Rights Commission* take a contrary view. The Chhattisgarh High Court’s view is that the SHRC’s advisory jurisdiction is limited, and based its ruling, in part, on the narrower view taken by N.C. Dhoundial.³⁶ The Supreme Court has declined to take up this question; as Part VI (D) indicates, this is part of the larger harmonization lacuna explored in this Article.

VI. Harmonizing the Four Tracks

A. No Settled Adjustment Mechanism

Only the SC/ST Rules and Section 396(7) BNSS actually say their compensation sits on top of whatever else the law provides; nothing addresses set-off between a constitutional-tort award and a Section 396 or NHRC award for the very same incident. Nilabati Behera’s “without prejudice” language was crafted to preserve a victim’s separate civil-tort remedy, not to address the contemporary issue of multiple statutory schemes overlapping over a single event; and was never intended to be developed into a functioning set-off rule. The following is a true double

³⁰ *Khursheed Ahmad Chohan v. Union Territory of Jammu & Kashmir*, 2025 INSC 876 (India).

³¹ *Manik v. State of Maharashtra*, 2024 INSC 734 (India).

³² *Sessions trial arising from the Sathankulam custodial deaths*, *CBI v. Sridhar & Ors. (Madurai First Additional Dist. & Sessions Ct., conviction Mar. 23, 2026, sentence pronounced Apr. 6, 2026; subject to appellate confirmation)*.

³³ *Kiran Singh v. National Human Rights Commission*, 2025 SCC OnLine Del 430 (India).

³⁴ *State of U.P. v. National Human Rights Commission*, 2016 SCC OnLine All 239 (India).

³⁵ *Abdul Sathar v. Principal Secretary to Government*, 2021 SCC OnLine Mad 1727 (India).

³⁶ *Chhattisgarh State Electricity Board v. Chhattisgarh Human Rights Commission*, 2017 SCC OnLine Chh 1415 (India).

recovery risk: a victim seeking compensation under one track may receive full and unabated compensation from both of them, or a victim seeking compensation under one track may see the same victim's compensation under another track summarily dismissed as having 'satisfied' that track's requirements, without any statutory basis for that.

B. Sequencing, Evidentiary Transmission, and Forum-Shopping

The issue is that there is no compulsion for a victim to go through the slower scheme timeline before filing a writ petition or vice versa, thereby creating a forum-shopping situation both ways: victims might go straight to a writ petition to avoid going through a longer scheme timeline; States may push victims to respond to a writ petition on the weak ground that they already have a remedy in the statute. If a forum finds a High Court issuing a habeas corpus order finding that the victim has been subjected to custodial torture, or an NHRC inquiry of the kind that led to the Kiran Singh recommendation, then such a determination is not binding on any other forum where the same set of facts arise; the determination would have to be made anew each time by the forum where the facts come up, at actual cost to the victim in time, money and the possibility that two forums would come to contradictory conclusions on the same facts.

C. Disparate Quantum Across States and Schemes

Section 396, like Section 357A, leaves it to each State's own schedule, and the difference it creates is the very one that Laxmi pointed out — that there remains no clear hierarchy between the various schedules — State schemes, the SC/ST Rules offence-linked schedule, and the enhancements that Article 142 brings, which is exactly what happens in *Bhanei Prasad @ Raju*. There is no actuarial formula, structured or otherwise, of the Court which evolved for claims for motor accidents, for claims for constitutional or statutory compensation in the case of custodial death, arbitrary demolition or lynching, and only trial courts, the DLSAs and the High Courts have to work it out case by case. The bottom line is that the actual victim recovery may be more dependent on the state in which the violation occurred, or the forum to which it was first reported, than on the actual extent of the harm.

D. The Unresolved Status of NHRC/SHRC Recommendations

The split alluded to in Part V (H) between the Delhi/Allahabad/Madras line and the Chhattisgarh line is not a foot-note level disagreement, but a difference that can make the difference between whether the Commissions work as a real fourth compensatory track or

become a persuasive option the State can turn down. Since there is no Supreme Court decision that resolves the issue, a victim in a different State has a true chance of being able to recover a recommended amount for what, on the facts, is the same violation.

E. An Identified but Unimplemented Legislative Solution

This is not because anyone is not pointing it out. The 154th Report by the Law Commission in 1996 proposed a new system of compensation for wrongful prosecution³⁷, while the 226th Report in 2009 went one step further and recommended for a Criminal Injuries Compensation Act with dedicated Boards at the central, State and district levels to hear all claims relating to various types of injuries³⁸, but not a single recommendation for a unified Board; the 277th Report back in 2018 recommended a fresh approach to wrongful prosecution compensation in isolation.³⁹ The fact that these three Reports sought to mend are still largely intact, three decades after the first of them, is a testament in itself to how real the divide identified here is.

VII. Recommendations

First, that Section 396 BNSS must be given a statutory set-off clause that would credit a sum paid to a victim under Article 32/226, or NHRC/SHRC recommendation, against the final quantum of Section 396, for the same head of loss, but lend him credit for another quantum of the same head of loss if genuinely different heads of loss are covered.

Second, the Supreme Court should resolve the binding versus advisory issue of the case of the Section 18 PHRA recommendations in Part V(H) of the Constitution by using an appropriate case – the better course would be to uphold the Delhi/Allahabad/Madras position, which held that a considered recommendation made after a proper inquiry binds the State unless it is struck down in judicial review.

Third, there should be convergence between individual State Section 396 schedules and NALSA quantum for similar offences, closing the large gaps for the victims between the inter-State schedules as indicated in Part VI(C), such as a centrally funded top-up fund for the States whose financial resources leave victims worse off.

³⁷ *Law Commission of India, Report No. 154 (1996).*

³⁸ *Law Commission of India, Report No. 226 (2009), The Inclusion of Acid Attacks as Specific Offences in the Indian Penal Code and a Law for Compensation for Victims of Crime.*

³⁹ *Law Commission of India, Report No. 277, Wrongful Prosecution (Miscarriage of Justice): Legal Remedies (Aug. 2018).*

Fourth, Special Courts should be mandated as Khandpasole and Bhanei Prasad @ Raju demanded to take note of the compensation sought under each of the available tracks at judgment so that compensation can be calculated as a whole rather than piece by piece.

Fifth, Parliament should revisit the call in the 226th Report for a unified Criminal Injuries Compensation Board (or at least a cross-reference provision in the BNSS) and a regular review of the ceilings that remain unchanged from the CrPC as in Section 399 (the groundless-arrest ceiling is the most obvious example).

VIII. Conclusion

Indian compensatory jurisprudence has undergone a transition, from the tentative sympathy extended by the Apex Court in Khatri and Rudul Sah to a rights-based entitlement which even the Legal Services Authorities and the human rights commissions are now bound to consider. The jurisprudence enshrined in the case law of 2020-26 only confirms this trend: from Paramvir Singh Saini's CCTV supervision to Kaushal Kishor's horizontal reading of Article 21, from the personal liability incident to the 2024 demolition directions to Bhanei Prasad @ Raju's willingness to transcend the NALSA guidelines in restitution – these all testify to a living law. What the case law illustrates less successfully is the articulation between these developments, the compensatory nexus. Until Parliament and the judiciary design a compensatory matrix – till then, the calculus of quantum will remain as much a function of accident as of intent. The recommendations of the National Human Rights Commission, the resolution of inter-state disparities, or the offsetting norm enshrined in the 2017 law – all of these, as the Law Commission of India noted with concern in 1996, will continue to depend on the vagaries of the relief jurisprudence for too long.