A CRITICAL STUDY ON WILDLIFE (PROTECTION) ACT, 1972
WITH SPECIAL REFERENCE TO COMPENSATION

1G.Vyralakshmi

1Student, 3rd year, B.A. LLB(Hons), Saveetha School of Law, Saveetha Institute Of Medical And Technical Sciences, Saveetha University, Chennai- 77, Tamilnadu, India.

2R.Dhivya

2Assistant Professor Of Law, Saveetha School Of Law, Saveetha Institute Of Medical And Technical Sciences, Saveetha University, Chennai- 77, Tamilnadu, India.

1vyra27gemini@gmail.com, 2divyar.ssl@saveetha.com

ABSTRACT:

The human life are mostly under threat due to the wild animals attack and especially people who are residing near the forest are more likely to be attacked by the wild animals. Wild animals are protected under Wildlife Protection Act, but at the same time it is important to note that such Act neglects the compensation clauses which helps the affected victims. The importance given to the animals are much considered than the importance given to the human life. The monetary benefits which the affected person attains helps him to recover and used for medical expenses. The compensation need to be efficient and satisfiable to the injured person and it is the duty of the forest authorities to take care of such occurrence.

Wild animals are set free in the forest which crosses its boundaries and disturb the public residing near the forest and to the extreme few wild animals attack the human beings and damage the lands and crops. This becomes hectic to the human life and such accidents can be taken into consideration and damages can be given to the victim. Such provisions need to be added in the Wildlife (Protection) Act, 1972 which serves the protection to the wild animals and benefits the human life. It is also necessary that the concerned authorities are need to be liable for such instance. This paper focuses on the compensation proviso which need to be brought under the Wildlife (Protection) Act, 1972 and its important to note that safeguarding the human life is also equally considerable.
**Keywords**: Wildlife(Protection) Act,1972, Compensation, Wild animals, Human Life, Property damage, Wild animals attack.

**INTRODUCTION:**

The man and wild animals conflict was the story which was prevailing from the past time. In those days wild animals were set free and they were not disturbed but in the present scenario lot of forest lands were captured for the human use and wild animals were disturbed and finally the wild animals started to enter the residing areas nearby forest and attack the humans. Wild animals also attack the livestock and the crops land. Human-wildlife conflict is fast becoming a critical threat to the survival of many endangered species, like wild buffalo, elephants, tiger, lion, leopard etc. such conflicts affect not only its population but also has broadened environmental impacts on ecosystem equilibrium and biodiversity conservation. Laws are man-made, hence there is likelihood of anthropocentric bias towards man, and rights of wild animals often tend to be of secondary importance. But in the universe man and animal are equally placed, but human rights approach to environmental protection in case of conflict, is often based on anthropocentricity. The adverse effect on the Wildlife human attack ultimately results in loss of human life. In such way the compensation need to paid for such deceased person’s family. Through such monetary benefits the family can survive. How the Wildlife Protection Act,1972 protect the Wildlife for humans attack similarly the humans also need to be protected from such wild animals attack. The compensation clauses under Wildlife Protection Act,1972 will help for the humans who gets attacked through wild animals. There are various incidents which proves that humans become victims for the wild animals attack.

Due to human deaths, cattle killings, crop depredations man- animal conflict has become even more serious in the adjoining areas of Protected Areas. The Government does provide monetary compensation for such loss, but this has its limitations. As a solution, the private farm owners living in these areas should be given a choice of profitable use of their farmlands as an alternative to farming. There is scope to engage the local people in ecotourism by taking advantage of the presence of wildlife in the Protected Areas.

3 T.N. Godavarman Thirumulpad Vs. UOI and Ors., AIR2012SC1254
If ecotourism can provide livelihood to the local people, the objective of the protection of forests, wildlife as well as the interests of the farm owners can be achieved. For this, instead of traditional farming, if activities like natural regeneration, fodder development for wildlife habitat development are encouraged, the wild animals will naturally be attracted to such areas. If a few facilities for tourists are created without defying the rules of the Wildlife (Protection) Act of 1972, ecotourism can be a very strong alternative to traditional farming and can compensate for the monetary loss of the farmers. The villagers can participate in this nature conservation either individually or in a form of co-operative. Implementing the concept of Community Nature Conservancy (CNC) on pilot basis was under consideration of government. The following general guidelines are being issued to encourage ec-tourism and nature conservation works through Community Nature Conservancy.\(^4\).

