



INDIAN BAR ASSOCIATION

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SHORT NOTES FOR FILING CASES TO GET COMPENSATION AND TO INITIATE PROSECUTION AGAINST GUILTY OFFICERS AND VACCINE COMPANIES REGARDING SIDE EFFECTS OF COVID-19 VACCINES.

[NOTE - IT IS ALSO APPLICABLE TO CASES AGAINST ANY OTHER VACCINES/MEDICINES.]

BRIEF BACKGROUND

1. The research has shown that, due to side effects of corona COVID-19 vaccines many people are suffering fatalities such as death, heart attacks, cardiac arrests, paralysis, kidney failure, joint pain, neurological problems, autoimmune disorders, breathlessness, asthma, blindness, deafness, including serious diseases to women, etc. Research also proves that the chances of cancer have increased 10,000% times amongst vaccinated people.

All details can be seen from the website of:

(i) AIM: <https://awakenindiamovement.com/>

(ii) UHO: <https://uho.org.in/>

2. As per law, it was the duty of the Government, vaccine companies, doctor, nurse, AASHA workers etc to tell the public about death causing and other side effects before giving them vaccines. [**Montgomery Vs. Lanarkshire Health**

Board [2015] UKSC 11, Universal Declaration on Bioethics and Human Rights, 2005, Central Government Vaccination Guidelines].

3. If the side effects are not told to the beneficiary and their signature is not taken on the consent form

OR

If the consent of the people is obtained by making false assurance that vaccines are completely safe and not telling the side effects **THEN**, concerned Doctors, Public servants, vaccine company all are liable for prosecution under criminal law such as **420, 115, 304, 302, 120(B)**, etc. of **IPC** wherein they are also liable to pay compensation. [**Registrar General Vs. State of Meghalaya 2021 SCC OnLine Megh 130, Ajay Gautam Vs. Amritsar Eye Clinic 2010 SCC OnLine NCDRC 96**].

4. Central Government (Union of India) in its affidavit dated **23.11.2022** filed before the Supreme Court have made two following main submissions: -

(i) Vaccination was completely voluntary and no one was compelled/ forced to get vaccines against their wishes by putting any restrictions.

(ii) Citizen can file cases against individual government officers/ Public servants or office bearers of vaccine manufacturing company who are responsible for negligence, malfeasance, misfeasance such as: -

(a) Forcing the people to get vaccines for going to mall, airplanes, local train, office.

(b) Telling citizen falsely that vaccines are completely safe and suppressing the fact that vaccine can cause death or any life time disabilities or severe injuries or any side effects.

(c) Such individuals can be prosecuted in local courts such as Magistrate, Civil Judge etc., OR FIR can be lodged before police.

5. Law in this regard is summarized by Hon'ble High Court in the case of **Registrar General Vs. State of Meghalaya 2021 SCC OnLine Megh 130**, it is ruled as under;

*“7. In this context, around one hundred and seven (107) years ago, in Schloendorff v. Society of New York Hospitals reported at (1914) 211 NY 125 = 105 NE 92; 1914 NY Justice Cardozo ruled that **‘every human being of adult years and sound mind has a right to determine what shall be done with their body’**. **Thus, by use of force or through deception if an unwilling capable adult is made to have the ‘flu vaccine would be considered both a crime and tort or civil’ wrong**, as was ruled in Airedale NHS Trust v. Bland reported at [1993] A.C. 789 = [1993] 2 WLR 316 = (1993) 1 All ER 821, around thirty years (30) ago. Thus, coercive element of vaccination has, since the early phases of the initiation of vaccination as a preventive measure against several diseases, have been time and again not only discouraged but also consistently ruled against by the Courts for over more than a century.”*

6. Hon'ble High Court in August 2022 gave specific order to Union of India to grant compensation to the victims of dangerous side effects of Covid vaccines [**Sayed K.A. v. Union of India, 2022 SCC OnLine Ker 4514**]

7. Singapore Government granted about Rs. 1.78. Crores as compensation in a case of side effects of heart related problems to a young boy after taking covid vaccines.

