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SC Rules Flouted in Demand for Damages

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Why in News

Recently, The Uttar Pradesh government accepted ₹6.27 lakh as “compensation” for damages caused to public property during **anti-Citizenship (Amendment) Act, 2019** protests. It lacks the due process as mandated by the **Supreme Court’s** guidelines.

The SC had ***suo motu*** laid down **10-point guidelines** for the **assessment of damages and liability** in its judgment in **Destruction of Public and Private Properties Vs State of A.P and others on April 16, 2009**.

Key Points

- The assessment of exemplary damages for property destroyed in incidents of violence should be based on **electronic media/private video evidence**.
- The prosecution has to separately prove that the damage occurred during protests was the result of **“direct actions”** of the persons concerned.

Process

- If mass destruction to the property takes place due to protests, the **High Court may issue suo motu action** and set up a machinery to investigate the damage caused and award compensation.
Supreme Court should take over cognisance **if multiple states are involved** and have suffered damage.
- In each case, the court involved should appoint a sitting or retired High Court judge or a sitting or retired district judge as a **Claims Commissioner** to estimate the damages and investigate liability.
An **assessor** is appointed to assist the Claims Commissioner.
- The Claims Commissioner and the assessor may summon video or other recordings from private and public sources to pinpoint the damage and establish nexus with the perpetrators of the damage.

- The principles of absolute liability shall apply once the nexus with the event that precipitated the damage is established. The liability will be borne by the actual perpetrators of the crime as well as organisers. Their shares would be decided by the court.
- Exemplary damages **should not be greater than twice the amount of the damages liable to be paid.** Damages should be assessed for **destruction to public or private property, injury or death and cost of the actions by the authorities and police to take prevent and contain the violence.**
- The Claims Commissioner would finally make a report to the High Court or Supreme Court, which would determine the liability after hearing the parties.

Source: TH