

Settlement for Payment of  
Compensation to victims of  
of Bhopal Gas Tragedy

[S.B. Chavan]

and the Bombay High Court judgements, we thought that it was necessary that we should make matters clear by having a clear definition so that there is hardly any scope for misinterpreting. That is the only thing. This is only of a clarificatory nature. I do not think that any substantial change has been brought about in the definition of 'income' as it has been now properly brought before this House.

15.58 hrs.

[MR. SPEAKER in the Chair]

Sir, there were certain issues which were raised, but this was the main issue which, in fact, was raised by most of the hon. Members. Shri Amal Datta raised certain issues and tried to question the very motive of the Government by bringing about a kind of change in the hotel industry. If certain NRI bonds are being transferred to a local person, even they are also exempt. He has taken a very strong objection saying that this is a non-core industry and a non-core area where Government is trying to have some other things being brought about and this is going to be totally misused by all the hotel keepers. If the hon. Member had taken the trouble to go through the clause where exemptions have been enunciated, it has been clearly stated that there are two categories of hotels. This will specially cover five-star hotels. In rest of the hotels I do not think any of the foreigners is interested. Now the tax exemption is going to be 50 percent in the beginning, but it will be given provided the income is being generated through foreign exchange I do not think any local person will be paying foreign exchange it is only the foreigners who will be able to pay in foreign exchange. In order to get more foreign exchange from different sources, this is one source which we are trying to utilise. I do not think giving this kind of a concession... (Interruptions)

SHRI AMAL DATTA: You are not clarifying what I asked. The question I asked was how would you calculate the income gener-

ated from foreign tourists receipts. There is no way of calculating that. They can inflate that at the expense of the domestic receipts.

16.00 hrs.

SHRI S.B. CHAVAN: Sir, I can assure the hon. Member that the exemption of 50% will be on the basis of the foreign exchange which form part of the total income of the hotels Is and out of the that total income, whatever be the foreign exchange component, that will be taken into account while giving 50% exemption and 50% we are trying to deposit over a period of 10 years so that anything connected with foreign tourist encouragement, namely, if a kind of new hall is being constructed, some new coaches are being specially bought by the hoteliers and those being used for the development of tourism...

SHRI AMAL DATTA: That can be monitored.

SHRI S.B. CHAVAN: Yes, this could be monitored. Of course, after we implement the whole thing, if we come across some of the difficulties, certainly there is no harm in coming before this House and telling them that this is the difficulty with which we are confronted and it requires some amendment in the Section for which I think there should be no harm in doing so.

MR. SPEAKER: I think you can continue your reply tomorrow or later on.

16.01 hrs.

DISCUSSION UNDER RULE 193  
[English]

Situation arising out of Settlement  
between Government of India and the  
Union Carbide for payment of compensation  
to the victims of the Bhopal Gas  
Tragedy

MR. SPEAKER: Now, we take up the Discussion under Rule 193.

THE MINISTER OF INDUSTRY (SHRI J. VENGAL RAO): Sir, I want to know whether this discussion will continue tomorrow also.

MR. SPEAKER: As you like... Let us see.

SHRI SAIFUDDIN CHOWDHARY (Katwa): Who will reply to the debate, Sir?

PROF. MADHU DANDAVATE (Rajapur): Are you starting the reply speech first?

SHRI AMAL DATTA (Diamond Harbour): Sir, the Minister has already come prepared with the reply.

SHRI J. VENGAL RAO: Sir, I was just asking whether it will continue tomorrow also.

SHRI C. MADHAV REDDI (Adilabad): We are not discussing the chemical industry. (Interruptions)

MR. SPEAKER: Prof. Madhu Dandavate, you can initiate the discussion.

