

From Constitutional Promise to Unequal Redress: Inequality in Constitutional Court Compensation for Police Custodial Deaths in India

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Abstract

In the absence of a legislative framework, the constitutional courts in India have improvised to award monetary compensation to victims who died due to police violence. The present study attempts to demonstrate that a systematic inequality persists in such compensation awards despite the constitutional guarantee of equal protection. The study attempts to quantify inequality through a two-stage descriptive statistical analysis of 85 police custodial death cases decided between 1985 and 2025 by the constitutional courts. Stage I demonstrates unequal distribution of compensation through dual metric, i.e. 'Compensation Fold Differences' (CFD) and an 'Inequality Intensity Scale' (IIS). The year-wise CFD results are segregated into No, Low, Moderate, High, and Extreme Inequality to illustrate the magnitude of inequality. For Stage II analysis, various judicial approaches adopted to determine compensation are categorised into Other Methodologies and Mixed Methodologies (OM&MM) and Judicial Self-Assessment (JSA). Evidently, JSA is adopted in 74.12% of the sample cases. Thus, Stage II is designed to ascertain whether it is also yielding higher compensation for victims. The study concludes by demonstrating that the discretionary determination of compensation without adopting computation-based methods operates as an instrument of systemic disparity, and shows that the present constitutional court's approach perpetuates unequal distribution of wealth towards similarly situated deceased victims. The findings identify that urgent legislative standardisation and computation-based compensatory

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mechanism is essential to ensure equitable redress for police custodial death victims, bridging the gap between constitutional mandate and judicial practice.

Keywords: victim compensation; compensation disparity; judicial discretion; equal protection.

I. Introduction

The population of India, i.e., 1.4639 billion, and the number of crimes registered annually, i.e., 6,241,569, indicate considerable interaction between the police and the citizenry. In 2024 itself, there were 2,739 custodial deaths reported by the National Human Rights Commission (NHRC) in India,³ followed by 2,400 cases in 2023,⁴ which signifies the existence of abuse of power, impunity, and consistent deviation from due process⁵ within the police organisation. In certain circumstances, the police are empowered to take individuals into custody without prior judicial approval,⁶ and given the prevalent statistical pattern of police violence in India, the state's strict and vicarious liability arises where the actions of police officials are beyond the principles of necessity and proportionality.⁷ The police personnel in India often let their zeal for crime detection lead to overreach and are tempted to strong-

³ National Human Rights Commission, Annual Report (2024), https://nhrc.nic.in/assets/uploads/annual_reports/1755187700_d5bfef90db19872e5f9a.pdf (India).

⁴ World Org. Against Torture, Global Torture Index 2025: India Factsheet (2025), <https://www.omct.org/site-resources/files/factsheets/Factsheet-India.2025.pdf>.

⁵ Eklavya Vasudev & Thomas Blom Hansen, Citizens and the State: Policing, Impunity, and the Rule of Law in India, The Hindu Centre for Politics and Public Policy (Mar. 1, 2024), <https://www.thehinducentre.com/incoming/citizens-and-the-state-policing-impunity-and-the-rule-of-law-in-india/article67887312.ece>.

⁶ Code of Criminal Procedure § 41 (India).

⁷ Bishnu Prasad Dwivedi, From Sah to Saheli: A New Dimension to Government Liability, 36 J. Indian L. Inst. 99 (1994), <https://www.jstor.org/stable/43951517>.

arm those under their jurisdiction.⁸ Prof. Baxi observes custodial violence or torture to be an integral part of police operations in India.⁹

Year	NHRC Data	NCRB Data	Difference	NCRB Coverage (%) ¹⁰
2016	152	92	60	60.5
2017	146	100	46	68.4
2018	148	70	78	47.2
2019	136	85	51	62.5
2020	114	76	38	66.6
2021	102	88	14	86.2
2022	175	75	100	42.8
2023	168	62	106	36.9
Total	1141	648	493	56.7

Table 1: Deaths in police custody from 2016-2023 (Comparative: NCRB and NHRC Data)¹¹

Aspect	NCRB - Data Collection Methodology	NHRC - Data Collection Methodology
Data Focus	Collects data on registered First Information Reports (FIR) only	Collects data on incidents reported through multiple channels
Scope	Only police-recorded crime cases that are formally registered as FIRs	Incidents brought to the Commission's attention through various channels

⁸ Dagdu and Ors Vs. State of Maharashtra (1977) 3 SCC 68.

⁹ UPENDRA BAXI, THE CRISIS OF THE INDIAN LEGAL SYSTEM 123 (Vikas Publ'g House 1981).

¹⁰ "NCRB Coverage (%)", measures the percentage of NHRC reported custodial deaths captured in official NCRB data for each year. It equals $(\text{NCRB data} \div \text{NHRC data}) \times 100$, showing NCRB's share of total reported deaths.

¹¹ National Crime Records Bureau, Ministry of Home Affairs, Govt. of India, Crime in India 2016–2023, Statistics Vol. 3, tbl. 16A.1 & tbl. 16A.2., *see also* National Human Rights Commission, Annual Reports 2016-2023 <https://nhrc.nic.in/publications/annual-reports>.

Sources	Police officials of various States/Union Territories furnish data at Police Station and District level	Complaints filed directly by victims, suo motu action, and intimations from authorities
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Table 2: Data collection methodology of NHRC and NCRB

Table 1 illustrates the official data on the occurrence of unnatural death in police custody. The National Crime Records Bureau (NCRB) and the NHRC annual data show a consistent violation of the constitutional guarantee of life;¹² however, only 56.7% of NHRC-reported occurrences are formally registered as crime, and in the remaining 43.3% incidents, the criminal law was never set in motion. Although the data collection methodologies adopted by these organisations vary (*see* Table 2). But, the reason for not registering a crime in custodial death is that the law doesn't mandate registration of a crime upon custodial death; however, if such death is due to the discharge of a firearm by police personnel, then registering a murder case is made mandatory.¹³ Evidently, the Indian crime statistics signify that not all unnatural deaths that occurred in police custody are prosecuted by the State; the criminal procedure stalls in a large number of cases after a statutory executive inquiry.¹⁴ Lamentably, even in the cases where prosecution and trial were done, the conviction rate raises serious concerns. The official data from the past 12 years (2011-2023) shows 1,169 fatalities in police custody, but not even a single police official has been conclusively convicted,¹⁵ which not only perpetrator go unpunished but also ends the scope of victims getting compensated under criminal law, as without a conviction the criminal courts are barred to award compensation,¹⁶ under the victim compensation scheme.¹⁷ This recourse the

¹² INDIA CONST. art. 21.

¹³ PUCL v. State of Maharashtra, (2014) 10 S.C.C. 635.

¹⁴ Section 176, The Code of Criminal Procedure, 1973, No. 2, Acts of Parliament, 1974 (India).

¹⁵ National Crime Records Bureau, Crime in India (Annual Reports 2011-23), <https://www.ncrb.gov.in/crime-in-india.html> (last visited November 7, 2025).

¹⁶ K.D. Gaur, Poor Victim of Uses and Abuses of Criminal Law and Process in India, 35 J. Indian L. Inst. 183, 217 (1993).

¹⁷ The Bharatiya Nagarik Suraksha Sanhita, 2023, §§ 395-396 (India).

victim towards civil litigation for compensation, which is not only a time-consuming judicial process, but the State also has a catena of defences to not disclose everything under sovereign immunity.¹⁸ However, in France, the victim (*partie civile*) may join ongoing criminal proceedings alongside public prosecution to seek compensation.¹⁹ Upon observing such foreign jurisprudence, the Law Commission of India recommended a Bill,²⁰ impregnated with a comprehensive provision for compensation to victims of crime, irrespective of conviction,²¹ but it was not approved by the legislature.

The Human Rights Commissions in India²² are empowered to recommend to the concerned government for payment of compensation upon substantiating human rights violations.²³ But the commissions do not have a compensation mechanism and operate discretionarily.²⁴ Although there is a uniform scheme to compensate victims of terrorism, communal and naxal violence;²⁵ however, apart from a few state-level schemes,²⁶ but there is no uniform policy specifically addressing the compensation for police violence victims in India. Being a signatory, the international law obligates India to devise a policy against torture by public officials at the highest level of governance, failing

¹⁸ Crime and Punishment-Reparation to the Victim, 227 L. Times 117 (1959).

¹⁹ C. pr. pén. arts. 2, 3, 85–91, 114–121, 371–375 (Fr.)

²⁰ Law Comm'n of India, Report No. 42, Indian Penal Code (1971), <https://cdnbbsr.s3waas.gov.in/s3ca0daec69b5adc880fb464895726dbdf/uploads/2022/08/2022082456.pdf>.

²¹ The Indian Penal Code (Amendment) Bill, (India 1971).

²² Protection of Human Rights Act, 1993, §3 and 21 (India).

²³ *Ibid.*, § 18(a)(i) and 18(c).

²⁴ National Human Rights Commission, Reply Letter from Khaleel Ahmad, Consultant (Law) & PIO, SB-6 Section, RTI No. NHRC/R/E/24/00165 (26 Mar. 2024).

²⁵ Central Scheme for Assistance to Civilians Victims/Family of Victims of Terrorist, Communal and Naxal Violence, Ministry of Home Affairs, Govt. of India (Revised Guidelines, effective 1 Apr. 2008 & 22 June 2009) (2010) (India).

