

**LAXMI V. UNION OF INDIA (2015)**

**2014 SCC 2 427**

**Court-** Supreme Court of India

**Bench-** Madan B. Lokur, Uday Umesh Lalit, JJ.

**Decided On-** 10.04.2015

**FACTS**

Laxmi v Union of India also known as the acid attack case was a landmark judgment in India.

Laxmi, the petitioner of this case was attacked by acid when she was 15 years old. She used to work at a book depot and used to earn money to support her parents. On April 22, 2005, she was attacked by three men on the streets of Delhi by throwing acid at her. This was done because she refused to marry a man named Naeem Khan aka Guddu and hence it was an act of revenge taken because she refused to accept the marriage proposal. She was admitted to Ram Manohar Lohiya Hospital, wherein she was diagnosed and her medical report showed that she suffered approximate 25% acid burns in the upper part of the body i.e. face, chest, eyes etc. She filed a complaint against the culprit and the case went on to the sessions court of Delhi. The sessions court convicted the accused under Section 307 (Attempt to murder) and Section 120B (Punishment related to criminal conspiracy) under the Indian Penal Code (IPC). The accused went on and filed an appeal in the High Court of Delhi contending that the judgment of the lower court was wrong. The Delhi High Court later on, gave bail to the accused. Since there was no special law or provision in the IPC or in the Code of Criminal Procedure (CrPC) which punished for acid attacks, the petitioner got remedy under the IPC. Aggrieved by the bail given by the High Court (HC) and no special provision to regulate acid attacks, the petitioner went ahead and filed a public interest litigation (PIL) in the Supreme Court of India (SCI) in 2013. Laxmi pleaded 3 major contentions related to the regulation of acid attacks before the SCI. This was done to give appropriate and due recognition to acid attacks and their compensation in the criminal codes of India.

**ISSUES**

1. To put restrictions on the sale of acid in an open market and frame regulations for proper sale and purchase of it to curb acid attacks.

This pleading was put forward by Laxmi because the substance acid is used by many people regularly and is easily available in medicals, laboratories etc. The acid is available for a meagre cost of Rs 20-25 in nearby shops in a locality. Because of the low price and easy availability,

there is a high chance that the acid can be misused and therefore regulating its sale was of paramount importance.

2. To make new laws or amend the existing laws like the IPC, CrPC, Indian Evidence Act to include acid attacks as a separate offence with proper punishment and compensation.

This pleading was put forward because there existed no separate offence of acid attacks in the criminal codes. There was an uprise of acid attacks till 2013 and no proper remedy was available to compensate the victims. Acid attacks were charged under the sections of IPC. Therefore there was an urgent need for laws related to acid attacks that provided fair compensation and severe punishment.

3. To constitute better compensation and rehabilitation schemes and programs for acid attack victims.

The petitioner raised this pleading because there was no proper compensation provided to her. The medical expenses suffered by her were not compensated adequately by the sections of the CrPC. The physical damages outbalanced the compensation and since acid attacks were increasing, it was necessary to improvise rehabilitation schemes and provide better compensation.

#### Rule

The SCI considered the entire matter with utmost importance and made a few observations into it. The court scrutinized the three pleadings put forth by the petitioner to bring about essential changes to the current scenario of acid attacks, the treatment and the compensation received by the victims.

With regards to the first issue, the SCI directed the Home Secretary, Ministry of Home Affairs, Government of India to convene a meeting of the Chief Secretaries/ Secretaries of the state governments concerned and the Administrators of the Union Territories to discuss enactment of effective provisions for the proper regulation of the sale of acid in the states/ union territories. Till the states/union territories didn't regulate the sale of acids and other corrosive substances and ensured its operationality, the SCI issued the following guidelines to be followed:

1. "Over the counter, sale of acid is completely prohibited unless the seller maintains a log/register recording the sale of acid which will contain the details of the person(s) to whom acid(s) is/are sold and the quantity sold. The log/register shall contain the address of the person to whom it is sold."
2. "All sellers shall sell acid only after the buyer has shown:
  - (a) A photo ID issued by the government which also has the address of the person;
  - (b) Specifies the reason/purpose for procuring acid"
3. "All stocks of acid must be declared by the seller with the Sub-Divisional Magistrate (SDM) concerned within 15 days."

4. “No acid shall be sold to any person who is below 18 years of age.”
5. “In case of undeclared stock of acid, it will be open to the SDM concerned to confiscate the stock and suitably impose a fine on such seller up to Rs 50000.”
6. “The SDM concerned may impose fine up to Rs 50000 on any person who commits breach of any of the above directions.”

“Educational institutions, research laboratories, hospitals, government departments and the departments of public sector undertakings, who are required to keep and store acid, shall follow the following guidelines:”

1. “A register of usage of acid shall be maintained and the same shall be filed with the SDM concerned.”
2. “A person shall be made accountable for possession and safe keeping of acid in their premises.”
3. “The acid shall be stored under the supervision of this person and there shall be compulsory checking of the students/personnel leaving the laboratories/place of storage where acid is used.”

“The SDM concerned shall be vested with the responsibility of taking appropriate action for the breach/default/violation of the above directions.”