**Aim of the study:**
To initiate the compensation clause under Wildlife (Protection) Act, 1971 to prevent human beings and other living beings from the attack of the wild animals.

**Objectives:**
- To study about the Wildlife Protection Act, 1972
- To analyse about the compensation for the Human-Wildlife attack

**Hypothesis:**
- Compensation clause under Wildlife Protection Act, 1972 will benefit the affected people
- Compensation clause under Wildlife Protection Act, 1972 will not benefit the affected people

**Research Question:**
Whether the Wild animals attack on humans can be compensated with compensation clauses under Wildlife Protection Act, 1972 or not?

\(^4\) ([No Title])
Methodology:
The current study is drafted in the doctrinal method under which the secondary sources have been referred such as books, research articles, newspaper articles, e-sources, etc. descriptive and analytical method have used in this study.
From the following review it can be analysed that the Wildlife (Protection) Act, 1972 enhances to protect only the Wildlife and there are no such provisions which helps to prevent the man kinds and other livestock and crops, etc which are affected due to the attack of wild animals.

Wildlife Protection Act, 1972 and its impact
This Act was enforced in year 1972 and from there till date various amendments have been done. These amendments were made to stringent the punishment for offenders. These frequent amendments made the hunters and poachers think twice before harming the wildlife species. Further, the Wildlife Crime Control Bureau has been established for controlling illegal trade and poaching activities. The rate of poaching and hunting in India considerably came down after the enforcement of the Wildlife Protection Act. In addition to this, various national parks and wildlife sanctuaries have been set up. These parks and sanctuaries offer a safe natural habitat to various wildlife species.5

Human-Wildlife Conflict
Such Act helps to prevent the wild animals from the humans attack like hunting, deforestation, for illegal business activities, etc. HWC takes many forms including crop or property damage, livestock predation, and animal attacks on people. Numerous studies, both in India and elsewhere, have shown that when residents of nearby areas are forced to absorb the costs of living with wildlife, local support for conservation may be seriously undermined. Direct economic costs of conflict include market-price for victims’ crops and livestock losses or medical expenses incurred as a result of attack. Indirect costs include opportunity costs associated with conflict mitigation and protection activities, transaction costs associated with pursuing compensation and “hidden” social costs such as diminished states of psychological or physical well being one way to engender local support of conservation objectives has been to directly compensate members of communities affected by PAs for economic losses caused by protected wildlife, as recommended by participants at the World Parks Congress. When

5 (Wildlife Conservation Act – Protectin...)

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implemented under ideal conditions i.e., in a timely, transparent, and equitable manner economic compensation can go far in promoting positive people–park relationships and support increased levels of tolerance towards ‘offending’ wildlife. For example, in the United States, compensation for losses incurred by cattle ranchers living near Yellowstone National Park due to the reintroduction of the gray wolf has facilitated increased tolerance for wolves by members of the public.

A similar scheme has been successfully implemented in India through a partnership between a local NGO and WWF-India to provide supplementary “on the spot” compensation to farmers for losses of livestock killed by tigers near Corbett National Park. At a larger scale, study of 93 PAs in 22 tropical countries suggests that compensation to local communities is positively associated with increased park effectiveness.  

Situation in Nepal

The injury severity of the wildlife attacks significantly correlated to the environment of incident sites, attacking species and victims’ awareness. The fatalities occurred on nine people or 1-person in-3, and 21 people or 2-people in-3 suffered with minor to severe injuries due to physically charged by attacking animals annually. Attacking by mega animal species such as elephant (68%) caused much more fatalities than other species (tiger (57%), rhino (29%), bear (4%), and wild boar (4%)). Most fatalities (84%) occurred on the incident sites, 12% cases at hospital, and 4% cases on the way to hospital. Some of the victims lost their life due to delay in immediate rescue and treatments. Uneducated persons, fishermen, and forest resource collectors more suffered or received more severe fatalities than others.  