²⁶ G.O. Ms. No. 874 (Tamil Nadu Gov't Aug. 8, 1996); G.O. Ms. No. 833 (Tamil Nadu Gov't May 22, 1998), see also, Jammu & Kashmir Victim Compensation Scheme, 2013, SRO 229, Home Dep't, Gov't of Jammu & Kashmir (Apr. 23, 2013), as amended by SRO 394 (Sept. 9, 2013).

which the rule of law may erode;²⁷ such a policy shall also include victim reparation.²⁸ The United Nations Convention against Torture (UNCAT)²⁹ and its Optional Protocol³⁰ remain unratified in India, which means the international law on torture is not binding. Given the legislative gap, the parliament made several attempts in the years 2010,³¹ 2017,³² 2022,³³ 2023,³⁴ and 2025³⁵ to legislate on torture prevention, but except for the latest one, all the bills officially lapsed. However, the present legislative gap is not a limitation on the judiciary, as the apex court mandated compensatory awards for police violence cases,³⁶ and endorsed pecuniary compensation as a means of upholding fundamental rights,³⁷ under the writ jurisdiction of the constitutional courts.³⁸ Eventually, the apex court has laid compensatory jurisprudence through a plethora of its judgments on police violence, which are constitutionally binding over all courts within India.³⁹ The constitutional courts often rely on these precedents while awarding compensation (*see* Table 4). However, *inter alia*, the

²⁷ Raghbir Singh v. State of Haryana, AIR 1980 SC 1087.

²⁸ Sveaass, N., Gross Human Rights Violations and Reparation Under International Law: Approaching Rehabilitation as a Form of Reparation, 4 Eur. J. Psychotraumatology 1–11 (2013).

²⁹ Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Dec. 10, 1984, 1465 U.N.T.S. 85.

³⁰ Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Dec. 18, 2002, 2375 U.N.T.S. 237.

³¹ The Prevention of Torture Bill, 2010, Bill No. 58 (India), introduced Apr. 26, 2010 (introduced by P. Chidambaram, Minister of Home Affairs), passed Lok Sabha May 6, 2010.

³² The Prevention of Torture Bill, 2017, Bill No. 29 (India), as introduced in Rajya Sabha (Dec. 15, 2017) (introduced by V. Vijaysai Reddy).

³³ The Prevention of Torture Bill, 2022, Bill No. 206 (India), as introduced in Lok Sabha (Dec. 12, 2022) (introduced by Shri E.T. Mohammed Basheer).

³⁴ The Prevention of Custodial Torture Bill, 2023, Bill No. 31 (India), as introduced in Rajya Sabha (Dec. 8, 2023) (introduced by Prof. Manoj Kumar Jha).

³⁵ The Prevention of Custodial Torture Bill, 2024, Bill No. 58 (India), as introduced in Rajya Sabha (Feb. 7, 2025) (introduced by Shri Manoj Kumar Jha).

³⁶ Rudul Sah v. State of Bihar, AIR 1983 SC 1086.

³⁷ (1993) 2 SCC 746.

³⁸ INDIA CONST. art. 32, art. 226.

³⁹ INDIA CONST. art. 141.

three cases, i.e. *Rudul Sah*,⁴⁰ *Nilabati Behra*⁴¹ and *D.K. Basu*⁴², can be considered the golden triangle of the compensatory jurisprudence in police violence cases,⁴³ as the majority of the courts addressing police violence rely on them in determining compensation (*see* Table 3). Thus, such an approach of constitutional courts to compensate victims of custodial deaths for fundamental rights infringement,⁴⁴ under writ jurisdiction,⁴⁵ is an attempt to uphold the irrefutable principle of public law jurisprudence of judicially creating a remedy for vested legal rights.⁴⁶ The compensation for victims of police violence by the constitutional courts is a special remedy designed to fill the existing gap in compensatory jurisprudence.⁴⁷ Compensation awarded by constitutional courts is for violations of constitutional rights⁴⁸ that transcend the proof standard⁴⁹ of general evidentiary laws.⁵⁰ This lenient approach focuses crucially on the state liability rather than individual culpability and provides compensation as a ‘palliative measure’,⁵¹ as death in police custody due to torture is regarded as the ‘deepest wound in constitutional culture’.⁵² The compensation under public law are awarded for constitutional tort, as the ambit of constitutional tort is considerably wider⁵³.

⁴⁰ (1983) 4 SCC 141.

⁴¹ (1993) 2 SCC 746.

⁴² (1997) 1 SCC 416.

⁴³ Surendra Yadav, *State Liability: A New Dimension from 'Rudul Sah'*, 43 J. Indian L. Inst. 559 (2001).

⁴⁴ M.S.V. Srinivas, *Compensation under Articles 32 and 226 for Violation of Human Rights and Fundamental Freedoms*, A.I.R. J. 167 (1997).

⁴⁵ K. I. Vibhute, *Compensating Victims of Crime in India: An Appraisal*, 32 J. Indian L. Inst. 68 (1990).

⁴⁶ Seth Davis, *Implied Public Rights of Action*, 114 Colum. L. Rev. 1, 1–84 (2014).

⁴⁷ K. C. Joshi, *Compensation Through Writs: Rudul Sah to Mehta*, 30 J. Indian L. Inst. 69 (1988).

⁴⁸ *Sebastian Hongray v. Union of India*, 1984 (1) SCC 339.

⁴⁹ *Goverdhan and Anr. v. State of Chhattisgarh*, 2025 INSC 47.

⁵⁰ *The Bharatiya Nagarik Suraksha Sanhita*, 2023, §§ 3, 104–114 (India).

⁵¹ *Nilabati Behera v. State of Orissa*, (1993) 2 S.C.C. 746.

⁵² *Kishor Singh Ravinder Dev etc. v. State of Rajasthan*, AIR 1981 SC 625.

⁵³ John C. Jeffries, Jr., *The Liability Rule for Constitutional Torts*, 99 Va. L. Rev. 207, 207–70 (2013).

Case Title (Year)	No. of times cited¹	Ratio Decidendi (holding)	Obiter Dicta (judicial observations)
Rudul Sah (1983)	By Supreme Court: 38 By High Courts: 606 Total: 644	• Courts exercising Article 32 jurisdiction may award monetary compensation for infringement of Article 21 (life and liberty). • The State is strictly liable to “repair the damage done by its officers” to fundamental rights.	• Compensation awarded under Article 32 is intended as a temporary “palliative,” not final damages; the aggrieved can still sue the State in civil court for full tortious damages. • State’s right to indemnity: after paying the victim, the government may seek recourse against the offending officer.
Nilabati Behera (1993)	By Supreme Court: 74 By High Courts: 889 Total: 963	• Custodial death means Art. 21 violation, the State is liable to pay compensation in public-law under Art. 32/226. • Compensation for fundamental rights is a strict-liability remedy in public law	• Emphasized that this public-law compensation is distinct from private tort damages. It serves broader purposes: civilizing public power, deterring custodial abuse, and ensuring have-nots have an effective remedy.
D.K. Basu (1996)	By Supreme Court: 110 By High Courts: 1186 Total: 1296	• Reaffirmed strict-liability doctrine: “monetary compensation as an appropriate remedy” for violation of Article 21. (State may later	• The Court coupled this compensatory framework with detailed custodial safeguards: identification tags, arrest memo, third-party notice, prompt medical exam, right to counsel, etc., as prophylactic

¹ All the data regarding total number of cited by the constitutional courts are collected from individual case data via the Authority Check Report of the Manupatra database. The data was generated between Sep., 2025 to Jan., 2026, therefore the total number of times cited may increase, accordingly.

indemnify) measures.

- Sovereign immunity is held inapplicable.
- Victims remain free to pursue criminal charges and civil suits.

Table 3: The most significant three cases concerning compensatory jurisprudence in police custodial violence cases

Table 4: Police custodial violence landmark precedent

<i>Supreme Court of India Case Titles</i>	<i>Times cited by all Constitutional Courts⁶⁰</i>	<i>Supreme Court of India Case Titles</i>	<i>Times cited by all Constitutional Courts⁶⁰</i>
D.K. Basu v. State of West Bengal ²	1296	Amitbhai Anilchandra Shah v. CBI ³	272
Nilabati Behra v. State of Orissa ⁴	963	In Re: Inhuman Cond. in 1382 Prisons ⁵	268
T.T. Antony v.	797	Khatri v. State of	218

² MANU/SC/0157/1997

³ MANU/SC/0329/2013

⁴ MANU/SC/0307/1993

⁵ MANU/SC/1183/2017

State of Kerala ⁶		Bihar ⁷	
Rudul Shah v. State of Bihar ⁸	644	Saheli v. Comm. Of Police, Delhi HQ ⁹	196
Vinay Tyagi v. Irshad Ali ¹⁰	571	Rubabbudin Sheikh v. State of Gujrat ¹¹	188
Francis Coralie v. Adm., UT of Delhi ¹²	477	Sube Singh v. State of Haryana ¹³	180
Bhim Singh v. State of J&K ¹⁴	328	Narmada Bai v. State of Gujrat ¹⁵	158
Prithipal Singh v. State of Punjab ¹⁶	322		

and varies from general tort,¹⁷ but the courts permit initiation of litigation for additional compensation under the private law at any stage.¹⁸ This manner of judicial approach reflects a paradigm shift from analytical positivism to social

⁶ MANU/SC/0365/2001

⁷ MANU/SC/0518/1981

⁸ MANU/SC/0380/1983

⁹ MANU/SC/0478/1989

¹⁰ MANU/SC/1101/2012

¹¹ MANU/SC/0024/2010

¹² MANU/SC/0517/1981

¹³ MANU/SC/0821/2006

¹⁴ MANU/SC/0064/1985

¹⁵ MANU/SC/0371/2011

¹⁶ MANU/SC/1292/2011

¹⁷ Michael L. Rustad, Torts as Public Wrongs, 38 Pepp. L. Rev. 433 (2011).