With regards to the second and the third issue, amendments were added to the Indian Penal Code (IPC), the Code of Criminal Procedure (CrPC) and the Indian Evidence Act. Before the current amendments were made, the victims could only get remedy under section 320, 322, 323, 324, 325, 326 of the IPC. These sections pertained to the suffering of ‘grievous hurt’ and not acid attack in particular. The IPC and CrPC were amended by the Criminal Amendment Act in 2013 to recognize acid attacks as an offence with strict punishments as well as fair compensation to the victims.

#### **Amendments to the IPC:**

Section 326A and 326B were added.

**Section 326A** says- “**Voluntarily causing grievous hurt by use of acid, etc.**—Whoever causes permanent or partial damage or deformity to, or burns or maims or disfigures or disables, any part or parts of the body of a person or causes grievous hurt by throwing acid on or by administering acid to that person, or by using any other means with the intention of causing or with the knowledge that he is likely to cause such injury or hurt, shall be punished with imprisonment of either description for a term which shall not be less than ten years but which may extend to imprisonment for life, and with fine:”

- “Provided that such fine shall be just and reasonable to meet the medical expenses of the treatment of the victim:”
- “Provided further that any fine imposed under this section shall be paid to the victim.]”

**Section 326B** says- “**Voluntarily throwing or attempting to throw acid.**—Whoever throws or attempts to throw acid on any person or attempts to administer acid to any person, or attempts to use any other means, with the intention of causing permanent or partial damage or deformity or burns or maiming or disfigurement or disability or grievous hurt to that person, shall be punished with imprisonment of either description for a term which shall not be less than five years but which may extend to seven years, and shall also be liable to fine.”

“*Explanation 1.*—For the purposes of Section 326-A and this section, “acid” includes any substance which has acidic or corrosive character or burning nature, that is capable of causing bodily injury leading to scars or disfigurement or temporary or permanent disability.”

“*Explanation 2.*—for the purposes of Section 326-A and this section, permanent or partial damage or deformity shall not be required to be irreversible.]”

**Amendment to the CrPC: Section 357-A** was added and spoke about the victim compensation scheme. It said that the state government along with the central government had to co-ordinate to award compensation to the victims and their dependents.

#### **Amendment to the Indian Evidence Act:**

**Section 114B was added:** “Presumption as to acid attack- If a person has thrown acid on, or administered acid to another person the court shall presume that such an act has been done with the intention of causing, or with the knowledge that such an act is likely to cause such hurt or injury as is mentioned in Section 326A of Indian Penal Code”.

### **ANALYSIS**

The amendments were essential to the case of Laxmi, as well as future acid attack cases. The ever-rising cases of acid attacks could be curbed with these amendments into place. Curbing the sale of acids across the counter at negligible costs was the most important step and equally important was forming new laws directed towards victims of acid attacks. The SCI recognized through the PIL of Laxmi, and her prayers that a proper law w.r.t acid attacks was necessary. Taking into consideration Articles 21, 14, 15 and 32 of the Indian Constitution and her prayers the court gave its final verdict. Her three prayers and following actions taken were:

1. Issuing a direction to the respondents of the case to make amendments to the current IPC, CrPC and Evidence Act. The three respondents were The Union of India, Law Commission of India and National Commission of Women.

- The amending act of 2013, 'Criminal Amending Act' was enacted by the Government of India and others to this effect.
  
- 2. Issuing a direction for framing guidelines for the prosecution of acid throwers and adequate rehabilitation of the victims of the acid attacks including proper treatment and aftercare.
  - (i) The SCI announced a compensation of at least Rs 3, 00,000 to be paid by the state government to the victim where Rs One Lakh is supposed to be paid immediately within 15 days of the occurrence of the incident or (being brought to the attention and notice of the state government/UT) and the next Two Lakhs within two months, as expeditiously as possible.
  
  - (ii) **Proper treatment of the victims:**
    - Private hospitals must also be directed to provide free treatment to the victims. In the case where they refuse to provide free service, the State Government must intervene and make relevant provisions.
    - No hospital can refuse treatment citing the reason of lack of specialised facilities.
    - First-aid service must be administered to the victim and after stabilization; they should be moved to a special faculty for further treatment.
    - Refusal of treatment can be a ground for taking action against the hospital under section 357C of the CrPC.
  
- 3. Banning the sale of Acid across the country
  - This step has to be implemented at the state level by each state government/ union territories.

Provisional guidelines concerning the same have been notified earlier.

## **CONCLUSION**

Acid attacks have happened in abundance in our country, so much so that in India, at least one acid attack takes place everyday. The victim has to go through so much mental trauma and consequent depression/ rejection in the society consequently. Mostly the reasons behind these attacks are petty. With this rate, it is still the country with the least amount of convictions. Laxmi V Union of India was a landmark case to bring about a revolution in these sad state of affairs. Her case brought forward thousands of other victims. She changed their perspective to look at themselves not as victims but as conquerors. These amendments were indispensable for the future of our country. Regardless of the SC guidelines, grassroots level change is what is

necessary for true benefits. That is when victims will truly be confident to report a case and receive their compensation and benefits.



JudicateMe