

Factsheet on Injury-Based Compensation to Bhopal Gas Survivors

1. Union Carbide Corporation's (UCC) recently uncovered 1974 "Safety Considerations Report" for the Methyl Isocyanate (MIC) Unit at Bhopal notes that "MIC is a hazardous material by all means of contact" (p.22). Specifically
 - a. UCC gave MIC the most dangerous rating of **5** – "Major residual injury **is likely** in spite of prompt treatment" (p.16) – for the exposure routes "*breathing*" or "*eye*"
 - b. UCC gave MIC the second most dangerous rating of **4** - "Major residual injury **may result** in spite of prompt treatment" (p.16) – for the exposure route "*skin irritation uncovered.*"
 - c. **Conclusion:** UCC *knew* that all exposure injuries resulting from the 1984 disaster were likely to cause "major residual injury."

2. Recently uncovered correspondence between UCC and the Ministry of Chemicals and Fertilizers (March 4 1985) show that UCC proposed it's own compensation scheme to the Ministry.
 - a. Crucially, despite the foreknowledge indicated above, UCC included in the categorization "The claimant aforesaid has suffered physical/mental injury, and the same has been treated, and the same has not deteriorated into a permanent injury."
 - b. This exact wording was incorporated into the categorization forms that doctors in Bhopal used when examining patients.
 - c. **Conclusion:** UCC created a temporary injury category despite knowing that all injury was likely to be permanent.

3. The Supreme Court of India adopted a categorization scheme based on UCC's suggestion.
 - a. The final decision to settle with UCC for \$470 million in 1989 was based on an estimate that 49% had "minor injuries," 19.6% had "temporary disability", and the remaining 30.4% had permanent or severe disability.
 - b. In fact a faulty and inadequate categorization scheme classified 93% as suffering from only "minor injuries," 6.2% as having "temporary disability," and only 0.907% as having permanent or severe disability.
 - c. The decision was based on an estimation of only 1,02,000 exposed, but awards were ultimately distributed to 5,68,293 persons, without increasing the source amount.
 - d. **Conclusion:** A faulty categorization scheme and process led to 93% of gas victims being compensated *as though they had no injury* with the minimum of Rs. 25,000.

4. Epidemiological research by the ICMR indicates that the rate of illness (morbidity) in the affected area is 2.5 times higher than the unaffected areas, and that 95% of the affected population is suffering from some physical or mental illness.
 - a. According to the conclusion of the ICMR's scientific report (1984-1993) there is an excess morbidity (above non-gas affected areas of Bhopal) of 44,000 persons every years in gas affected areas.
 - b. ICMR counted 2500 immediate deaths from the disaster, 3500 spontaneous abortions, and 9667 additional deaths up until 1994 when counting was stopped. Were that death rate extended to 2009, it would be expected that the gas disaster had caused 22,917 deaths since 1984.
 - c. **Conclusion:** ICMR data on mortality and morbidity prove that the injury caused by MIC exposure was permanent and deadly.

5. The Rs. 25,000 awarded to 93% of gas victims is inadequate and incorrect based on currently available data.
 - a. If the assumptions of the supreme court in 1987 were adjusted based on currently available data, and the award amounts were adjusted for inflation, the total compensation amount should be 37,943 Crore (\$8.1 billion).
 - b. This is still modest compared to other settlements. BP has put aside \$20 billion in the case of their 2010 oil leak. There were only 11 deaths and their liability for those deaths was capped at lifetime earnings. Nonetheless, as of Oct. 4 BP has distributed \$5.5 Billion to 225,000 claimants – an average of \$24,444 per claimant – almost entirely in social and economic rehabilitation, such as lost tourism dollars.
 - c. **Conclusion:** The categorization of victims and the award amount for the Bhopal disaster were faulty and unjust. Before any curative petition is entertained by the courts to respond to the inadequacy of compensation the categorization of victims must be adjusted to reflect the reality that **there is no such thing as temporary injury in the case of the Bhopal Gas Disaster.**