¹⁸ Rudul Sah v. State of Bihar, (1983) 4 SCC 141. *See also* Sawinder Singh Grover, Re Death of, 1995 Supp (4) SCC 450., T.C. Pathak v. State of U.P., (1995) 6 SCC 357., Surjit Kaur v. State of Punjab, 1996 SCC OnLine P&H 1102., Ajab Singh v. State of U.P., (2000) 3 SCC 521.

engineering,¹⁹ and from idealism to realism.²⁰ As the last authoritative government-backed study on the practice of torture by police officials was in 1855, which however never addressed torture victim reparation,²¹ thus it is crucial to systematically study the present state of torture victim reparation jurisprudence and the judicial approach towards it. Although the judicial approach of awarding compensation to custodial death victims has been in practice since the early 1980s, but there is no systematic study assessing the judicial compensatory outcomes in custodial death cases. There is no mandate prescribing the minimum or maximum compensation amount, which gives the constitutional courts the discretion to award any amount the judge may feel reasonable and, in some cases, award no compensation, given that such judicial approach may lead to the uneven and unequal distribution of monetary compensation.

To illustrate how similarly situated torture victims are judicially treated and compensated differently, Table 5 randomly categorises 12 similar custodial death cases from the last 40 years (segregated into 3 cases per decade). Even within the same year, compensatory outcomes significantly lacks uniformity, as illustrated in the year 1989, the highest compensation is four times higher than the lowest. Similarly, in 2003, it is 18 times higher, and in 2010 and 2020, it is 3.35 times and 5 times higher than the lowest compensation, respectively. This evidently shows that judicially determined overall compensation within the same year between similarly situated cases portrays unequal distribution, violating the constitutional guarantee of equal protection. The jurisprudence concerning the judicial application of the extraordinary power²² in awarding compensation is relevant here, as under such jurisdiction, the apex court has also awarded monetary compensation for a deceased victim of police violence.²³ The jurisprudence says that a great amount of caution ought to be

¹⁹ Linus J. McManaman, *Social Engineering: The Legal Philosophy of Roscoe Pound*, 33 *St. John's L. Rev.* 1 (1958).

²⁰ Brian Leiter, *Rethinking Legal Realism: Toward a Naturalized Jurisprudence*, 76 *TEX. L. REV.* 267 (1997).

²¹ Report of the Commissioners for the Investigation of Alleged Cases of Torture, in the Madras Presidency, (1855).

²² INDIA CONST. art. 142.

²³ *Shakila Abdul Gafar Khan v. Vasant Raghunath Dhoble and Anr.*, (2003) 7 SCC 749.

observed while exercising such constitutional powers, as they are beyond constraints or limitations.²⁴ The paramount consideration of such power shall be to ensure that it does not cause injustice,²⁵ especially to those who do not happen to be before such a court.²⁶ Equal and consistent treatment is a derivative of a broader constitutional principle of equality.²⁷

²⁴ Hitesh Bhatnagar v. Deepa Bhatnagar, (2011) 5 SCC 234.

²⁵ Raj Kumar v. Union of India, (2006) 1 SCC

²⁶ A. Jidenranath v. Jubilee Hills Co-op. Housing Building Society, (2006) 10 SCC 96.

²⁷ R. Dworkin, *Taking Rights Seriously* (Cambridge, MA 1977), 227–28.

Decade	Year	Case No.	Date	Court	Article 21 violation estd.	Police violence estd.	State liability estd.	Victim's kin dependent on income	Dependent family left behind	Nature of Injuries	Illegal detention Estd.	Victim's profession	Victim's monthly Income	Judicial Methodology ¹	Compensation
1985 - 1995	1989	1 ²	13/01/89	SCI	Yes	Yes	Yes	Yes	Yes	Severe	Yes	Labourer	N/A	JSA	₹50,000
		2 ³	28/08/89	HC	Yes	Yes	Yes	Yes	Yes	Severe	Yes	Store-keeper	₹593.30	Income based Calculation + JSA	₹2,00,000
		3 ⁴	14/12/89	SCI	Yes	Yes	Yes	Yes	Yes	Severe	Yes	N/A	N/A	Precedent based	₹75,000
1996-2005	2003	4 ⁵	29/01/03	HC	Yes	Yes	Yes	Yes	Yes	Severe	Yes	N/A	N/A	Precedent based	₹50,000
		5 ⁶	08/09/03	SCI	Yes	Yes	Yes	Yes	Yes	Severe	Yes	N/A	N/A	JSA	₹1,00,000
		6 ⁷	29/10/03	HC	Yes	Yes	Yes	Yes	Yes	Severe	Yes	Lorry	₹6000	Multiplier	₹9,00,000

¹ The categorical descriptors in the 'Judicial Methodology' column represent the author's analytical interpretation of the jurisprudential approach evident within each judgment, rather than nomenclature explicitly articulated within the judicial pronouncements themselves, such a scholarly reconstruction intend to facilitate comparative analysis across similar cases. The above mentioned judicial methodologies are further explained in Table 14.

² People's Union for Democratic Rights v. Police Commissioner, Delhi Police HQ, (1989) 4 S.C.C. 730.

³ Severina Ribeiro v. Union of India, 1989 SCC OnLine Bom 186.

⁴ Saheli v. Commissioner of Police, Delhi Police HQ., (1990) 1 S.C.C. 422.

⁵ Mykala Sabamma v. S. Srinivas, (2003) 2 ALD 49.

⁶ Shakila Abdul Gafar Khan v. Vasant Raghunath Dhoble and Anr., (2003) 7 SCC 749.

			3											Method	
2006 - 2015	2010	7 ⁸	09/02/10	HC	Yes	Yes	Yes	Yes	Yes	Severe	Yes	Treasurer	₹8333.3	Multiplier Method	₹10,07,000
		8 ⁹	24/05/10	HC	Yes	Yes	Yes	Yes	Yes	Severe	Yes	Prisoner	N/A	JSA	₹3,00,000
		9 ¹⁰	25/08/10	HC	Yes	Yes	Yes	Yes	Yes	Severe	Yes	Painter	₹6000	JSA	₹5,00,000
2016 - 2025	2020	10 ¹¹	07/01/20	HC	Yes	Yes	Yes	Yes	Yes	Severe	Yes	Business	N/A	JSA	₹2,00,000
		11 ¹²	13/11/20	HC	Yes	Yes	Yes	Yes	Yes	Severe	Yes	Educator	₹5000	Multiplier Method + JSA	₹10,00,000
		12 ¹³	26/11/20	HC	Yes	Yes	Yes	Yes	Yes	Severe	Yes	N/A	N/A	Multiplier Method	₹5,00,000
JSA: Judge's Self-Assessment (explained in the latter part of the study), + : Combination of approach or methodology, SCI: Supreme Court of India, HC: High Court															

Table 5: Year-wise illustration of 12 cases

⁷ R. Dhanalakshmi v. Government of Tamil Nadu, 2004 WLR 346.

⁸ T. Sekaran v. The State of Tamil Nadu, W.P. (MD) No. 4412 of 2008, Mad. HC (Madurai Bench).

⁹ Court on its own Motion v. State, 2010 SCC OnLine Del 2087.

¹⁰ Priya v. State of Tamil Nadu, 2010 SCC OnLine Mad 4523.

¹¹ Jayakumar vs State of Kerala, 2020 SCC OnLine Ker 5276.

¹² Rama Nand Rai v. State of Bihar, 2020 SCC OnLine Pat 2427.

¹³ Ashok Kondaji Rokade v. The State of Maharashtra, LNIND 2020 AUG 94.

However, the compensatory outcomes as illustrated in Table 5 deviates from the above jurisprudence and leads to a state of predicament, which is pernicious to the justice delivery system. Further, the application of different judicial methodologies to determine compensations in different cases could also be the reason for the visible variance in compensatory outcomes. As the above pattern raises concerns over the court-determined compensatory awards and judicial approach undertaken thereunder, a systematic inquiry is therefore warranted to evaluate whether such variance and unequal distribution of compensation is randomly occurring or operates systematically.

II. Significance of the Study

The general assumption¹ confines the identity of the torturer exclusively to the functionaries of the State,² which is also supported by international law.³ The international law not only declares acts of violence, torture, inhuman or degrading treatment by public officials, to be a crime of universal jurisdiction with no exceptions,⁴ but also obligates the state to compensate the victim.⁵ However, due to a persistent statutory and policy-oriented gap, the constitutional courts have been providing pecuniary compensation for police violence victims for more than four decades. However the existence of non-uniformity in judicial approach leads to unequal distribution of the compensation amounts, thus requiring a systematic study of the compensatory jurisprudence of the constitutional courts towards deceased victims of police violence, as it is one thing to judicially compensate the victims in absence of legislation but it is another thing if such victims are treated differently by the highest constitutional court only because different judges adjudicates

¹ Langbein, *Torture and the Law of Proof*, Michel Foucault, *Discipline and Punish: The Birth of the Prison*, 2nd ed. (New York: Vintage Books, 1995); Peters, *Torture*; Silverman, *Tortured Subjects*; Kahn, *Sacred Violence*.

² Paul Kenny, *The Meaning of Torture*, 42 *POLITY* 131, 136 (2010).

³ Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment art. 1, Dec. 10, 1984, 1465 U.N.T.S. 85.

⁴ Rome Statute of the International Criminal Court, July 17, 1998, 2187 U.N.T.S. 90.

⁵ Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, art. 14, Dec. 10, 1984, 1465 U.N.T.S. 113.

differently and the judicial discretion permits them to do so. This study is designed to do the same and thus holds a significant importance, as this dimension of constitutional justice is never systematically studied. Therefore, the present study aims to demonstrate a judicial pattern of inequal distribution of compensations, and also to show which category of judicial approach is yielding higher compensatory amounts.

