

# Govt may offer more relief to faulty J&J hip implant patients

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**T**he government may tweak its formula for compensation in the Johnson and Johnson (J&J) faulty hip implant case to pacify aggrieved victims.

The central expert committee that devised the formula in November will hold further consultations on 9 January with those who received the faulty J&J metal-on-metal Acetabular Surface Replacement (ASR) hip implants and are unhappy with the current compensation formula.

India's drug regulatory authority invited aggrieved stakeholders to the January meeting through a notice on its website on 28 December.

According to two people aware of the matter, 14 patients have so far approached and confirmed participation. However, J&J, which moved the Delhi high court in December alleging lack of transparency on the part of the government while devising the formula, is yet to confirm its attendance. Both the people spoke on condition of anonymity.

"The meeting is open to all, those who are unsatisfied can get in touch. However, so far the company in question is yet to confirm if they want to participate," said the first person cited above.

Around 4,700 ASR surgeries were carried out in India between 2004 and 2010. However, only 1,080 patients have been traced through a helpline.

**The panel that devised the compensation formula will hold a meeting with patients who are unhappy with it**



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Around 4,700 ASR surgeries were carried out in India between 2004 and 2010.

J&J blames the government for alleged lack of transparency and failure to grant the company a hearing before the expert committee. "We have not been given an opportunity to appear before the Central Expert Committee and critical gaps and factual inaccuracies have been allowed to stand uncontested. The formula for compensation needs to be within a fully transparent and legal framework arrived at through due process, and only

after proper hearing of the facts and positions of all parties. The outcome also needs to be within a legal framework which is applicable across the industry," the company

said in an earlier statement.

Queries emailed to J&J on Thursday did not elicit a response.

The government's move is significant because a group of patients fitted with faulty hip implants had also rejected the compensation formula. These

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patients wrote to health minister J.P. Nadda on 6 December, saying they could not accept a formula devised without consulting them.

“Any process relying on this formula will not be able to deliver just and fair compensation to patients and their families, defeating the purpose of the exercise,” said the letter.

Now, alongside its move to hold consultations with stakeholders, the government is considering a move to file an additional affidavit in the Supreme Court urging it to direct J&J to compensate affected patients, according to the second person.

As per the compensation formula approved by the health ministry on 29 November, Indian patients fitted with ASR hip implants sold by J&J will get up to ₹1.2 crore each, and an additional ₹10 lakh, for “non-pecuniary” losses.

According to the formula, experts have recommended a

disability compensation of between ₹33 lakh and ₹1.2 crore. The formula takes into account the extent of disability, age and risk factor. For example, if the disability is high (50%) and the patient underwent the hip surgery at the age of 20, the quantum of compensation will be over ₹1.2 crore. But if a patient received the implant at the age of 60 years or more, and the disability was measured at 20-30%, they will be entitled to get a minimum of ₹33 lakh.

The experts recommended the use of the Indian Disability Evaluation and Assessment Scale for the assessment and certification of disability. “So

**This comes after opposition from stakeholders upset with the compensation formula approved in November**



J&J has drawn flak for failing to pay compensation in India.

far, 250 patients have approached the central expert committee for compensation,” said the second person cited earlier.

J&J has been criticized for failing to pay any compensation in India, although it had agreed to pay hefty damages of \$2.5 billion to around 8,000 US citizens, who sued the company after receiving faulty hip implants.

The notice put up by the regulator on its website on 28 December, reads: “It has been decided to hold eighth meet-

ing of the Central Expert Committee chaired by Dr. R.K. Arya, Director, Sports Injury Center, Safdarjung Hospital to give audience to the affected patients, their representa-

tives, any other stakeholders on 09.01.2019 (Wednesday). Therefore, affected patients/ their representatives/ any other stakeholders are invited for giving their audience before the Central Expert Committee and those who intend to attend the meeting are requested to send their confirmation along with name and contact details at the legal cell of the Central Drugs Standard Control Organisation by Friday.”