The quality of the interaction between humans and wildlife is shaped by a mix of biological, social, historical, legal, geographic, political, economic, ethical, institutional, financial, cultural, and management factors. For example, in India livestock displacement of wild prey populations and poor anti-predator management of livestock led to high levels of snow leopard predation on livestock, which consequently led to resentment and retaliation by local people. Political, historical, and/or social injustices committed against local people by those in authority also may create the perception that crop or livestock losses are higher than they

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6 (Ogra and Badola 2008)
7 (Silwal et al. 2017)
actually are. On the other hand, cultural values of reverence and tolerance for wildlife may ameliorate tensions between human populations and neighbouring animals.⁸ (Madden 2008)

**Attacks by Wild animals**

Forest department has expedited the process of disbursing compensation against the loss of human or cattle life and damage to crop by the wildlife. The department has disbursed a sum of Rs 7.91 crore in 13,398 cases in the district during 2015-16 and this year up to June end. During 2015-16, the district had witnessed a total of 11,247 cases, including six instances of human kills, 154 cases of injuries to humans, 1,488 cases of cattle kill, 126 cases of cattle injuries and 9,473 cases of crop damage by wild animals. Compensation to the tune of Rs 6.26 crore was paid this year to the beneficiaries. During the current fiscal, from April 1 to June end, a total of 2,151 cases related to loss of life and injuries to human and cattle, and crop damage have been registered in Chandrapur district alone. They include three cases of human kills and 16 cases of injuries to people in predator attack. Apart from this, 210 cases of cattle killed and injured and 1,917 cases of crop damage have been registered. Collective sum of Rs 1.64 crore was paid against these cases to the beneficiaries in first quarter of the fiscal.⁹ (Ali 2016)

**Loss of humans**

Statistics released this week by India’s environment ministry reveal that 1,144 people were killed between April 2014 and May 2017. That figure breaks down to 426 human deaths in 2014-15, and 446 the following year. The ministry released only a partial count for 2016-17, with 259 people killed by elephants up to February of this year, and 27 killed by tigers through May. The human conflict with tigers has also gradually increased since the 1970s, when India launched a nationwide tiger conservation project that carved out sanctuaries in national parks and made it a crime to kill a big cat. Though methods for counting tigers have changed, census evidence suggests the number of tigers has since gone up, from about 1,800 then to 2,226 in 2014. The number of animal attacks on humans has increased in the recent years. In last 10 years, 200 people have got killed and more than 500 got injured in human animal conflict in different parts of the Valley. The reason for the rapid rise of tension

⁸ (Madden 2008) ⁹ (Ali 2016)
between humans and animals is the paucity of living space. According to the World Conservation Union (World Park Congress 2003), conflict occurs when wildlife's requirements overlap with those of human population. The destruction of their habitat due to human activities compels the wild animals to enter human settlements in search of food and water leading to conflict.\textsuperscript{10}\textsuperscript{10} (Wani 2013) Human-wildlife conflict in the State is on the rise and has become graver with the intrusion of people into wildlife habitats and subsequent changes in land use pattern, according to an expert committee report submitted to the Kerala Forests and Wildlife Department. The report says that about 400 people annually die in India in human-wildlife conflicts. This is besides the damage caused to thousands of acres of crops and the unmeasured psychological stress on the affected community. A number of wildlife species, especially elephants, tigers, and leopards, are also killed in retaliation. The report was submitted by a team comprising P.S. Easa, member of the National Board for Wildlife, S. Raju, and Giji K. Joseph. A study conducted as part of an Indo-Norwegian project carried out by the Wildlife Institute of India during 2007-2011 has reported 888 human deaths and 7,381 human injury cases owing to human-wildlife conflicts during the period. As many as 14,144 cases of livestock kill and about 80,956 cases of crop damage for which an ex gratia payment of about ₹137.40 million has been disbursed during the period, the report said.

The Ministry of Environment, Forests, and Climate Change has recorded 98 human deaths due to tiger attack from April 1, 2013 to March 31, 2017. As per the report, the number of human deaths due to elephant attacks from April 1, 2009 to March 31, 2016 was 2,804.\textsuperscript{11}\textsuperscript{11} (Kuttoor) These were the collected data about the attack happened in Human-Wildlife Conflict and heavy loss to the human life such and death of human, grave injuries, loss of livestock, loss of crops in land, etc. In order to reduce such accidents, strict measures need to be taken and compensation need to be given to the poor victim. For such issues interpreting various other legislations through the Wildlife Protection Act, 1972 compensation clauses can be added for such monetary benefits to the victims and reason behind such animal attacks are mostly due to the negligence of the concerned authorities. Increasing number of casualties in human-wildlife conflicts, the Centre has enhanced compensation for death and injuries to humans in such cases.

