

**Interim compensation under N.I. Act., 1881**

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Welcome

## Interim compensation

Under section 143A of the N.I. Act., the court can order drawer of the check to pay interim compensation to the complainant. But the amount of the interim compensation shall not exceed 20 percent of the amount of the cheque.

### Note

Sec. 143A Negotiable Instrument Act. Was inserted in the year 2018 by way of amendment which has been made enforceable by the central government **w.e.f. 01-09-2018 wide notification no. S.O. 3995 dated 16-08-2018.**

## **143A- Power to direct interim compensation**

(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, (2 of 1974) the Court trying an offence under section 138 may order the drawer of the cheque to pay interim compensation to the complainant—

(a) in a summary trial or a summons case, where he pleads not guilty to the accusation made in the complaint; and

(b) in any other case, upon framing of charge.

(2) The interim compensation under sub-section (1) shall not exceed twenty per cent. of the amount of the cheque.

**(3)** The interim compensation shall be paid within sixty days from the date of the order under sub-section (1), or within such further period not exceeding thirty days as may be directed by the Court on sufficient cause being shown by the drawer of the cheque.

**(4)**

If the drawer of the cheque is acquitted, the Court shall direct the complainant to repay to the drawer the amount of interim compensation, with interest at the bank rate as published by the Reserve Bank of India, prevalent at the beginning of the relevant financial year, within sixty days from the date of the order, or within such further period not exceeding thirty days as may be directed by the Court on sufficient cause being shown by the complainant.

(5) The interim compensation payable under this section may be recovered as if it were a fine under section 421 of the Code of Criminal Procedure, 1973, (2 of 1974).

(6) The amount of fine imposed under section 138 or the amount of compensation awarded under section 357 of the Code of Criminal Procedure, 1973, (2 of 1974) shall be reduced by the amount paid or recovered as interim compensation under this section.]

## Meaning of interim compensation

Interim compensation is a temporary relief measure for victim during pending proceedings.

**Interim compensation in N.I. Act. Prospective or Retrospective –**

**Surindra Singh Deswal vs Virendra Gandhi 2020( 2) dated 08.01.2020**

**W.P. No. 258- 260/2019 Ajay Vinod Chandra Shah vs State of Maharashtra.**

- The Hon'ble Supreme Court held that sec 143 of the act does not have retrospective effect.
- This indicate the provision can't be related to cases that were pending before its enactment.

# Compensation mandatory or discretionary

The provision of section 143A of the N.I. Act. Are directory and not mandatory as a discretion was conferred upon the court, to either grant or not to grant interim compensation. It was held in **Criminal writ petition no. 48/2022 Ashwin Ashok Rao vs Laxmikant Govind Joshi (Bombay High Court)**.



# Quantum of Compensation

The amount of the interim compensation shall not exceed 20 percent of the amount of the cheque. **Section 143A(2)**

# Interim Compensation can't be granted without giving an opportunity of hearing to accused

The Court can direct payment of interim compensation even without the complainant making an application praying for the same, but not without following the principles of natural justice.

It was held **Criminal petition no. 3555/2022 Shri Himanshu Gupta vs Narayna Reddy. ( Karnataka High Court)**

# Failure to pay compensation whether entails any disability

The consult provision nowhere contemplates that an accused who had failed to deposit interim compensation could be fastened with any other disability including denial of right to cross examined the witnesses examined on behalf of the complainant.

It was held in **Criminal writ petition no. 2872/2022** **Noor Mohammad vs Khurram Pasha ( S.C.)**

# How to recover awarded interim compensation under N.I. Act. Section 143A(5)

The interim compensation payable under section may be recovered as if it were a fine under 421 of the Cr. P.C. 1973.

# Complainant to repay if the accused is acquitted

If the drawer of the cheque is acquitted, the court shall direct the complainant to repay to the drawer the amount of interim compensation, with interest of the bank rate within 60 days from the date of the order, or within such further period not exceeding 30 days as may be directed by the court on sufficient cause being shown by the complainant. **Section 143A(4)**

Thank You