III. Research Methodology

This study employs a mixed methodology, bridging doctrinal legal analysis with empirical investigation. The present study employs a comparative legal analysis of the compensatory awards determined by the constitutional courts, i.e. Supreme Court of India and various High Courts of different states across India. The empirical analysis is done using descriptive statistical analysis in two stages, with each stage having a precise objective, from a sample of 85 judicial pronouncements of the constitutional court spanning from 1985 to 2025 (Tables 6 and 7).⁶

Period	No. of cases
1985 - 1995	12
1996 - 2005	28
2006 - 2015	26
2016 - 2025	19
Total cases	85

Table 6: Total cases periodical distribution (Decade-wise)

Supreme Court Cases (17 Cases)		
Jurisdiction	Cases	% of Total Cases
Article 32	14	16.47%

⁶ Although, the apex court in the year 1983 itself, in *Rudul Sah* case (decided on 1st August, 1983), mandated awarding monetary compensation under the writ jurisdiction against the state under strict liability for the act of causing unnatural death in police custody. But the study found that exercise of such power by the constitutional courts to award compensation was only after 1985, therefore temporal period is confined from 1985 to 2025 to cover the entire overview of the constitutionally awarded compensatory awards.

Articles 32 & 134(1)	1	1.17%
Article 134	1	1.17%
Arts 136 & 142	1	1.17%
High Court Cases (68 Cases)		
Jurisdiction	Cases	% of Total Cases
Article 226	109	78.83%
Section 374 (CrPC)	1	1.17%

Table 7: Jurisdiction of the constitutional courts

Region	Cases	% of Total	Composition (HC: High Court and SC: Supreme Court)
South	27	31.80%	HC: 25 (Madras 20, AP 3, Karnataka 1, Kerala 1) + SC: 2 (Karnataka 2)
North	24	28.20%	HC: 11 (Delhi 8, Himachal 2, P&H 1) + SC: 13 (UP 3, Delhi 4, Punjab 3, Haryana 2, MP 1)
West	17	20.00%	HC: 16 (Bombay 16) + SC: 1 (Maharashtra 1)
East	17	20.00%	HC: 16 (Gauhati 6, Jharkhand 3, Calcutta 2, Orissa 2, others 3) + SC: 1 (Bihar 1)
Total	85	100%	

Considering the extensive constitutional legal system in India (Supreme Court and 25 High Courts), and also considering the rate of occurrence of unnatural deaths in police custody in various regions across India. However, covering all the constitutional courts is beyond the scope of this study. Given that, to justify geographical representations, the study incorporates cases from all four major regions, capturing India's diverse custodial death compensatory outcomes without undue regional bias (see Tables 8 and 9).

Table 8: Geographical representation: Region-wise composition of the sample

Name of the Court	Case(s) count
Supreme Court of India	17
High Court of Madras	20
High Court of Bombay	16
High Court of Delhi	8
High Court of Gauhati	6

High Court of Andhra Pradesh	3
High Court of Jharkhand	3
High Court of Calcutta	2
High Court of Himachal Pradesh	2
High Court of Orissa	2
High Court of Chhattisgarh	1
High Court of Karnataka	1
High Court of Kerala	1
High Court of Meghalaya	1
High Court of Patna	1
High Court of Punjab and Haryana	1
Total cases of all courts	85

Table 9: Composition court-wise: Distribution of the sample

3.1 Sample definition and selection criteria:

Cases qualified for inclusion if:

- cases were decided by the constitutional courts of India between 1985 and 2025 (Constitutional Courts includes the Supreme Court of India and various High Courts across India).
- the courts assumed jurisdiction and provided relief under the constitutional provisions.
- the primary cause of the case is the unnatural death in police custody due to violence.
- the custody is solely with the police organisation and not with any other authorities.
- the court awarded monetary compensation under strict liability of the state.
- the court held the state strictly liable for paying the compensation.
- the court order/ judgment is reported and publicly accessible.

A. Exclusion of Cases from The Sample

In the present study, the judicially awarded monetary compensation constitutes a principal determinant of dataset comparability, and as such compensations are inherently subject to economic principles, including inflation, cases with singular annual occurrences present methodological challenges to intra-annual comparison. As such, single-occurrence cases cannot be compared within the same year, and the inflation trajectories across forty years make them incomparable among different years, which necessitates the exclusion of such singleton cases from comparative analysis. Consequently, such eight years, as shown in Table 10, have been omitted from = analysis, resulting in an analysed sample of 77 cases.

Decade 1 (1885-95)	Decade 2 (1996-05)	Decade 3 (2006-15)	Decade 4 (2016-2025)
Sample Year Justificatio n	Sample Year Justificatio n	Sample Year Justificatio n	Sample Year Justificatio n
1986 Single case	2001 Single case 2005 Single case	2013 Single case 2015 Single case	2016 Single case 2017 Single case 2024 Single case

Table 10: List of single cases per year

IV. Research Design

The study aims at demonstrating unequal judicial distribution of compensation amounts among similarly situated victims and evaluating the higher yielding ‘judicial methodology’. Given that the study is designed in a two-stage descriptive analysis, described as follows:

Stage 1: Stage 1 is structured to demonstrate the existence of a pattern of unequal distribution within the prevailing judicial practice of awarding compensation towards similarly situated victims of custodial death due to police violence.

This stage is structured to answer a foundational question, i.e. *Whether court-awarded monetary compensation shows a pattern of inequality?*

Stage II: Stage II is structured to demonstrate which judicial approach is monetarily benefiting the victims more (higher compensation yielding ‘judicial methodology’)

This stage is structured to answer yet another significant question, i.e. *Which among the two categories of judicial methodologies (OM&MM or JSA) preferably yields greater monetary compensation to victims?*

V. Stage I-Methodological Framework

A. Metric Definition

Stage 1 is based on a dual metrics analysis, as illustrated in Table 11. To study as to how many times, the highest compensation of a particular year is higher than the lowest, the study designs the evaluation of year-wise Compensation Fold Difference (CFD), and further, assess the gravity of inequality. The year-wise CFD values are categorised in accordance with the prescribed ranges of Inequality Intensity Scale (IIS) (*see* Table 12)

Metric	Formula/Definition	Significance
Compensation Fold Difference (CFD)	Maximum Compensation of a year divided by the Minimum Compensation of the same year	Demonstrates multiplicative inequality; shows how many times the highest award exceeds lowest within same year; Critical for identifying inequal distribution pattern; (year-wise control neutralizes inflation)
Inequality Intensity Scale (IIS)	A scale assess inequality; Range from ‘no inequality’ to ‘extreme inequality’; Classification based on compensation fold differential	Categorisation to asses inequality in years; Enables systematic pattern identification regarding inequality in judicial approach

Table 11: Methodology notes and computation explanation

B. CFD Computation Explanation

The CFD metric necessitates considering the highest and lowest compensation for a particular year. To enhance CFD metric comprehension, the computation of the year 1989 is explained below:

Minimum compensation in 1989: ₹50,000. Thus, $\text{Min}_{1989} = ₹50,000$

Maximum compensation in 1989: ₹2,00,000. Thus, $\text{Max}_{1989} = ₹2,00,000$

The application of the CFD metric:

$$\text{CFD}_{\text{year}} = \frac{\text{Maximum Compensation of the year}}{\text{Minimum Compensation of the same year}}$$

Substituting the 1989 figures:

$$\text{CFD}_{1989} = \frac{₹2,00,000}{₹50,000}$$

So, upon reducing the ratio arithmetically:

$$\text{CFD}_{1989} = 4$$

The CFD value may be expressed in fold notation as 4.00x, which expresses that the highest compensation awarded in 1989 is four times the lowest compensation awarded in that same year. A CFD of 4.00x reflects a significant variance in judicially awarded compensation.

Inequality Intensity Scale (IIS)

Table 12 illustrates the Inequality Intensity Scale (IIS), which is designed in this study to assess the intensity of the inequal judicial distribution. The systematic classification made in IIS is based on the year-wise CFD results range. The CFD range demarcation of each intensity level is based on a systematic percentile classification, as shown in Table 12, wherein the lower threshold of each successive band was anchored to precise breakpoints.

Percentile Classification of CFD results	CFD Range	Intensity Classification
0 to 5%	1	No Inequality/ Perfect equality
5.1% to 9.99%	1.1 to <2	Low Inequality
10% to 24.99%	2 to <5	Moderate Inequality

25% to 49.99%	5 to <10	High Inequality
50% to 100%	10 to 20	Extreme Inequality

Table 12: Inequality Intensity Scale (IIS)

The IIS formation is developed in accordance with the year-wise computed CFD values, wherein the study identified CFD results spanning from a range of 1.00x to 18.00x across the entire sample period. Thus, the scale is calibrated across the band 1 to 20. The five categories as established in the IIS has its own significance, as where the value of CFD is 1, it can be said that there exists no inequality, as both the highest and the lowest compensation within a particular year are the same. Further, Low Inequality (CFD 1.1 – < 2) and Moderate Inequality (CFD 2 – < 5) represent minimal and moderate multiplicative disparities between maximum and minimum awards. However, High Inequality (CFD 5 – < 10) and Extreme Inequality (CFD 10 –20) signify severe multiplicative divergence. Given that, the objective of creating this scale is to illustrate a pattern of the gravity of inequality within the compensatory awards. Thus, the result of categorising the above computed CFD value of the year 1989, i.e. 4.00x, into the IIS would be ‘Moderate Inequality’.

C. Year-wise result: CFD Computation and IIS Categorisation

Table 13 illustrates the year-wise CFD values and also the categorised results according to the IIS.