PROF. MADHU DANDAVATE: Mr. Speaker, Sir, at the very outset, let me submit and I hope you will not misunderstand us, we on the Opposition side were very keen to censure the Government on its colossal failure in tackling the problems of the unprecedented Bhopal Gas Tragedy in 1984. Not only that. There has been the denigration of the Parliament and its authority. There is an Act called the Bhopal Gas Leak Disaster Processing of Claims Act 1985. That has been violated. The fundamental rights of the victims, the right to live and liberty, the right to seek judicial redressal when all these are threatened, we do not think there could be better issue on which we could censure the Government. But, Sir, you in your wisdom, and we do not challenge that at all, decided that since the matter was pending in the Supreme Court and the judgement has come, you did not see it necessary to allow the adjournment motion. But you were kind

enough to admit a Motion under Rule 193 to discuss the question threadbare. Sir, today, thousands of women and children are already there in front of the Parliament. If you just go and see them, you will see the women with mutilated parts of the body, children who have become dumb and deaf, women who have lost their sight, those who have damaged their lungs and above all those people whose conscience is hurt - I hope it is not something new - are there in thousands. Muslims, Hindus, Christians they are all there in the Boat Club. Now, I would like this discussion in the Parliament to echo their hurt, their pain, their agony and their wail, and also try to assure them that whatever be the Judgement of the Supreme Court, there is still a forum open where their pain will find its expression and we will try to find out a remedy to compensate the tremendous suffering that had been caused by the disaster in Bhopal in 1984.

Sir, let me admit that the Government is trying to hide behind the cloak of the Supreme Court Judgment and you also felt that when there is a judgement of the Supreme Court how could there be an adjournment motion. Sir, our contention was that the Supreme Court judgement has not come as a bolt from the blue. Prior to the delivery of the judgement there was an out of court agreement between the Union Carbide Corporation and the Government of India regarding compensation...

SHRI J. VENGAL RAO: Sir, this is incorrect. He is misleading the House.

PROF. MADHU DANDAVATE: All right, you lead it afterwards. In a debate we have the right to put forward our plea and in your right to reply you will have to see that if there is anything misleading, you lead the House properly. Of course, normally the Prime Minister is supposed to lead the House, but he can do it. (Interruptions)

SHRI A. CHARLES (Trivandrum): If there is a total distortion of the facts? (Interruptions)

PROF. MADHU DANDAVATE: Sir, they cannot be judge over whether ours is a distortion or an aberration or an elevation.

MR. SPEAKER: You can have the right to rebut it.

PROF. MADHU DANDAVATE: That is right. You can rest assured that when you speak I won't say this is distortion.

SHRI A. CHARLES: He should only speak the truth.

MR. SPEAKER: No, Mr. Charles, don't interrupt.

SHRI RAM PYARE PANIKA (Robertsganj): He should not be allowed to mislead the House.

MR. SPEAKER: Proceed on with it, no interruptions.

PROF. MADHU DANDAVATE: Sir, very often truth hurts, I cannot help it. (*Interruptions*) This is not distortion, I am correctly representing the facts.

What I was trying to point out to you, Sir, is that they sat together, they came to certain agreement. The judgement of the Supreme Court only sanctified what they had agreed. Of course, I have to say something about the judgement also, but I do not want to bale out the Government and allow the entire burden to rest solely on the shoulders of the Supreme Court. I think they are sharing the burden.

Sir, the Supreme Court orders of February 14 and 15, 1989, to my mind, are a sequel to settlement, not only the settlement, but by the total betrayal by the Government of the victims of the Bhopal tragedy and surrender to the multinational. That is my contention. And it is in that context I am trying to put forward my view.

Sir, before I proceed, I would like to draw the attention of the House to some of the salient features of the settlement and

also the order of the Supreme Court. The Supreme Court order of 15th February 1989 is a variation of the order to 14th February 1989. I will come to that at a later stage. The 14th February 1989 order very clearly mentioned the compensation to be paid by the principal Company, the Union Carbide, of 470 million Dollars, that is, approximately 750 crores of rupees to be paid by the 23rd March 1989.