Link: - <https://greatgameindia.com/pfizer-heart-attack-compensation/>

8. In **Ajay Gautam Vs. Amritsar Eye Clinic & Ors. 2010 SCC OnLine NCDRC 96**, the concerned Doctors/ Hospitals were directed to pay a fine of Rs.

1 lakh to the victim for giving him treatment without taking his signature on informed consent FORM.

9. Hon'ble High Court in the case of **Devilal Vs. State of M.P., 2017 SCC OnLine MP 2322**, granted Rs. 30 lakh compensation (with @ 18% interest from incident) to the victim who suffered side effects of Polio vaccines.

10. In America around 40,000 Crore Rupees were recovered from the Pharma companies by the Government and then a part of it was given to the parents of the children who suffered due to side effects of vaccines.

Link: - [https://www.mctlaw.com/101-million-dollar-vaccine-injury-mmr/#:~:text=%24101%20Million%20Award%20for%20Child%20with%20M%20MR%20Vaccine%20Injury&text=\(July%202017%2C%202018%20%E2%80%93%20SARAS](https://www.mctlaw.com/101-million-dollar-vaccine-injury-mmr/#:~:text=%24101%20Million%20Award%20for%20Child%20with%20M%20MR%20Vaccine%20Injury&text=(July%202017%2C%202018%20%E2%80%93%20SARAS)

11. The details of compensation given to the victims of COVID-19 vaccines by the different governments across the world are given in the following article.

Link: - <https://rashidkhanpathan.com/bill-gates-adar-poonawallas-game-over-bombay-high-court-took-cognizance-issued-notice-in-a-vaccine-murder-case-of-dr-snehal-lunawat-where-interim-compensation-of-rs-1000-crore-is-soug/>

12. Constitution Bench of the Supreme Court in the case of **Anita Khushwha & Ors. Vs Pushap Sudan And Ors. (2016) 8 SCC 509** had specifically ruled that the value of life and liberty of Indian citizen is not less than that of any person in any other country in the world.

Therefore, Indian citizen are entitled for compensation in line with the compensation granted to the citizen of America, Singapore, etc.

13. Based on the abovesaid law Shri Dilip Lunawat had filed a Writ Petition in the Bombay High Court claiming Rs. 1000 crore compensation for death of his daughter Dr. Snehal Lunawat, due to side effects of Covishield Vaccines.

Hon'ble Bombay High Court had taken the cognizance of the writ and had issued notices to Serum Institute's Adar Poonawalla, Bill Gates, Union of India, Dr. Randeep Guleria, AIIMS, Dr. V.G. Somani, DGCI etc.

Link: -

<https://indianbarassociation.in/bill-gates-adar-poonawallas-game-over/>

14. Hon'ble Supreme Court in the case of **Rachna Gangu Vs. Union of India 2022 SCC OnLine SC 1125**, had also issued notice to Union of India for granting compensation to the parents whose daughter died due to side effects of Covishield vaccine.

Link: - <https://rashidkhanpathan.com/covid19-vaccine-compensation/>

15. Which case civil or criminal to be filed and against whom:-

15.1. There are four options available for filing cases regarding side effects of vaccines **OR** Regarding forced vaccination **OR** vaccination by falsely stating that the vaccines are completely safe. **OR** putting restriction upon the unvaccinated people and defaming them that only they were spreading infection:-

- (a) Civil case before local courts for compensation
- (b) Criminal case before Police or Magistrate.
- (c) Writ Petition before High Court
- (d) Case before consumer court/Forum if you took vaccine by making any payment.

15.2. CIVIL CASES: - These cases can be filed against vaccine companies, Government officials, public servants like District Magistrates (Collector), Chief Secretary or the Health Minister, etc., for setting monetary compensation. Here you have to pay court fee as per amount of compensation sought.

In Maharashtra State even if your claim goes to any amount, even above Rs. 1,000 Crores, then also you have to pay maximum Rs. 3 lakh as stamp duty.

Before filing civil cases, it is desirable that the victim shall issue a notice to vaccine company, also notice under section 80 CPC to state Government and responsible public servants.