Year	Lowest compensation (₹)	Highest compensation (₹)	CFD Value	IIS Classification
1989	50,000	2,00,000	4.00x	Moderate Inequality
1992	30,000	2,00,000	6.67x	High Inequality
1993	1,00,000	1,00,000	1	No Inequality
1994	25,000	1,50,000	6.00x	High Inequality
1995	50,000	1,50,000	3.00x	Moderate Inequality
1996	1,00,000	10,00,000	10.00x	Extreme Inequality
1997	1,00,000	5,00,000	5.00x	High Inequality
1998	5,50,000	7,50,000	1.36x	Low Inequality
1999	2,00,000	5,00,000	2.50x	Moderate Inequality
2000	2,00,000	5,00,000	2.50x	Moderate Inequality

2002	50,000	2,00,000	4.00x	Moderate Inequality
2003	50,000	9,00,000	18.00x	Extreme Inequality
2006	1,50,000	3,00,000	2.00x	Moderate Inequality
2007	2,00,000	5,00,000	2.50x	Moderate Inequality
2008	4,32,000	5,00,000	1.16x	Low Inequality
2009	2,00,000	5,00,000	2.50x	Moderate Inequality
2010	3,00,000	10,07,000	3.35x	Moderate Inequality
2011	2,57,160	15,00,000	5.82x	High Inequality
2012	4,50,000	20,00,000	4.44x	Moderate Inequality
2014	5,00,000	10,00,000	2.00x	Moderate Inequality
2018	5,00,000	15,00,000	3.00x	Moderate Inequality
2020	2,00,000	10,00,000	5.00x	High Inequality
2021	5,00,000	6,32,000	1.26x	Low Inequality
2022	4,00,000	20,00,000	5.00x	High Inequality
2023	5,00,000	51,00,000	10.20x	Extreme Inequality
2025	2,00,000	25,00,000	12.5x	Extreme Inequality

Table 13: Year-wise outcome: CFD computation results classified into IIS

D. Outcome

The empirical results (*see* Table 13) reveal a clear pattern of inequal distribution of compensation by the constitutional courts as ‘Moderate Inequality’ predominates across 12 different years, followed by six instances of ‘High Inequality’, four instances of ‘Extreme Inequality’, three instances of ‘Low Inequality’, and one instance of ‘No Inequality’. The findings support the existence of a structural pattern of inequal distribution. The pattern of judicial variance visible in the year-wise results cannot be attributed to random judicial variance, as the percentile distribution exhibits 48% of observed years are encapsulated under Moderate Inequality, 24% under High Inequality, 16% under Extreme Inequality, and 12% under Low Inequality. Further, the consolidated percentile of High Inequality and Extreme Inequality cases shows a pernicious pattern, as jointly they represent 40% of the sample (CFD ranges from 5x to 18x). In other words, if one victim is awarded ₹1 as compensation, the other may be awarded ₹5, while another may be awarded ₹18. The value of the life of the deceased victim is entirely based on the judicial discretion of the concerned constitutional court judge, indicating that the disparity magnitude

that defies principles of equity in judicial compensation jurisprudence. The inequality pattern suggests structural rather than episodic causation, further implying systemic inconsistencies in quantifying victim losses attributable to custodial violence.

Consequently, Stage 1 conclusively establishes an affirmative response to its foundational research question: *court-awarded monetary compensation demonstrably exhibits a clear pattern of inequal distribution*. Stage 1 evidently demonstrated inequal distribution of compensatory amounts, but it is also pertinent to observe that the court adopted different judicial methodologies in determining monetary compensation. Thus, it is crucial to understand which judicial methodology is comparatively yielding higher compensatory awards. Given that Stage II is designed to analyse the same.

VI. Stage II- Methodological Framework

A. Categorisation of the sample for Stage II

The present study majorly identified four different judicial approaches adopted by the concerned constitutional courts in determining the monetary compensation payable to the victims of custodial death. For a comprehensive understanding throughout the study, these judicial approaches are termed 'judicial methodologies'. The classifications made under 'Judicial Methodology' represent the author's analytical interpretation of the judicial approach evident within each judgment in determining the compensation; except for the 'multiplier method', no other nomenclature is explicitly articulated within the judicial pronouncements themselves. Given that judicial methodologies are classified into two categories for testing the higher yielding judicial approach: (1) Judge Self-Assessment methodology (hereafter JSA), (2) Other Methodologies and Mixed Methodology (hereafter OM & MM). This reconstruction intends to facilitate comparative analysis, as illustrated in Table 14, as to which methodology provides a higher compensatory outcome. In the majority of the cases, the compensation was determined by the judges based on judicial conscience and self-assessment (JSA), without adopting any computation-based methods, therefore it is also crucial to examine whether JSA, as a judicial approach also yields higher compensation than other category i.e. OM&MM.

Category	Judicial Methodology	Case Count	Percentage	Judicial Methodology definition and key indicators while determining compensation
Judge Self-Assessment (JSA)	Judge's self-assessment (JSA)	63	74.12 %	Purely Judge's subjective self-assessment; no computation bases (such as Multiplier method or Income based calculation); no reliance on already determined judicial compensation awards (Precedent based)
Other Methodologies and Mixed Methodology (OM & MM)	Multiplier method	12	14.12 %	Formula based calculation: (Annual Income $\times$ Multiplier) - Individual share of income
	Precedent based method	8	9.40 %	Courts rely on already decided cases due to the similarity of facts
	Income based method	2	2.36 %	Formula based calculation: Victim income $\times$ Remaining

				service years
	Total	85	100 %	

Table 14: Categorisation of judicial methodologies adopted across the population

Compensation determined based on Other methodology and mixed methodology (OM&MM)*					Common Year	Compensation determined based on 'Judge's self-assessment (JSA)**				
Court's jurisdiction	Court	Judicial Methodology	Compensation	Order date		Order date	Compensation	Court	Court's jurisdiction	
Article 226	HC of Bombay (Panaji)	Income based + JSA	₹2,00,000	28/08/1989	1989	13/01/1989	₹50,000	SCI	Article 32	
Article 32	SCI	Precedent based	₹75,000	14/12/1989						
Article 226	HC of Orissa	Precedent based + JSA	₹30,000	02/04/1992	1992	21/10/1992	₹2,00,000	SCI	Article 32	
Article 32	SCI	Precedent based	₹5,00,000	09/09/1997	1997	31/01/1997	₹1,00,000	HC of Calcutta	Article 226	
						31/01/1997	₹5,00,000	HC of Calcutta	Article 226	
						18/03/1997	₹1,00,000	HC of Himachal Pradesh	Article 226	
						20/08/1997	₹2,50,000	SCI	Article 32	
						13/11/1997	₹1,50,000	HC of Andhra Pradesh	Article 226	
Article 32	SCI	Multiplier method + JSA	₹7,50,000	15/12/1998	1998	18/09/1998	₹5,50,000	HC of Delhi	Article 226	
Article 226	HC of Madras	Precedent based + JSA	₹5,00,000	08/04/1999	1999	11/10/1999	₹2,00,000	HC of Delhi	Article 226	
Article 226	HC of Gauhati	Precedent based	₹2,50,000	23/06/1999						
Article 226	HC of Andhra Pradesh	Precedent based	₹50,000	29/01/2003	2003	06/03/2003	₹50,000	HC of Gauhati	Article 226	
Article	HC of Madras	Multiplier	₹9,00,000	29/10/2003		08/09/2003	₹1,00,000	SCI	Article 134(1)	
						19/12/2003	₹5,00,000	HC of Delhi	Article 226	

226		method							
Article 226	HC of Madras	Precedent based	₹5,00,000	30/04/2008	2008	05/02/2008	₹5,00,000	HC of Madras	Article 226
Article 226	HC of Madras	Multiplier method	₹4,32,000	20/10/2008					
Article 226	HC of Bombay	Income based + JSA	₹5,00,000	04/05/2009	2009	14/03/2009	₹2,00,000	HC of Madras	Article 226
Article 226	HC of Madras (Madhurai)	Multiplier method	₹10,07,000	09/02/2010	2010	23/04/2010	₹5,00,000	HC of Madras	Article 226
						24/05/2010	₹3,00,000	HC of Delhi	Article 226
						25/08/2010	₹5,00,000	HC of Madras (Madhurai)	Article 226
Article 226	HC of Bombay	Multiplier method + JSA	₹2,57,160	02/08/2011	2011	31/01/2011	₹10,00,000	SCI	Article 226
						04/07/2011	₹15,00,000	HC of Delhi	Article 226
						04/07/2011	₹15,00,000	HC of Delhi	Article 226
Article 226	HC of Patna	Multiplier method + JSA	₹10,00,000	13/11/2020	2020	07/01/2020	₹2,00,000	HC of Kerala	Article 226
Article 226	HC of Bombay (Aurangabad)	Multiplier method + JSA	₹5,00,000	26/11/2020		18/08/2020	₹4,00,000	HC of Madras	Article 226
Article 226	HC of Gauhati	Precedent based + JSA	₹20,00,000	25/03/2022	2022	19/10/2022	₹4,00,000	HC of Andhra Pradesh	Article 226
Article 226	HC of Gauhati	Precedent based + JSA	₹20,00,000	25/03/2022					
Article 226	HC of Bombay (Aurangabad)	Multiplier method + JSA	₹15,29,600	18/01/2023	2023	20/02/2023	₹51,00,000	HC of Orissa	Article 226
						03/07/2023	₹5,00,000	HC of Jharkhand	Article 226
JSA: Judge's Self-Assessment, SCI: Supreme Court of India, HC: High Court, + : Combined with									
*	: In this category, compensation is determined by the court using various approaches, including 'income-based calculation', 'precedent-based', 'multiplier method', or a hybrid approach (Mixed Method) in which the aforementioned approaches and 'Judge's self-assessment'								
	: are combinedly adopted to determine a conclusive compensation.								
**	In this category, compensation is consistently determined by the presiding judicial officer's (Judge) self-assessment, without employing any alternative methodology.								

Table 15: Custodial death compensation determinations (1989–2025): Intra-temporal variance in judicial awards

Exclusion of cases from the sample for Stage II analysis

This stage necessitates only analysing those years in which compensations are determined using both categories of judicial methodologies, i.e. JSA and OM&MM. Given that, the cases under fourteen different years and the years themselves were omitted from the analysis at this stage, as they were incomparable due to a single methodology being judicially adopted to determine compensation in such years. Thus, thirteen such years were found eligible to be analysed in Stage II (*see* Table 15).