The 15th February 1989 order is interesting to study carefully. I have got a copy of the order, there is no question of distortion.

As far as the 15th February order is concerned, a sum of 425 million dollars is to be paid by the Union Carbide Corporation less 500 million dollars already paid by the U.C.C. pursuant to the order of 7th June 1985 in the U.S. court. Then, Sir, that order also contains a reference that the Union Carbide India Ltd., has to pay to the Union of India 45 million dollars in equivalent rupees. The most important and salient feature of this Order and Settlement is that it is full and final settlement of all rights, claims and liabilities—civil as well as criminal. It is said that these liabilities—past, present and future—are totally terminated, extinguished. We were using the word "extinguished" in Physics. But also in politics and economics, that word has become permanent. These are the salient features.

I would like to point out to the House what are the implications of this Settlement and in fact, that is the subject matter of discussion under rule 193. Firstly, my complaint is that for arriving at a figure for compensation prescribed, no norms for compensation were suggested at all. It has been done in a most arbitrary manner. You may recall that soon after the tragedy in Bhopal, the Union Carbide offered \$ 300 million as compensation, which with interest would have amounted to the present compensation of \$ 470 million, which is suggested. I feel that there is a method in madness. If they had suggested \$ 470 million, probably the suggestion is that the Union Carbide itself had previously suggested \$ 300 million

and at today's price index and today's rate, it would become \$ 470 million. So, the settlement really means, as I said earlier, a total surrender to Union Carbide. There are grounds to believe it. You go through all the reports that had appeared earlier, at the time of tragedy. There are firm grounds to believe that Union Carbide agreed probably for \$ 500 millions after the Bhopal tragedy and today it would mean near about \$ 1,000 million.

I have with me a copy of the Act which I referred to earlier, namely the Bhopal Gas Leak Disaster (Processing of Claims) Victims Act, 1985. Under this Act, the Government of India and the Government of Madhya Pradesh had already declared themselves as the guardians in court of the Bhopal gas victims. These Governments at that time asserted we in simple terminology call it as "estimated" but lawyers call it "asserted" and the assertion of the Government at that time regarding the claims was U.S. \$ 3.3 billion to be paid by the principal company. There was no reference to Union Carbide (India) Ltd., which is a subsidiary company. The estimate and the claim that was prepared by the Government at that time was \$ 3.3 billion to be paid by the principal company. But actually, they have now got \$ 470 million. 5 millions by the principal company and 45 millions by UCC, it comes to (470-50) 420 million dollars. I will come further to a point as to how this is also likely to go down. Now, who is to take the responsibility for the differential? The original claim that was prepared by the Government for the compensation was of the order of US \$ 3.30 billion. Subtracting this 45, it is 420 million dollars. I would like to know, when the hon. Minister replies, whether the Union Carbide and the Madhya Pradesh Government who call themselves as the guardians of these victims, are going to take up the burden of paying this differential.

According to the Government's claim it has appeared widely in the newspapers if you check up the newspapers after the tragedy over 2,000 died and 5 1/2 lakhs disabled in Bhopal gas tragedy. Of course, the nature

of deficiency was different. The compensation offered is ridiculously low. That is in terms of our currency, Rs. 715 crores.

I just tried to compute and I found out that, without making any distinction between those who are disabled and those who are killed, the per capita compensation works out to be Rs. 8,847 in 1984. Today it is Rs. 12,953/-.

There is one more aspect. I do not know whether sufficient attention has been drawn to that. When the judgement has clearly said that this is the final settlement of rights, claims, responsibilities, liabilities, everything past, present or future are extinguished, what will be the practical implication of this? If I am a sufferer of the Bhopal gas tragedy and for the time being no investigation are made, and after six months I undergo clinical or medical investigations and it is found by the doctors that my lungs, heart and sight are very badly affected, since I had detected my deficiencies and distortions and aberrations I am referring to medical aberrations when these are actually detected after some time, since the judgement is already delivered and His Lordship has already stated that everything is over, the game is over, all the present, past and future liabilities are extinguished, in that case, I have to suffer in silence and die in peace. That is all that is left to us after the judgement.

