



International Environmental
Law Research Centre

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

I.A.NOS.46-47 OF 2003

in

CIVIL APPEAL NOS.3187-88 OF 1988

IN THE MATTER OF:

Union Carbide Corporation

Appellant

Versus

Union of India and Others

Respondents

AND IN THE MATTER OF:

Abdul Samad Khan and Others

Applicants

*This paper can be downloaded in PDF format from IELRC's website at
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REJOINDER AFFIDAVIT ON BEHALF OF THE APPLICANTS IN I.A.NOS.46-47 OF 2003

I, Abdul Samad Khan, S/o Abdul Razzaq, Resident of 1/24, Gandhi Nagar, Bhopal, Madhya Pradesh, do hereby solemnly affirm and state on oath as follows:

1. The affidavit dated 9.3.2004 filed on behalf of the Reserve Bank of India (RBI), respondent no.3 in the above matter has been read over and explained to me in Hindi. I make this affidavit in rejoinder thereto.
2. I have sought the help of certain victims organisations in Bhopal to understand the implication of what has been stated in the said affidavit of the RBI. In turn, they have sought the advice of a financial expert and I am setting out hereinbelow the response received to the details provided in the affidavit of RBI.
3. The amount received for compensation was deposited with the RBI, which created two separate accounts a rupee account (Account A) and a dollar account (Account B). The rupee account received the initial rupee payment, and all the interest from various government securities into which the money (both rupee and dollar account) was invested. The money in the dollar account was also held as rupees at a then conversion rate of \$6.55 to Rs.100 (About Rs.15 per dollar).
4. All payout as compensation was made from the rupee account. Whenever there was a shortfall in the rupee account, it was made good by disinvesting the securities in the dollar account. However, at the time the government also compensated for the difference in exchange rate, i.e. the rate on the date on which it was originally credited viz Rs.100 per \$6.55 and the rate prevalent as on the date of disinvesting the securities. The exchange rate compensation was also credited to the rupee account. As per para 18 of the affidavit, the total amount in the dollar account was (641.22 + 2.15) Rs.643.37 crores.
5. As per para 23 of the RBI affidavit, the total disinvestments from the dollar account was about Rs.167.60 crores. The balance in the dollar account was (643.37 - 167.60) about Rs.475.77 crores.
6. As per para 24 of the affidavit, the realizable value of the securities as on 31.12.2003 was Rs.578.90 crores. This includes the amount in the dollar account. If all the securities were to be liquidated, the government would in addition to the Rs.578.90 crores also have to compensate for the exchange difference on the dollar account amount.
7. To calculate the exchange difference, the dollar equivalent of the balance at \$6.55 to Rs.100 has to be first calculated. This works out to \$31.16 crores. Then applying a current exchange rate of Rs.45 per dollar, the present value of \$31.16 crores works out to Rs.1402.33 crores. Thus the exchange difference is (1402.33 - 475.77) Rs.926.56 crores. This amount has to be added to the realizable value of the securities. The liquidation value of the securities thus works out to Rs.1505.46 crores. The table below summarises the calculations.

**Total liquidation value of securities
(as on 31-12-2003)**

	(\$crores)	(Rs.crores)
Realisable value of securities (as on 31-12-2003)		578.90
Dollar account balance (as on 31-12-2003)		475.77
Dollar equivalent (exchange rate of \$6.55 to Rs.100)	31.16	
Current rupee value of dollars (exchange rate of \$1 to Rs.45)		1402.33
Exchange difference for dollars (1402.33 - 475.77)		926.56
Total liquidation value of securities (578.90 + 926.56)		1505.46

8. As per the above calculation, the balance amount of undisbursed compensation actually works out to Rs.1505.46 crores. This does not tally with what has been stated by the Union of India on affidavit before this Hon'ble Court to the effect that the balance is Rs.475.76 crores. This Hon'ble Court may accordingly record the exact amount of undisbursed compensation as Rs.1505.46 crores and further record the statement made by the Union of India in its affidavit dated nil January, 2003 filed in the above matter, that the abovementioned balance amount should be disbursed on pro-rata basis among those Bhopal Gas victims whose cases had been decided by the office of the Welfare Commissioner. It is reiterated that this exercise can begin right away since the modalities for the distribution of the balance amount required to be worked out.

9. I crave leave to submit a further affidavit as and when more particulars are provided by the respondents in the matter.

Verified at Bhopal, on this the 24th day of March 2004.

Verification

I, Abdul Samad Khan, the above deponent do hereby verify that the contents of the above affidavit are correct to the best of my knowledge and belief.

Verified and signed by me in Bhopal, India on the day of 24th March 2004.

DEPONENT