B. Stage II Methodology

Stage II is focused on demonstrating which among the two categories, i.e. OM & MM or JSA, is monetarily higher yielding methodology in terms of compensatory awards. For a more standardised outcome, the CFD is computed in two different categories:

(1) Highest compensation awards: Here, the highest compensation amount of both OM & MM and JSA are taken into consideration, and the greater amount among the two is divided by the lesser amount.

(2) Lowest compensation awards: Here, the lowest compensation amount of both OM & MM and JSA are considered, and the greater amount among the two is divided by the lesser amount.

C. Computation Explanation

To enhance comprehension of the application of the CFD metric within Stage II, the computation of the year 1989 is explained below.

Step 1: Identify methodology-wise “highest” and “lowest” amounts

For the highest-compensation segment, the analysis considers the maximum award made under OM & MM (₹2,00,000) and the maximum award made under JSA (₹50,000) in the year 1989. For the lowest-compensation segment, it similarly considers the minimum OM & MM award (₹75,000) and the minimum JSA award (₹50,000) of 1989. This strict intra-annual pairing ensures that inflation and inter-temporal effects are neutralised, so that any CFD reflects only disparities within outcomes of the same year and not different years.

Step 2: Compute CFD for the highest compensation awards

The CFD for the highest awards is defined in Stage II as the greater amount among the two methodologies divided by the lesser amount, applied only to the pair of highest awards in that year.

$$CFD_{1989}^{\text{highest}} = \frac{\max(\text{₹}2,00,000; \text{₹}50,000)}{\min(\text{₹}2,00,000; \text{₹}50,000)} = \frac{\text{₹}2,00,000}{\text{₹}50,000} = 4.00$$

Thus, within the highest compensation awards of both methodologies, OM & MM yields an amount that is 4.00 times higher than JSA, which is recorded in Stage II outcome as ‘OM & MM is 4.00 times higher’ (*see* Table 16).

Step 3: Compute CFD for the lowest compensation awards

The same ratio procedure is applied to the pair of lowest awards:

$$CFD_{1989}^{\text{lowest}} = \frac{\max(\text{₹}75,000, \text{₹}50,000)}{\min(\text{₹}75,000, \text{₹}50,000)} = \frac{\text{₹}75,000}{\text{₹}50,000} = 1.50$$

Accordingly, for the lowest compensation awards, OM & MM produces 1.50 times higher amount than JSA, which is recorded as OM & MM is 1.50 times higher (*see* Table 16).

Step 4 – Recording the higher-yielding methodology for 1989

This step is crucial for evaluating the higher-yielding methodology within a given year, according to the highest or lowest categorisation. The methodology that records a CFD greater than 1.00 means such methodology yields the numerically larger award. OM & MM is designated as the ‘Higher yielding methodology’ for that year on both the highest and lowest compensation segments because it produced both the highest maximum (CFD 4.00) and the highest minimum (CFD 1.50) within the year 1989.

D. Stage II Year-wise result

Table 16 illustrates the CFD computation of all the years according to the highest or lowest categorisation, and also the higher-yielding methodology.

Case Year	Categories	Judicial Methodology	Amount awarded	Compensation Fold difference	Higher yielding methodology
1989	Highest compensation	OM & MM	₹2,00,000	OM & MM is 4.00 times higher	OM & MM
		JSA	₹50,000		
	Lowest compensation	OM & MM	₹75,000	OM & MM is 1.50 times higher	OM & MM
		JSA	₹50,000		
1992	Highest compensation	OM & MM	₹30,000	JSA is 6.66 times higher	JSA
		JSA	₹2,00,000		
	Lowest compensation	OM & MM	₹30,000	JSA is 6.66 times higher	JSA
		JSA	₹2,00,000		
1997	Highest compensation	OM & MM	₹5,00,000	No difference	Both
		JSA	₹5,00,000		
	Lowest compensation	OM & MM	₹5,00,000	OM & MM is 5.00 times higher	OM & MM
		JSA	₹1,00,000		
1998	Highest compensation	OM & MM	₹7,50,000	OM & MM is 1.36 times higher	OM & MM
		JSA	₹5,50,000		
	Lowest compensation	OM & MM	₹7,50,000	OM & MM is 1.36 times higher	OM & MM
		JSA	₹5,50,000		
1999	Highest compensation	OM & MM	₹5,00,000	OM & MM is 2.50 times higher	OM & MM
		JSA	₹2,00,000		
	Lowest compensation	OM & MM	₹2,50,000	OM & MM is 1.25 times higher	OM & MM
		JSA	₹2,00,000		
2003	Highest compensation	OM & MM	₹9,00,000	OM & MM is 1.80 times higher	OM & MM
		JSA	₹5,00,000		
	Lowest compensation	OM & MM	₹50,000	No difference	Both
		JSA	₹50,000		
2008	Highest compensation	OM & MM	₹5,00,000	No difference	Both
		JSA	₹5,00,000		
	Lowest compensation	OM & MM	₹4,32,000	JSA is 1.15 times higher	JSA
		JSA	₹5,00,000		
2009	Highest	OM & MM	₹5,00,000	OM & MM is 2.50	OM & MM

	compensation	JSA	₹2,00,000	times higher	
	Lowest compensation	OM & MM	₹5,00,000	OM & MM is 2.50 times higher	OM & MM
2010	Highest compensation	JSA	₹2,00,000		
		OM & MM	₹10,07,000	OM & MM is 2.01 times higher	OM & MM
	Lowest compensation	OM & MM	₹10,07,000	OM & MM is 3.35 times higher	OM & MM
		JSA	₹3,00,000		
2011	Highest compensation	OM & MM	₹2,57,160	JSA is 5.83 times higher	JSA
		JSA	₹15,00,000		
	Lowest compensation	OM & MM	₹2,57,160	JSA is 3.88 times higher	JSA
		JSA	₹10,00,000		
2020	Highest compensation	OM & MM	₹10,00,000	OM & MM is 2.50 times higher	OM & MM
		JSA	₹4,00,000		
	Lowest compensation	OM & MM	₹5,00,000	OM & MM is 2.50 times higher	OM & MM
		JSA	₹2,00,000		
2022	Highest compensation	OM & MM	₹20,00,000	OM & MM is 5.00 times higher	OM & MM
		JSA	₹4,00,000		
	Lowest compensation	OM & MM	₹20,00,000	OM & MM is 5.00 times higher	OM & MM
		JSA	₹4,00,000		
2023	Highest compensation	OM & MM	₹15,29,600	JSA is 3.33 times higher	JSA
		JSA	₹51,00,000		
	Lowest compensation	OM & MM	₹15,29,600	OM & MM is 3.05 times higher	OM & MM
		JSA	₹5,00,000		

Table 16: Stage II- Metric categorisation and results

E. Stage II Outcome

Stage II empirically demonstrates that the OM & MM category yields superior monetary compensation compared to the predominant JSA methodology,

revealing that OM&MM generated higher compensation awards in 17 instances (representing 61% of measurable comparisons), whereas JSA yielded superior compensation in only 6 instances (21% of comparisons), with the remaining 3 instances (11%) demonstrating parity across both methodologies. This exhibits a significant margin that cannot be attributed to random judicial variance, thereby suggesting that the OM & MM category (computation and precedent-based approaches) advantageously yields higher compensations over the subjective and abstract judicial approach (JSA), thus the judicial reliance upon quantifiable, formulaic, or precedent-based approaches is more prone towards benefiting victims. Consequently, Stage II identifies OM & MM as the higher-compensating methodological framework, thereby answering the Stage II research question: The judicial methodologies under OM&MM preferably yield greater monetary compensation to deceased victims of police violence.

VII. Protracted Inconsistencies in Compensatory Jurisprudence

This study demonstrated a systematic and persistent judicial pattern of unequal distribution of compensatory amounts violating the constitutional guarantee of equal protection impregnated under Article 14. Although ‘equality’ under Art. 14 is twice-phrased,¹ but, in general interpretation, it has no duality.² However, in India equal protection doctrine is applied to the executive and legislative branches of the government only, and any person aggrieved by the denial of such equality may even seek available legal remedies against such a violation, however, such remedies cannot be sought against judicial bodies, instead, it is expected from the aggrieved person to approach a superior judicial body for redressal, if there be one.³ Lamentably, what if such a denial of equal protection were practised by the highest constitutional courts of a country? Even so, the Bangalore Principles of 2002 emphasise the importance of judges being fair, reasonable and ensuring equal treatment of all.⁴ This is a question of

¹ State of West Bengal v. Anwar Ali Sarkar, A.I.R. 1952 S.C. 75, 79 (Patanjali Sastri, C.J.).

² Charanjit Lal Chowdhury v. The Union of India, A.I.R. 1951 S.C. 41.

³ S.S.M. Amirabbas v. State of Madhya Bharat, A.I.R. 1960 S.C. 768, 770.

