

Union Carbide Corporation & Ors vs Union Of India & Ors on 13 March, 1990

Bench: R. Misra, K.N. Singh, N.D. Ojha

CASE NO. :

Appeal (civil) 3187-88 of 1988

PETITIONER:

UNION CARBIDE CORPORATION & ORS.

RESPONDENT:

UNION OF INDIA & ORS.

DATE OF JUDGMENT: 13/03/1990

BENCH:

S. MUKHARJI (CJ) & R. MISRA & K.N. SINGH & M.N. VENKATACHALLIAH & N.D. OJHA

JUDGMENT:

JUDGMENT 1990 (3) SCC 115 I.A. Nos. 1-3 of 1989 (C.A. No. 3187-88 of 1988), 1 of 1989 (in R.P. No. 229 of 1989) 1 of 1989 (in W.P. No. 11708 of 1985), 1 of 1989 (in W.P. No. 420 of 1989), 1 of 1989 (In W.P. No. 281 of 1989), C.M.P. Nos. 9102, 9071 and 17930 of 1989 The Order of the Court is as follows:

Having heard the learned Attorney-General of India, and in view of the affidavit of Satish Swarup Gupta verified on March 12, 1990 it is directed to the recorded as follows:

1. The payment of Rs. 750 per month directed to be paid pursuant to the order dated April 21, 1989 of this Court will be continued to be paid until the commencement of the payment of a sum of Rs. 200 per month, per person in accordance with the decision of the Government in the matter of interim relief. In case the amount ordered by the order dated April 21, 1989 is larger than the amount stipulated by Government decision as aforesaid in respect of any family, the payment will continue to be made in accordance with the earlier order dated April 21, 1989.

2. The sum of Rs. 500 per month, directed to be paid pursuant to the order dated April 28, 1989 will be continued to be paid and will not be altered on account of the Government's decision to pay interim relief to pay Rs. 200 per month, per person and will continue to be paid at the same rate.

This payment will continue to be made for three years or until further orders of this Court.

The payments made will be adjusted only against payments made to those persons who are ultimately found to be entitled and have actually received the same.

The sum of Rs. 500 per month, pursuant to the order dated April 28, 1989 will be continued to be paid over and above the maintenance of Rs. 200 as interim relief as contemplated in clause (1) of the aforesaid.

3. Persons who have been paid Rs. 3000 lump sum pursuant to the order dated April 28, 1989 will also be covered by the Government's decision to grant interim relief. No recovery or adjustment will be made in respect of Rs. 3000 lump sum already paid to these persons. Further categorisation for the payment of instalment of Rs. 3000 lump sum will now be discontinued in view of the aforesaid Government decision. No further categorisation for the purpose of interim relief only granted by this order need be done.

4. Persons who have paid Rs. 1000 lump sum, pursuant to the order dated August 25, 1989 of this Court will also be covered by the Government's decision to grant interim relief. No recovery or adjustment will be made in respect of Rs. 1000 lump sum already paid to these persons. Further categorisation for the payment of the instalment of Rs. 1000 lump sum will now also be discontinued in view of the aforesaid decision.

Other categorisation as directed by our order dated August 25, 1989 will, however, continue subject to further order of this Court.

ANNEXURE AFFIDAVIT ON BEHALF OF THE UNION OF INDIA WITH REGARD TO THE GRANT OF INTERIM RELIEF TO VICTIMS OF THE BHOPAL GAS LEAK DISASTER I, Satish Swarup Gupta son of Shri Jyoti Swarup Gupta aged 55 years working as Under Secretary, Deptt. of Chemicals & Petro-Chemicals do hereby solemnly affirm and state as under

1. I say that I am dealing with the case in my official capacity, that I am conversant with the records and that I am competent and authorised to swear this affidavit.

2. I say that the Central Government has been deeply concerned about the continuing miseries of lakhs of people of Bhopal who were affected by the gas leak disaster which took place on December 3, 1984 and has been conscious of the fact that no meaningful financial assistance has been given to the victims of this biggest chemical disaster of the world even 5 years after the event. The Government of India are also conscious of and alive to their constitutional obligations and duties towards the victims under Articles 38, 39, 39-A, 41 and 47 inter alia of the Constitution and seek to effectuate the same.

3. Accordingly the Government of India have decided to give pro tempore financial assistance to the victims in the form of interim relief. Before finalising the amount and mode of disbursement of interim relief, the Government held a meeting on February 3, 1990 with representatives of the following social action groups which

have been representing the victims of the gas leak disaster:

- (i) Bhopal Gas Peedit Mahila Udyog Sangathan
- (ii) Zahreeli Gas Kand Sangharsh Morcha
- (iii) Bhopal Gas Peedit Sangharsh Sahyog Samiti
- (iv) Jana Swastha Kendra, Bhopal
- (v) Bhopal Group for Information and Action
- (vi) Gas Peedit Sangharsh Morcha
- (vii) Gas Rahat Evam Punarwas Front

4. The Government of India have decided to give interim relief to all the residents of the 36 severely affected wards of Bhopal who were there on the night of the disaster. This decision to cover all the residents has been taken because there is a likelihood of long term health damage to all persons who were exposed to the MIC and other toxic gases.

5. Government of India have now decided to pay an amount of Rs. 200 per month per person for a period of three years as interim relief. This would cover all the residents of the 36 severely affected municipal wards, as stated hereinabove, and will be paid to minors and adults at the same rate.

Based on estimated population figures, it would appear that there were about 5 lakh people in the area on the night of the disaster and all these people need to be assisted through the scheme of interim relief. Regular monthly payments will be made to the victims through the scheduled nationalised/cooperative banks which have branches in these wards. Through this scheme of interim relief it would be ensured that the victims would continue to get regular assistance over a period of time, and this would help them to meet their medical expenses and earn their medical expenses and earn their basic livelihood on a continuous basis. The disbursement will be implemented through the administrative machinery of the Government of Madhya Pradesh. For the purpose of providing such interim relief, the Government of India have sanctioned the disbursement of an amount of Rs. 360 crores. The amount is being released shortly and payments through the Banks will start at the earliest.

6. It is also necessary to state that the social action group which have been consulted by the Government of India have expressed their satisfaction with the above arrangement. The Government of India have also decided with the concurrence of the said groups that the amounts so paid by way of interim relief will be adjusted against the final compensation available to the victims through the judicial process.

DEPONENT Verification I, the Deponent above named, do hereby solemnly verify and state that the facts stated in paragraph 1 of the above affidavit are true to my personal knowledge, while those stated in paragraphs 2 to 6 are true to my knowledge derived from my official dealings with and records of the case and I believe the same to be true. No part of the affidavit is false and nothing material has been concealed therefrom.

Verified at New Delhi this 12th day of March, 1990.

DEPONENT