\textsuperscript{10} (Wani 2013)
\textsuperscript{11} (Kuttoor)
and advised states to keep on organising periodic awareness campaigns to sensitise
general public living near national parks, wildlife sanctuaries and tiger reserves. Under the enhanced ex-gratia relief, the compensation for death and permanent incapacitation has been increased from Rs 2 lakh to Rs 5 lakh. Similarly, the amount for grievous injuries has been increased from Rs 60,000 to Rs 2 lakh. As far as compensation for damage to crops is concerned, the relief amount will continue to be paid as per the value of loss assessed by competent officers.\(^{12}\)\((\text{Mohan 2018})\)

In *State of Himachal Pradesh vs Smt. Halli Khan*, the petitioner through this petition claimed compensation in tort for damages sustained by the claimant as a result of attack by a ferocious animal, i.e black bear. The question before the court to adjudicate was whether the Wildlife Protection Act, 1972 provides any sort of compensation is the form of damages to be awarded as a result of attacked? Whether the State is liable under the law of Tort for payment of compensation.? The respondent was a resident of the district of Chamba and while going to her cattle she’d for the purpose of feeding her cows was attacked by a black bear. Further the court held that to succeed in claiming the damages under the tortuous liability of the defendant , the onus was heavily on the plaintiff show that damages, was sustained by her due to some act of omission or commission of the defendants. The plaintiff had miserably failed to discharge such onus. There is no provisions under Wildlife Protection Act,1972 for providing relief to a victim, attacked by wild animals. Decisions of the State Government, to grant gratuitous relief to victims, was a welcome sign of a democratic government that for providing such relief would not tantamount to admission of liability by the State, for Tort or death or injuries by wild animals.\(^ {13}\)

**Elephant attack: Hosur struggles to mitigate man-animal conflict**

*Death of woman in Jawalagiri range puts spotlight on shrinking elephant corridor.*

A 38-year-old Rajammal was hurled to her death by an elephant when she was grazing cattle in the Jawalagiri range with three other women. This casualty, the second this year, has brought the focus back on the human-animal conflict in the Hosur Forest Division. Nestled in the lap of three wildlife sanctuaries, the Forest division represents a fractured elephant corridor.

\(^{12}\) (Mohan 2018)

\(^{13}\) AIR (2000)HP 113
Couched in the midst of Bannerghatta Wildlife Sanctuary in the West, Madeshwaran Malai sanctuary in the East and Venkateshwara Sanctuary of Andhra Pradesh in the North, the elephant corridor here is hardly seamless, interspersed with revenue villages.\textsuperscript{14}(karenvis.nic.in)

Between 1978 and 1997 Sumatran tigers Panthera tigris sumatrae killed 146 people and killed 870 livestock. Conflict was more in multi-use forests as compared to protected areas. Similarly in Royal Chitawan National Park, thirty-six tigers killed 88 people from 1979 to 2006. Most (66\%) kills were made within 1 km of forest edge but equally in degraded and intact forests. In Bhutan 1375 livestock kills were reported and verified as having been made by tigers, leopards, snow leopards or Himalayan black bears between October 2003 to December 2005. Out of these, 966 (70\%) livestock were killed by leopards, 263 (19\%) by tigers, 114 (8\%) by bears, and 32 (2\%) by snow leopards. On May 28, 2003, a full grown majestic male Bengal Tiger did the same and crossed a human habitation of some 5km in one night and reached a village called Nolbunia under Chandpai Range. This particular tiger was within the forested areas under the Dhansagar Forest Station of the Chandpai Forest Range. The existence of the tiger near the village was known to the forest officials.\textsuperscript{15}

\textbf{In Maharashtra}

Maharashtra government has decided to pay Rs 8 lakh as compensation to the kin of those killed by wild animals. According to a Government Resolution (GR) issued on Friday, Rs one lakh will be given as immediate compensation while the remaining amount will be kept as fixed deposit in the name of the immediate kin, in a nationalised bank. Similarly, victims with minor injuries will be given medical treatment free of cost. “The treatment should be at a government hospital or district hospital”. In case treatment at a private hospital is necessary, the compensation amount will be Rs 15,000 per person. Wild animals are protected under the Wildlife Protection Act, 1972. The compensation provided to victims of animal attack has been regularly revised but the amount was not adequate and a proposal of hike was pending.\textsuperscript{16}(India 2015)

Certainly, it would be open to a citizen to claim compensation for the loss caused by any wild animal, whether specifically referred to in any provision, Government Resolution or not. In fact, we find from the compensation policy framed by the Government that it enjoins farmers