⁴ Bangalore Principles of Judicial Conduct values 5 & 6.5 (2002), https://www.unodc.org/res/ji/import/international_standards/commentary_on_the_bangalore_principles_of_judicial_conduct/bangalore_principles.pdf. *see also* the preamble to the Bangalore Principles of Judicial Conduct 2002.

considerable magnitude and leaves the present state of affairs in India regarding the judicial compensations with regard to police violence cases in a state of conundrum. The dispensation of justice must align with consistent fair treatment,⁵ and deviating from it should be adequately justified;⁶ otherwise, individuals may be treated equally badly or by withdrawing benefits from the advantaged.⁷ However, this unequal treatment operates not through malice but through a vacuum and lack of uniformity in judicial approach adopted to determine compensation, thus, the absence of legislative standardisation permits unchecked judicial discretion to function as an instrument of inequality. Although all the previous four attempts to legislate torture in India failed at outset only, but the recent pending bill in the Rajya Sabha, i.e. the Prevention of Custodial Torture Bill of 2025,⁸ under Section 6 says that the quantum of compensation shall be determined by the executive's discretion, which therefore raises considerable questions regarding the upcoming compensatory mechanism itself, if the bill gets approved. Presently, the constitutional courts award compensation, but the bill proposes that such a determination ought to be made by the executive. Although keeping in mind the pendency of cases in constitutional courts,⁹ delegating the compensation determination to the executive could be beneficial for justice administration. But the problem may arise where even the executive determines compensation discretionarily. Table 17 randomly illustrates that the discretionary determination by the executive in the past resulted in undercompensating victims, and the constitutional courts try to provide just compensation in the same cases. The awards determined through

⁵ Michael Foran, *The Cornerstone of Our Law: Equality, Consistency and Judicial Review*, 81 *Cambridge L.J.* 249, 250 (2022).

⁶ Aristotle, *Nicomachean Ethics* V.3, 1131a10–b15; *Politics* III.9, 1280a8–15.

⁷ N. Holtug, *Egalitarianism and the levelling down objection*, 58 *Analysis* 166, (1998), <https://doi.org/10.1093/analys/58.2.166>; D. Brake, *When Equality Leaves Everyone Worse Off: The Problem of Levelling Down in Equality Law*, 46 *Wm. & Mary L. Rev.* 513, (2004); Sandra Fredman, *Breaking the Mold: Equality as a Proactive Duty*, 60 *Am. J. Compar. L.* 265, (2012), <https://doi.org/10.5131/ajcl.2011.0021>.

⁸ *The Prevention of Custodial Torture Bill, 2024*, Bill No. 58 (India), as introduced in Rajya Sabha (Feb. 7, 2025) (introduced by Shri Manoj Kumar Jha).

⁹ SC NJDG, NAT'L JUDICIAL DATA GRID, <https://scdg.sci.gov.in/scnjdg/> (last visited Feb. 20, 2026); HC NJDG, NAT'L JUDICIAL DATA GRID, https://njdg.ecourts.gov.in/hcnjdg_v2/?app_token= (last visited Feb. 20, 2026).

both judicial and executive discretion undercompensate victims, thus, computation based mechanism to determine compensation ought to be introduced, as judicial and administrative discretion can be indefinite.¹⁰

Case short title	Administrative Discretion (Compensation awarded by the Executive)	Judicial Discretion (Compensation awarded by the constitutional court)	Times Judicial > Executive (Judicial Discretion/ Administrative Discretion)	Additional Direction(s)
Nigar case ¹¹	Rs. 1,00,000/-	Rs. 51,00,000/-	51 Times higher	Deduct ₹1 lakh already paid by executive
Ammu case ¹²	Rs. 1,00,000/-	Rs. 4,32,000/-	4.32 Times higher	Deduct ₹1 lakh already paid by executive
Asiya case ¹³	Rs. 3,00,000/-	Rs. 20,00,000/-	6.66 Times higher	Deduct ₹3 lakh already paid by executive
Sheela case ¹⁴	Rs. 2,00,000/-	Rs. 10,00,000/-	5 Times higher	No deduction; treat ₹2 lakh as interim pay
Karthickraja case ¹⁵	Rs. 7,50,000/-	Rs. 25,00,000/-	3.33 Times higher	No deduction; treat ₹7.5 lakh as interim pay

Table 17: Differences in discretionary compensation in custodial death cases

Therefore, there arises an urgent need for legislative standardisation and statutorily mandating computation-based formulaic approaches indexed to age, income metrics, temporal multipliers and other factors, and also incorporating

¹⁰ H.L.A. Hart, Discretion, 127 Harv. L. Rev. 652 (2013).

¹¹ Nigar Begum v. State of Orissa, W.P.(C) No. 11506 of 2006 (Orissa High Ct. Feb. 20, 2023).

¹² B. Ammu v. State of Tamil Nadu, 2008 SCC OnLine Mad 990.

¹³ Asiya v. State of Maharashtra, 2012 SCC OnLine Bom 541.

¹⁴ Sheela S. Yerpude v. Home Department, 2005 SCC OnLine Bom 1563.

¹⁵ Karthickraja v. Home Sec'y, W.P.(MD) No. 17975 of 2025 (Madurai Bench Madras High Ct. July 1, 2025).

binding precedents into policy to constrain judicial discretion. The compensation against police violence is statutorily available,¹⁶ especially under federal law,¹⁷ as a distinct ‘supplementary remedy’¹⁸ in the United States and various damages such as economic losses (medical expenses, lost wages, future earnings) are determined using a formula or computation. The compensatory jurisprudence under the constitutional tort principle¹⁹ also has scope for determining compensation through discretion for certain non-economic damages, such as pain, suffering, emotional distress, humiliation and punitive damages, thus, the entire compensatory outcome under such a framework is observed as proportional.²⁰ The US Supreme Court²¹ developed constitutional tort jurisprudence by emphasising compensation for actual injury over abstract rights violations or abstract determination of damages.²² The Indian constitutional courts adhere to constitutional tort jurisprudence,²³ specifically in police violence cases,²⁴ but do not follow the developed doctrine in its spirit.²⁵ The concept of constitutional tort has moved from abstract damages to proportional and quantifiable compensation awards, but the majority of the compensation awards determined by Indian constitutional courts are abstract and undercompensate similarly situated victims of police violence. Thus, determining economic losses using component-specific computations and evaluating non-economic and punitive damages with limited discretion can benefit victims. However, strict legislative standardisation is needed to

¹⁶ 28 U.S.C. §§ 1346(b), 2671–2680 (2020).

¹⁷ 42 U.S.C. § 1983

¹⁸ *Monroe v. Pape*, 365 U.S. 167 (1961).

¹⁹ Whitman, Christina B., *Government Responsibility for Constitutional Torts*, 85 Mich. L. Rev. 225 (1986).

²⁰ Christina Whitman, *Constitutional Torts*, 79 Mich. L. Rev. 5 (1980).

²¹ *Carey v. Phipps*, 435 U.S. 247, 255 (1978), *Memphis Community School District v. Stachura*, 477 U.S. 299, 306 (1986).

²² Michael L. Wells, *Marshall Shapo’s Constitutional Tort Fifty-Five Years Later*, 115 Nw. U. L. Rev. 256, 260–61 (2020).

²³ *K.P. Hussain Reddy v. Executive Engineer, M.I. Division, Nandyal*, 2001 (3) ALD 435.

²⁴ *Mykala Sabamma v. S. Srinivas*, (2003) 2 A.L.D. 49, (India), ¶ 32.

²⁵ *People’s Union for Democratic Rights v. Police Commissioner*, (1989) 4 SCC 730. *See also Solgabay Sunil Pawar v. State of Maharashtra*, 1998 SCC OnLine Bom 24.

systematically alter the compensatory mechanism to use computation-based compensation determination.

VIII. Protracted Inconsistencies in Legislative Initiative

Traditionally, it is observed that it would be nearly impossible to reliably discern legislative intent,²⁶ however, the legislative inaction may be used as an interpretative tool.²⁷ The democratically elected legislature's persistent ignorance towards democratic commitments and goals create a state of malady.²⁸ The constitutional directives mandate the democratic decision makers to promote adherence to international law,²⁹ but it has been nearly three decades since India became a signatory to the UNCAT,³⁰ despite India's repeated commitments to ratify,³¹ it still remains unratified. The general treaty law does not obligate a signatory state to ratify,³² but it mandates that such a state must

²⁶ R. Dickerson, *The Interpretation and Application of Statutes* 181 (1975), *see also* P. Freund, *Interpretation of Statutes*, 65 U. Pa. L. Rev. 207, 214–15 (1917), R. Dickerson, *Statutory Interpretation: Dipping into Legislative History*, 11 Hofstra L. Rev. 1125, 1133 (1983), S. Grabow, *Congressional Silence and the Search for Legislative Intent: A Venture into "Speculative Unrealities,"* 64 B.U. L. Rev. 737 (1984).

²⁷ William N. Eskridge, Jr., *Interpreting Legislative Inaction*, 87 Mich. L. Rev. 67 (1988), *see also* Laurence H. Tribe, *Toward a Syntax of the Unsaid: Construing the Sounds of Congressional and Constitutional Silence*, 57 Ind. L.J. 515 (1982), Charles S. Horack, *Congressional Silence: A Tool of Judicial Supremacy*, 25 Tex. L. Rev. 247 (1947).

²⁸ Helen Zhao, *Weak-Willed Legislatures and Statutory Interpretation*, 91 U. Chi. L. Rev. 1501 (2024).

²⁹ India Const. art. 51.

³⁰ U.N. Off. of the High Comm'r for Hum. Rts., UN Treaty Body Database: Ratification Status for India, https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=79&Lang=EN (last visited Feb. 12, 2026).

³¹ Permanent Mission of India to the United Nations in Geneva, *Statement by India at the Universal Periodic Review (UPR) Working Group 27th Session (1–12 May 2017) on Convention Against Torture: 3rd UPR of India (Geneva, May 4, 2017)*, <https://pmindiaun.gov.in/pageinfo/MTY2MA>.

