

Union Carbide Corporation vs Union Of India And Others, Etc on 14 February, 1989

Equivalent citations: JT 1989 (1), 296 1989 SCALE (1)380, AIR 1990 SUPREME COURT 273, 1989 (2) SCC 540, 1989 ACJ 427, (1989) 2 JT 454 (SC), 1989 (1) COM LJ 249, 1989 (1) CURCC 570, 1989 (1) SCC 674, 1989 SCC(CRI) 243, 1989 (1) JT 296 AND 337, (1989) JAB LJ 591, 1989 (3) SCC 38, (1989) 2 MAD LW 569, (1990) 1 ACC 214, (1989) 37 DLT 410, (1989) JAB LJ 268, (1989) 1 ACC 376

Author: R.S. Pathak

Bench: R.S. Pathak, E.S. Venkataramiah, Misra Rangnath, N.D. Ojha

PETITIONER:
UNION CARBIDE CORPORATION

Vs.

RESPONDENT:
UNION OF INDIA AND OTHERS, ETC.

DATE OF JUDGMENT14/02/1989

BENCH:
PATHAK, R.S. (CJ)
BENCH:
PATHAK, R.S. (CJ)
VENKATARAMIAH, E.S. (J)
MISRA RANGNATH
VENKATACHALLIAH, M.N. (J)
OJHA, N.D. (J)

CITATION:
JT 1989 (1) 296 1989 SCALE (1)380

ACT:

HEADNOTE:
Having carefully considered the facts and circumstances of the case, the mass of data placed before it, the material relating to the proceedings in the Courts in the U.S.A., the offers and counter-offers made between the parties at different stages during the various proceedings, the complex issues of law and fact raised before it and the submissions

made thereon, and in particular, the enormity of human suffering occasioned by the Bhopal Gas Leak Disaster and the pressing urgency to provide immediate and substantial relief to victims of the disaster, the Court was of opinion that the case was fit for an overall settlement between the parties covering all litigations, claims, rights and liabilities related to and arising out of the Disaster and HELD that it was just, equitable and reasonable to order as follows:

(1) That the Union Carbide Corporation shall, on or before 23.3.1989, pay a sum of U.S. Dollars 470 millions to the Union of India as claimant and for the benefit of all victims of the Bhopal Gas Leak Disaster under the Bhopal Gas Leak Disaster (Registration and processing of claims) Scheme 1985 and not as fines, penalties or punitive damages, in full settlement of all claims, rights and liabilities related to and arising out of the Bhopal Gas Leak Disaster; [733F-G]

(2) That all civil proceedings related to and arising out of the Disaster shall stand transferred to this Court and shall stand concluded in terms of the settlement, and all criminal proceedings related to and arising out of the disaster shall stand quashed wherever pending; [732F-G]

(3) That upon full payment of the sum referred to above:

(a) The Union of India and the State of Madhya Pradesh shall take all steps which may in future become necessary in order to implement and give effect to this order, including but not

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limited to ensuring, that any suits, claims or civil or criminal complaints which may be filed in future against any Corporation, Company or person referred to in the Settlement are defended by them and disposed of in terms of this order; [734 A-B]

(b) Any such suits, claims or civil or criminal proceedings filed or to be filed before any court or authority are hereby enjoined and shall not be proceeded with before such court or authority except for dismissal or quashing in terms of this order; and [734C]

(4) That upon full payment in accordance with the directions issued by the Court,

(a) The undertaking given by Union Carbide Corporation pursuant to the order dated 30.11.1986 in the District Court, Bhopal shall stand discharged, and all orders passed in

Suit No. 1113 of 1986 and/or in revision therefrom shall also stand discharged; [734D]
(b) Any action for contempt initiated against counsel or parties relating to this case and arising out of proceedings in the courts below shall be treated as dropped. [734E]

JUDGMENT :

CIVIL APPELLATE JURISDICTION: Civil Appeal No. 3 18788 of 1988.

From the Judgment and Order dated 4.4.1983 of the Madhya Pradesh High Court in C.R. No. 26 of 1988. AND VICE VERSA (WITH S.L.P. (CIVIL) No. 13080 of 1988). K. Parasaran, Attorney General, F.S. Nariman, Anil B. Divan, B.R. Zaiwala, Gopal Subramaniam, V.P. Sarthi, J.B. Dadachanji, Vijay Gupta, Ms. Anjali K. Verma, Sumeet Kachwa- ha, Ashok Sagar, D.N. Misra, S.C. Sharma, O.C. Mathur, A. Subhashini, S.K. Gambhir, D .S. Shastri and Arun Madan for the appearing parties.

Vibhuri Jha, Anil K. Nauriya, Ms..Aruna Mathur, A. Mariarputham and C.L. Sahu for the Interveners.

The following Order of the Court was delivered:

ORDER Having given our careful consideration for these several days to the facts and circumstances of the case placed before us by the parties in these proceedings, including the pleadings of the parties, the mass of data placed before us, the material relating to the proceedings in the Courts in the United States of America, the offers and counter-offers made between the parties at different stages during the various proceedings, as well as the complex issues of law and fact raised before us and the submissions made thereon, and in particular the enormity of human suffering occasioned by the Bhopal Gas disaster and the pressing urgency to provide immediate and substantial relief to victims of the disaster, we are of opinion that the case is pre-eminently fit for an overall settlement between the parties covering all litigations, claims, rights and liabilities related to and arising out of the disaster and we hold it just, equita- ble and reasonable to pass the following order:

We order:

(1) The Union Carbide Corporation shall pay a sum of U.S. Dollars 470 millions (Four hundred and seventy Millions) to the Union of India in full settlement of all claims, rights and liabilities related to and arising out of the Bhopal Gas disaster.

