

**MINISTRY OF LABOUR, HUMAN RESOURCE DEVELOPMENT AND TRAINING
(OSHI) v/s AMRO CHEMICALS LTD**

2025 IND 23

THE INDUSTRIAL COURT

CN: 61/22

In the matter of: -

**MINISTRY OF LABOUR, HUMAN RESOURCE DEVELOPMENT AND TRAINING
(OSHI)**

v/s

AMRO CHEMICALS LTD

SENTENCE

A. Background

1. The accused stands charged with the offence of failing to ensure the safety and health at work of its employees in breach of Section 5(1) and Section 94 (1) (i)(vi) of the Occupational Safety and Health Act – Act No 28 of 2005 coupled with Section 44(2) of the Interpretation and General Clauses Act – Act 33 of 1974.
2. The accused company was duly represented by one Mrs Doolub and Me Ramdonee appeared as Counsel.
3. The accused pleaded guilty of the charge.

B. Court's Assessment

4. For the purposes of the hearing the prosecution produced from the outset 3 medical certificates, marked as Doc A, A1 and A2, which were not objected to.

5. Mrs Veerapen-Chetty, witness 1, who enquired into the matter, produced the out of court statements of the accused, Docs C, C1, C2 and C3 and snapshots, Doc B(B1-B4). During the course of her enquiry the following documents were remitted to her, risk assessment report, Doc D, report of accident, Doc E, material safety data sheet, Doc F. The witness stated that after her enquiry, she drew up a report and same was produced, Doc G.
6. The witness confirmed in cross-examination that the company fully cooperated with her during the course of her enquiry and gave her all the assistance she needed and full access on the premises.
7. The representative of the company offered her apology to the employees concerned.
8. The court has taken into account the relevant documents produced, the plea in mitigation from Counsel and the clean record of the company.
9. According to **Section 5(1) of the OSHA**:

“5.General duties of employers (1) Every employer shall, so far as is reasonably practicable, ensure the safety, health and welfare at work of all his employees”

10. Furthermore, the Supreme Court in the case of **General Construction Company Limited v. Occupation, Safety and Health Inspectorate, Ministry of Labour, Industrial Relations and Employment**¹, highlighted that ***“the legislator’s intent behind OSHA is to ensure the safety of workers and OSHA therefore sets out the responsibilities of the employer in that regard.”***
11. Now it is clear from the evidence on record that the accused company has failed to ensure the safety of its workers. The medical certificates of all three employees, Mr Lache, Mr Nookia and Mr Ackbar mentioned that they suffered first degree burn, Docs A, A1 and A2.
12. By virtue of **Section 94(1)(i)(vi)** of the OSHA, any person who **contravenes a provision of the Act shall commit an offence**. Therefore, pursuant to **Section 94(3)(b) of the OSHA**, the accused company, as

¹ (2020) SCJ 40

employer, has rendered itself liable “**to a fine not exceeding 75,000 rupees and to imprisonment for a term not exceeding one year**”.

13. Reference is made to the case of **Mosaheb v. The State**², where the Supreme Court held that “***the sentence in each case has to be determined in accordance with the facts and circumstances surrounding the commission of the particular offence and the other relevant personal circumstances of an accused party***”
14. Often times, the Supreme Court has stressed the need to apply the principle of proportionality to reach the appropriate sentence in any given case.³
15. The Court has considered all the evidence on record and it is apparent from what is born out on record that the accused company has failed to adhere to the safety of its employees. The Court also bears in mind the clean record of the accused company and the timely guilty plea, which are strong mitigating factors.
16. In the circumstances, given the above, the Court sentence the accused company to pay a fine of Rs10,000/- . The Court further orders that accused pay Rs200/- as costs.

S N Ganoo-Arekion (Mrs)

[Delivered by: S N Ganoo Arekion (Mrs), Ag. President, Industrial Court]

[Delivered on: 26 March 2025]

² (2010) SCJ 150

³ Hossen v. The State (2013) SCJ 367