³² McDade, P. V., *The Interim Obligation Between Signature and Ratification of a Treaty: Issues Raised by the Recent Actions of Signatories to the Law of the Sea*

abstain from actions that undermine the treaty's object,³³ as any violative state actions defy the very purpose of such international law itself.³⁴ The consistent reports of unnatural death in police custody due to torture in India undermine the objective of the UNCAT. Furthermore, it has been more than four decades since the judicial remedy of the right to be compensated for police violence was judicially improvised by the apex court, but the legislature has refrained from formulating a policy concerning torture victim compensation. The police violence itself and connected aspects underneath, such as compensation for police violence,³⁵ arresting women,³⁶ illegal arrest and detention,³⁷ police shooting and procedure aftermath,³⁸ and surveillance to limit torture in police custody³⁹, are still regulated by the apex court precedents, and the legislature hasn't tried to address the gap. The Law Commission of India is constantly attempting to remind the state to legislate specifically against police violence and formulate a compensation mechanism, although initially the commission recommended compensatory liability through constitutional tort,⁴⁰ subsequently the commission not only suggested changes in the evidence laws,⁴¹ but it also pointed out certain criminal substantive⁴² and procedural⁴³ provisions to be

Convention with Respect to the Mining of the Deep Seabed, 32 Neth. Int'l L. Rev. 5, 5–47 (1985).

³³ Vienna Convention on the Law of Treaties art. 18, May 23, 1969, 1155 U.N.T.S. 331.

³⁴ Rydberg, Agnes Viktoria, *The Obligation Not to Defeat the Object and Purpose of a Treaty in Light of Article 18 of the Vienna Convention on the Law of Treaties and New Developments* (Ph.D. dissertation, Queen Mary University of London, 2023).

³⁵ *Rudul Sah v. State of Bihar*, (1983) 4 SCC 141., *see also Nilabati Behera v. State of Orissa*, (1993) 2 S.C.C. 746.

³⁶ *Sheela Barse v. State of Maharashtra*, (1987) 4 SCC 373.

³⁷ *D.K. Basu v. State of West Bengal*, (1997) 1 SCC 416.

³⁸ *PUCL v. State of Maharashtra*, (2014) 10 S.C.C. 635.

³⁹ *Paramvir Singh Saini v. Baljit Singh*, AIR 2021 SC 64., *see also Shafhi Mohammad v. State of Himachal Pradesh* (2018) 5 SCC 311.

⁴⁰ Law Commission of India, Ministry of Law, 1st Report: Liability of the State in Tort (1956).

⁴¹ Law Commission of India, Ministry of Law, 113th Report: Injuries in Police Custody (July 29, 1985).

⁴² Indian Penal Code, No. 45, Acts of Parliament, 1860, §§ 166, 167, 220, 330, 331, 340–48, 376(2), 376B–D, 503, 506 (India).

focussed upon to address police violence and compensation thereunder.⁴⁴ In 2017, the commission also recommended ratification of UNCAT and enactment of a special law addressing torture and incorporation of systematic compensatory provision for police violence victims.⁴⁵ But the legislature fails to conclusively legislate, which reflects the lackadaisical approach of the legislature in not only upholding the ‘spirit’⁴⁶ of the constitutional right of dignified life⁴⁷ and dignified death⁴⁸, but also the international law relating to torture.⁴⁹ Even in 2017, India officially represented before the UN Human Rights Council’s 27th Periodic Review that torture is addressed through general criminal substantive law, and apex court precedents,⁵⁰ represent a languid approach that not only stagnates law but also shows reliance on a perceived temporary solution.⁵¹ The apex court, still respecting the separation of powers doctrine, refrained from directing the Parliament to enact a standalone comprehensive legislation against torture in consonance with international law.⁵² Although the courts refraining from directing the legislature allows policymakers to respond within a clear timeframe to act rationally and decide

⁴³ Code of Criminal Procedure, No. 2 of 1974, §§ 41, 49, 50, 53, 54, 56–58, 75–76, 154, 163, 164, 313, 357 (India).

⁴⁴ Law Commission of India, Ministry of Law, 152nd Report: Custodial Crimes (Aug. 1994).

⁴⁵ Law Commission of India, Ministry of Law, 273rd Report: Implementation of ‘United Nations Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment’ through Legislation (Oct. 2017).

⁴⁶ A.K. Gopalan v. State of Madras, A.I.R. 1950 S.C. 27, 42.

⁴⁷ Haricharan and Ors. v. State of Madhya Pradesh and Ors., (2011) 4 SCC 159.

⁴⁸ Aruna Ramchandra Shanbaug v. Union of India, 2011 (4) SCC 454, see also Common Cause v. Union of India, 2018 (5) SCC 1.

⁴⁹ Sanchita Kadam, Why Has India Still Not Ratified UN Convention Against Torture?, Citizens for Justice & Peace (July 23, 2021), <https://cjp.org.in/why-has-india-still-not-ratified-un-convention-against-torture/>.

⁵⁰ Permanent Mission of India to the United Nations in Geneva, Statement by India at the Universal Periodic Review (UPR) Working Group 27th Session (1–12 May 2017) on Convention Against Torture: 3rd UPR of India (Geneva, May 4, 2017).

⁵¹ Mirit Eyal-Cohen, Unintended Legislative Inertia, 55 Ga. L. Rev. 1193 (2021).

⁵² Dr. Ashwani Kumar v. Union of India, (2020) 13 SCC 585.

how best to design a policy,⁵³ but the apex court's refraining approach stands questionable, as in the past it did formulate policy on sexual harassment against women,⁵⁴ based on concerned international law,⁵⁵ which ultimately resulted into a special statute by the legislature after fifteen years.⁵⁶ Furthermore, the same apex court also filled another gap regarding the matter of compensation to sexual and acid-attack victims by initiating a policy-making process whereby model rules were prepared for victim compensation of sexual offences and acid attacks.⁵⁷ Subsequently, multiple states across India formulated policies in accordance with the model scheme,⁵⁸ although such formulated policies lack uniformity,⁵⁹ but at least a dice is rolled. The apex court, although consistently criticises police violence,⁶⁰ to the extent of suggesting that a death sentence ought to be imposed against police officials guilty of police violence,⁶¹ but selectively refrains from making the dice roll concerning the policy making in police violence. In addition to this, the present study's demonstration of unequal

⁵³ Rosalind Dixon & Po Jen Yap, *Responsive Judicial Remedies*, 14 *Glob. Const.ism* 323, 332 (2025).

⁵⁴ *Vishaka and Ors vs State of Rajasthan and Ors*, 1997 (6) SCC 241.

⁵⁵ *Convention on the Elimination of All Forms of Discrimination Against Women*, Dec. 18, 1979, 1249 U.N.T.S. 13.

⁵⁶ *The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act*, 2013, No. 14, Acts of Parliament, 2013 (India).

⁵⁷ *Nipun Saxena v. Union Of India*, (2019) 2 SCC 703.

⁵⁸ Haryana Compensation Scheme for Women Victims/Survivors of Sexual Assault/Other Crimes, 2020 (Part II); Delhi Victims Compensation Scheme, 2018; Uttarakhand Compensation Scheme for Women Victims/Survivors of Sexual Assault/Other Crimes, 2020, etc.

⁵⁹ Ipsita Ojal & Varinder Kaur, *Towards Equal Justice: Addressing the Disparity in Victim Compensation Across Indian States*, 11 *Soc. Sci. & Human. Open* 101436 (2025), <https://doi.org/10.1016/j.ssaho.2025.101436>.

⁶⁰ *Raghubir Singh v. State of Haryana*, AIR 1980 SC 1087; *State of U.P. v. Ram Sagar Yadav*, AIR 1985 SC 416; *State of Andhra Pradesh v. N. Venugopal*, 1964 Supp (3) SCR 742; *Mehboob Batcha v. State*, (2011) 7 SCC 45; *Nandini Satpathy v. P.L. Dani*, (1978) 2 SCC 424; *Khatri v. State of Bihar*, 1981 AIR 928; *Bhagwan Singh v. State of Punjab*, AIR 1952 SC 214; *Dagdu v. State of Maharashtra*, (1977) 3 SCC 68; *In re Ramlila Maidan Incident*, (2012) 5 SCC 1; *S. Nambi Narayanan v. Siby Mathews*, (2015) 14 SCC 664; *CBI v. Kishore Singh*, (2011) 6 SCC 369.

⁶¹ *Prakash Kadam v. Ramprasad Vishwanath Gupta*, AIR 2011 6 SC 1945.

distribution of monetary compensation by the constitutional court also violates international laws concerning equal protection and unequal treatment to which India is bound,⁶² thus under the Articles on Responsibility of States for Internationally Wrongful Acts (ARSIWA),⁶³ the constitutional courts of India may also be liable as the conduct of judicial organs, including the Supreme Court or High Courts, is attributable to India as a state, regardless of hierarchy, independence, or lack of intent or unknowingly violating international laws via interpretations or applications, it still qualifies as state act if it constitutes the breach. Thus, it is the duty of both the legislature and the judiciary to ensure a uniform compensatory policy is formulated and brought into force, eradicating unequal distribution of monetary compensation towards custodial death victims.

IX. Conclusion

The study demonstrated a clear pattern of unequal distribution within judicial compensations awarded in cases of unnatural death in police custody. The compensations awarded through judges' self-assessment are yielding significantly lower amounts, thus computation-based methods need to be comprehensively adopted into the compensation determination mechanism. In absence of statutory standardisation, the constitutional courts may remain to perpetuate the unequal distribution, which they formally shall condemn, because of the nature of judicial discretion and wide ambit of powers enjoyed by a constitutional judge, as no two judges render same compensatory outcomes and reparation measures even though the facts of the cases are identical, unless there is a uniform and binding compensatory mechanism. The persistence of this inequality and unequal treatment across four decades, affecting police violence victims across India, demonstrates that judicially improvised and incremental jurisprudential development has proven insufficient, thus, legislative intervention is now constitutionally imperative to standardise the compensation determination judicial methodologies.

⁶² International Covenant on Civil and Political Rights art. 26, Dec. 16, 1966, 999 U.N.T.S. 171; International Covenant on Economic, Social and Cultural Rights art. 2(2), Dec. 16, 1966, 993 U.N.T.S. 3.

⁶³ Articles on Responsibility of States for Internationally Wrongful Acts art. 4, UN Doc. A/56/10 (2001).