(2) The aforesaid sum shall be paid by the Union Carbide Corporation to the Union of India on or before 31 March, 1989. (3) To enable the effectuation of the settlement, all civil proceedings related to and arising out of the Bhopal Gas disaster shall hereby

stand transferred to this Court and shall stand concluded in terms of the settlement, and all criminal proceedings related to and arising out of the disaster shall stand quashed wherever these may be pending.

A memorandum of settlement shall be filed before us tomorrow setting forth all the details of the settlement to enable consequential directions, if any, to issue. We may record that we are deeply indebted to learned counsel for the parties for the dedicated assistance and the sincere cooperation they have offered the Court during the hearing of the case and for the manifest reasonableness they have shown in accepting the terms of settlement suggested by this Court. Having heard learned counsel for the parties, and having taken into account the written memorandum filed by them, we make the following order further to our order dated 14 February, 1989 which shall be read with and subject to this order:

1. Union Carbide India Ltd., which is already a party in numerous suits filed in the District Court at Bhopal, and which have been stayed by an order dated 31 December, 1985 of the District Court, Bhopal, is joined as a necessary party in order to effectuate the terms and conditions of our order dated 14 February, 1989 as supplemented by this order.

2. Pursuant to the order passed on 14 Febru-

ary 1989 the payment of the sum of U.S. \$ 470 Millions (four Hundred and Seventy millions) directed by the Court to be paid on or before 31 March, 1989 will be made in the manner following:

- (a) A sum of U.S. \$ 425 Millions (four Hundred and Twenty five Millions) shall be paid on or before 23 March, 1989 by Union Carbide Corporation to the Union of India, less U.S. \$ 5 Millions already paid by the Union Carbide Corporation pursuant to the order dated 7 June, 1985 of Judge Keenan in the court proceedings taken in the United States of America.

- (b) Union Carbide India Ltd. will pay on or before 23 March, 1989 to the Union of India the rupee equivalent of U.S. \$ 45 Millions (forty five Millions) at the exchange rate prevailing at the date of payment.

- (c) The aforesaid payments shall be made to the Union of India as claimant and for the benefit of all victims of the Bhopal Gas Disaster under the Bhopal Gas Leak Disaster (Registration and Processing of Claims), Scheme, 1985, and not as fines, penalties, or punitive damages.

3. Upon full payment of the sum referred to in paragraph 2 above:

- (a) The Union of India and the State of Madhya Pradesh shall take all steps which may in future become necessary in order to imple-

ment and give effect to this order including but not limited to ensuring that any suits, claims or civil or criminal complaints which may be filed in future against any Corporation, Company or person referred to in this settlement are defended by them and disposal of in terms of this order.

(b) Any such suits, claims or civil or criminal proceedings filed or to be filed before any court or authority are hereby enjoined and shall not be proceeded with before such court or authority except for dismissal or quashing in terms of this order.

4. Upon full payment in accordance with the Court's directions:

(a) The undertaking given by Union Carbide Corporation pursuant to the order dated 30 November, 1986 in the District Court, Bhopal shall stand discharged, and all order passed in Suit No. 1113 of 1986 and/or in revision therefrom shall also stand discharged.

(b) Any action for contempt initiated against counsel or parties relating to this case and arising out of proceedings in the courts below shall be treated as dropped.

5. The amounts payable to the Union of India under these orders of the Court shall be deposited to the credit of the Registrar of this Court in a Bank under directions to be taken from this Court.

This order will be sufficient authority for the Registrar of the Supreme Court to have the amount transferred to his credit which is lying unutilized with the Indian Red Cross Society pursuant to the direction from the International Red Cross Society.

6. The terms of settlement filed by learned counsel for the parties today are taken on record and shall form part of our order and the record.

The case will be posted for reporting compliance on the first Tuesday of April, 1989.

TERMS OF SETTLEMENT CONSEQUENTIAL TO THE DIRECTIONS AND ORDERS PASSED BY THIS HON'BLE COURT

1. The parties acknowledge that the order dated February 14, 1989 as supplemented by the order dated February 15, 1989 disposes of in its entirety all proceedings in Suit No. 1113 of 1986. This settlement shall finally dispose of all past, present and future claims, causes of action and civil and criminal proceedings (of any nature whatsoever wherever pending) by all Indian citizens and all public and private entities with respect to all past, present and future deaths, personal injuries, health effects, compensation, losses, damages and civil and criminal complaints of any nature whatsoever against UCC, Union Carbide India Limited, Union Carbide Eastern, and all of their subsidiaries and affiliates as well as each of their present and former directors, officers, employees, agents representatives, attorneys advocates and solicitors arising out of, relating to or connected with the Bhopal gas leak disaster, including past, present and future claims, causes of action and proceedings against each other. All such claims and causes of action whether within or outside

India of Indian citizens, public or private entities are hereby extinguished, including without limitation each of the claims filed or to be filed under the Bhopal Gas Leak Disaster (Registration and Processing of Claims) Scheme 1985, and all such civil proceedings in India are hereby transferred to this court and are dismissed with prejudice, and all such criminal proceedings including contempt proceedings stand quashed and accused deemed to be acquitted.

2. Upon full payment in accordance with the Court's directions the undertaking given by UCC pursuant to the order dated November 30, 1986 in the District Court, Bhopal stands discharged, and all orders passed in Suit No. 1113 of 1986 and or in any Revision therefrom, also stand discharged.

Sd/- J.B. Dadachanji Sd/- A. Subhashini 15.2.1989 for UCC and UCIL Ltd. Advocate on Record for 15.2. 1989 Union of India.