15.3. Criminal cases before Magistrate for compensation and punishment to accused directors, employee of vaccine companies and public servants: -

15.3.1. These complaint cases can be filed under section 190, 200 of Cr. P.C. before Local Magistrate.

15.3.2. In such cases you can request for jail term to directors, officers, employees of the vaccine company manufacturers such as Shri Adar Poonawalla, etc.

15.3.3. In addition to that you can also make a request/prayer of compensation in your case. There is provision under section 357(3) of Cr.P.C. where any local Chief Judicial Magistrate can grant compensation of any amount which may even be 1000's of Crores.

Law of sanction: - (a) No sanction required to prosecute officers, directors of vaccine companies.

(b) In case of cheating 420, 409 etc. no sanction is required to prosecute public servant. **[D. Rajagopal Vs Ayyappan 2021 SCC OnLine Ker 3227, Noorula Khan Vs. Karnataka State Pollution Control Board 2021 SCC OnLine SC 601]**

(c) However, you can send application for sanction to the Government. Said application has to be decided within three Month. **[Shashikant Prasad Vs. The State Thru C.B.I./ A.C.B., Lucknow 2013 SCC OnLine 13099, Vijay Rajmohan Vs. State 2022 SCC OnLine SC 1377]**

15.4. Writ Petition before High Court: -

15.4.1. Writ is a public law remedy for immediate interim compensation. In Writ jurisdiction, the High Court can grant interim compensation like ₹1 crore. And for total compensation, you may file a civil suit. **[Veena Sippy Vs. Mr. Narayan Dumbre 2012 SCC OnLine Bom 339, S. Nambi Narayanan Vs. Siby Mathews (2018) 10 SCC 804]**

15.4.2. In addition to that, you can file civil & criminal cases. Both are independent jurisdiction. You can file Writ Petition, civil case & criminal case simultaneously.

15.4.3. The High Court can direct state Government/ Union of India to pay immediate compensation and then recover it from the guilty officers **[S. Nambi Narayan Vs. Siby Mathews (2018)10 SCC 804, Veena Sippy Vs. Narayan Dumbre 2012 ALL MR (Cri)126]**

15.4.4. The High Court can give directions such as investigation through CBI or can constitute Special Investigation Team (SIT) for conducting detailed investigation and action against guilty officers and vaccine companies.

15.5. Consumer Court for compensation against Private Hospital & Doctors:

15.5.1. When you take vaccines from private Hospitals/doctors by making payment, then you can file cases before consumer court. **[Ajay Gautam Vs. Amritsar Eye Clinic 2010 SCC OnLine NCDRC 96, Bhanwar Kanwar Vs. R.K. Gupta (2013) 4 SCC 252]**

15.5.2. Few cases where compensation of crores of Rupees was granted by the consumer courts can be seen from internet.

(i) NCDRC Awards Rs 1 Crore Compensation To Parents For Death Of Child During Squint Eye Correction Surgery Due To Gross Medical Negligence

<https://www.livelaw.in/news-updates/ncdrc-awards-rs-1-crore-compensation-parents-death-child-during-squint-eye-correction-surgery-gross-medical-negligence-207943>

16. MODEL DRAFTS OF COMPLAINTS, CASES, WRIT PETITION: -

16.1. Writ Petition Civil & Criminal: -

(a) For Civil Writ Petition, the draft petition of Shri Dilip Lunawat can be taken as a model draft.

Link:

https://drive.google.com/file/d/1vIT5Jr3eojhjmcrId_o5NoRJRwDgRqFD/view?usp=share_link

(b) For Criminal Writ Petition, the draft petition of Smt. Kiran Yadav can be used.

Link:

<https://drive.google.com/file/d/1yIP4j2FZhNeyGImvsv92bhp9eN1VlAd/view?usp=sharing>

16.2. The draft for criminal complaint can be downloaded here.

Link:

<https://drive.google.com/file/d/1yIP4j2FZhNeyGImvsv92bhp9eN1VlAd/view?usp=sharing>

16.3. The draft for Civil Suit can be drafted on the basis of the criminal complaint.

16.4. The draft of case before consumer court can be easily prepared on the basis of Civil Suit.