\textsuperscript{14}([No title])\textsuperscript{15}([No title])\textsuperscript{16}(India 2015)
to protect the nests of Vultures from destruction and claim compensation for any loss suffered by them on account of having so protected the nests.\textsuperscript{17} The family of the victim killed by wildlife will a compensation of Rs 500,000, up from the existing amount of Rs 200,000. After turning a deaf ear to concerns of victims of wildlife attacks for years, the government finally decided to review the existing directive and carried out amendments to the provision on compensation.\textsuperscript{18} (Post Report )

### Loss of crops

As far as compensation for crops loss is concerned, in a calendar year, an Assistant Conservator of Forest(ACF) can sanction relief of upto ₹ 1 lakh and higher level officers such as DCFs, CFOs and CCFs are authorised to sanction more than ₹1lakh. For minor crop loss of upto ₹7,500, landholders will be eligible to get the full amount. For crop loss worth more than Rs. 7,500 and up to Rs. 35,000, the landholder will be paid a maximum of Rs. 21,250. For crop loss above Rs. 35,000, the minimum will be Rs. 21,250 and the maximum Rs. 50,000. In this case too, ACFs can sanction relief amounts below Rs. 1 lakh in a year and higher level officers are authorised to sanction over Rs. 1 lakh. If a house, shed, pump house, pipeline or fence is damaged in a wild elephant attack, the owner will be paid a maximum relief of Rs. 7,000. For loss of cattle and other domestic animals, the compensation has been raised to a maximum of Rs. 3,000 while the minimum is Rs. 2,500.\textsuperscript{19} (Chinnappa ). The Government fails to do its duty and fails to give compensation to the affected party.

Deaths caused by animal attacks in urban as well as rural areas are rising. With dwindling forest cover and with more interaction of animals with humans in day-to-day life, we need to understand the reasons, manner and causes of these fatal events. We studied 151 cases of fatal animal/human conflicts and in particular, the manner and mechanism of causation of injuries with respect to different types of animals. In this region there were more fatal snake bites followed by cattle attacks. Humans are at some risk while in the vicinity of animals whether in the wild or in human settlements. Human/animal conflicts occur due to reducing habitat for animals and the demands of humans. One must be aware of the potential dangers from animals and as a health care provider it is our duty to educate the public at large. They

\textsuperscript{17} Baburao vs The State Of Maharashtra on 15 March, 2012, Writ Petition No. 5764 Of 2011
\textsuperscript{18} (Post Report )
\textsuperscript{19} (Chinnappa )
need to be cautious when around animals, seek medical care after an animal injury and wear protective equipment when working around or with animals.  

(Tumram et al. 2017)

**Recommendations:**
This paper presents about the right of the affected party from the attack of wildlife. There are need for few initiations to be taken place for the reduction in such attacks by wild animals on humans and other sources.

1. The Wildlife(Protection) Act, 1882 to be amended for including compensation clause in the provision
2. Various preventive methods to be adopted to separate or create partition between the humans and wildlife.
3. There need to be governmental aid for the humans to reside near by the forest areas
4. Maintaining the fence nearby the forest areas helps to secure both the wild animals as well as the humans.
5. Compensation clause to be inclusive of the categorisation of amount for various accidents including the death of humans, loss of livestocks, loss of crops, damages of assets, etc

**Conclusion:**
These all incidents remains us that the attack was done by the wild animals and under the state discretionary the compensation was given to the victim. It is necessary that the compensation need to given mandatorily and fixation of amount is necessary. This can be done by adding compensation for wild animals attack clause in Wildlife Protection Act, 1972. It may be a contradictory clause to the protection of wildlife but it is also important to note that the attack by wild animals also compensated by the authorities. It is the responsibility of the respective forest department authorities to enhance the protection of wildlife as well as protection of human life. According to the current scenario such accidents can be reduced but cannot be resisted and negligence in part of the authorities as becomes one of the major reason for human-Wildlife conflict. It is also necessary to highlight the importance given by the state government on the compensation given to the victims.

The state amendments are the initiatives to enhance the whole Act amendment in order to add compensation clause in the Act. Such compensation clause will help benefit the victims and

(Tumram et al. 2017)
affected party’s family directly without any delay. It is also important to note that negligence on part of authorities by setting the wild animals set free which results in attack’s in resident ages to be reduced. Otherwise severe actions to be taken on the authorities concerned who were failed to do their duty. Hence, it is proved that the compensation through the WildLife(Protection ) Act, 1972 can achieve its goal by providing compensation to the injured party.

Reference:

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7. AIR (2000) HP 113

[NoTitle].