

THE BHOPAL GAS LEAK DISASTER (PROCESSING OF CLAIMS) AMENDMENT ACT, 1992

No.24 OF 1992
[12th August, 1992]

An Act to amend the Bhopal Gas Leak Disaster (Processing of Claims) Act, 1985.

BE in enacted by Parliament in the Forty-third Year of the Republic of India's as follows:--

1.Short title.-

This Act may be called the Bhopal Gas Leak Disaster (Processing of Claims) Amendment Act, 1992.

2.Amendment of section 6.-

In section 6 of the Bhopal Gas Leak Disaster (Processing of Claims) Act, 1985(21 of 1985) (hereinafter referred to as the principal Act, after sub-section (4), the following sub-section shall be inserted, namely:--

"(5) The Commissioner and the officers subordinate to him authorised to discharge functions under the Scheme shall be deemed to be a civil court for the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973(2 of 1974).".

3.Amendment of section 7.-

In section 7 of the principal Act, after the words "not below the rank of a Secretary to that Government", the words "or he Commissioner" shall be inserted.

HISTORY OF THE LEGISLATION:

A. STATEMENT OF OBJECTS AND REASONS:

The gas leak disaster involving the release on 2nd and 3rd December, 1984, of highly noxious and abnormally dangerous gas from a plant in Bhopal of the Union Carbide (India) Limited, a subsidiary of the Union Carbide Corporation. U.S.A., is of an unprecedented nature both from the point of view of its nature and its effects. It resulted in loss of life and damage to property on an extensive scale. Victims of the disaster who have managed to survive are still suffering from adverse effects and the further complications which may arise in their cases in course of time cannot be fully visualised even at this stage. The Central Government and the Government of Madhya Pradesh and various agencies had to incur expenditure on a large scale for containing the disaster and mitigating or otherwise coping with the effects of the disaster.

2. Government has been anxious to ensure that the interests of the victims of the disaster are fully protected and that the claims for compensation or damages for loss of life or personal injuries or in respect of other matters arising out of or connected with the disaster are processed speedily, effectively, equitably and to the best advantage of the claimants. The legal position was examined carefully with reference to the laws obtaining in the United States of America and in our country and in the light of the examination it was felt that special provisions should be made for processing the claims. Accordingly, the President promulgated on the 20th day of February, 1985, the Bhopal Gas Leak Disaster (Processing of Claims) Ordinance, 1985, to confer powers on the Central Government to represent the claimants and take all necessary step for the processing of the claims. The Ordinance also provided for the appointment of a Commissioner for the welfare of the victims of the disaster and for the formulation of a Scheme to provide for various matters necessary for processing of the claims and for the utilisation by way of disbursement or otherwise of amounts received in satisfaction of the claims.

3. The Bill seeks to replace the aforesaid Ordinance.

B. ACT 21 OF 1985

The Bill, received the assent on THE HON'BLE PRESIDENT on 29th March, 1985.

An Act to confer certain powers on the Central Government to secure that claims arising out of, or connected with, the Bhopal gas leak disaster are dealt with speedily, effectively, equitably and to the best advantage of the claimants and for matters incidental thereto.

This Act may be called THE BHOPAL GAS LEAK DISASTER (PROCESSING OF CLAIMS) ACT, 1985.

It shall be deemed to have come into force on the 20th day of February, 1985.

C. COMMENTS:

1. This Act authorises the Government of India, as *parens patriae* exclusively to represent the Bhopal Gas victims so that interests of those victims of the disaster are fully protected, and that claims for compensation were pursued speedily, effectively, equitably and to the best advantage of the claimants.

2. For carrying into effect the purposes of this Act a scheme shall be framed by the Government of India, sooner the commencement of this Act.

3. The Act provides for the fund into which decretal sum has to be credited. Further it also contemplates the procedure for quantification of individual entitlement of compensation and as and when compensation becomes payable it is to be met out of the Fund.

4. As the Government of India has taken over the right to sue on behalf of all the victims, any short fall in the Fund that may be felt, the liability rest on the Government of India.

D. NOTE:

The Bhopal Gas Leak Disaster (Processing of Claims) Act, 1985.

S.10 Removal of doubts :-

For the removal of doubts, it is hereby declared that-

(a) any sums paid by the Government to a claimant otherwise than by way of disbursal of the compensation or damages received as a result of the adjudication or settlement of his claim by a court or other authority, shall be deemed to be without prejudice to the adjudication or settlement by such court or other authority of his claim to receive compensation or damages in satisfaction of his claim and shall not be taken into account by such court or other authority in determining the amount of compensation or damages to which he may be entitled in satisfaction of his claim;

(b) in disbursing under the Scheme the amount received by way of compensation or damages in satisfaction of a claim as a result of the adjudication or settlement of the claim by a court or other authority, deduction shall be made from such amount of the sums, if any paid to the claimant by the Government before the disbursal of such amount.

S.11 Overriding effect:

The provisions of this Act and of any Scheme framed thereunder shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Act or any instrument having effect by virtue of any enactment other than this Act.

E. ACT SCOPE:

The Bhopal Gas Leak Disaster (Processing of Claims) Act, 1985

S.12 Repeal and saving:

(1) The Bhopal Gas Leak Disaster (Processing of Claims) Ordinance, 1985, is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under the corresponding provisions of this Act.

F. MARCH OF LEGISLATION:

1. The Bhopal Gas Leak Disaster (Processing of Claims) (Amendment) Act, 1992 (24 of 1992).