AN HON. MEMBER: Die in agony.

PROF. MADHU DANDAVATE: Yes, die in agony. I said in a different way. This is the tragedy and this is the disastrous thing.

The Union Carbide has played a wonderful game. You may go through the various US judgements and orders many judgements and orders are available regarding such accidents and even the accidents of the principal company, the Union Carbide. In the past, while referring to that, I have quoted some of them. I had quoted the figures. I do not want to take the time of the House in repeating all the extracts of the US judge-

[Prof. Madhu Dandavate]

ments and orders. There you will find that the compensation that was given or sought to be given by the US courts was quite large enough and that is why many of us in this House had demanded that when those courts are considering the matter, Union Carbide will very much like that this issue should be settled out of the court because on the basis of the legal advice given to them by their legal luminaries, they knew what will be the burden of expenditure if they were to follow the norms of the US courts and, therefore, right from the beginning, their efforts and their lobby is trying its best to see that somehow or other the matter is taken out of the purview of the court and out of court settlement is done. If it could not be done directly, have the cloak of the judgement of the Supreme Court but for all practical purposes try to arrive at an agreement outside the Court. Therefore, the agreement was thrust like this.

The Union Carbide preferred *de facto* out of court settlement to be sanctified by the Supreme Court. There are some people in this country and I met quite a good number of them in Bhopal and I met some of them today at Boat Club. They suspected that when some sort of an understanding has been reached between the Government and the Union Carbide, they say, when these deals took place, they are sadly reminded about the Bofors, the role of the middlemen, their commissions. Memories do not disappear very easily. It is not I who say this. (Interruptions) Please listen to the common man in the street. You go and meet those people who had come from Bhopal tragedy. You talk to the women. They are not our nominees. Those people whose arms were mutilated, those who lost sight, are not our nominees. They are the nominees of the tragedy of Bhopal. They are the victims of the Bhopal tragedy. You go to Boat Club and meet those women and try to understand what they say. They also suspect. That suspicion has to be removed.

Sir, there are a number of legal discrep-

ancies. The 14th February order, case No. 13080 i.e. the Special Leave Petition (Civil) says that only the Union Carbide Corporation that is the principal Company and the Government of India of course, the two organisations of the gas victims were the parties. There is the 14th Feb. order. You please read it. It is with me. I need not want to spend the time of the House. These were the parties, i.e. the principal Company, the Government of India and the two Victims, organisation. There are two organisations of the victims of the Bhopal gas tragedy. Sir, you please carefully read that 15th Feb. Order. I have with me the 15th Feb. 1989 order. The first paragraph says:

"The Union Carbide India Limited which is already a party in numerous suits filed in the District Court at Bhopal etc. etc....."

You will find that they also become a party. They were not in the picture but they also have become a party. The petitions were initially related only to the power of Madhya Pradesh Court. This is a very important point. I want to drive this point home in this House. You please carefully go through all the documents related to these cases. You please study very carefully the proceedings of the Court and you will find that the petitions were initially related only to the power of the Madhya Pradesh High Court to award interim relief. It was that power that was challenged. Later on, along with the civil aspect, criminal aspect was also inducted. Again, I do not want to quote the precedents. There are so many cases which have been established and that you cannot drag on criminal aspect like this in a civil case. The Supreme Court order conceals more than it reveals. Reference to proceedings in the US Courts is irrelevant. The material before the American Courts was whether the US Courts could hear the case. The Supreme Court as well as the settlement has ignored the contingency fees chargeable by the American attorneys. Let the Government take note of the fact. Their statements appeared in the American Press. Their statements appeared in the Indian Press. There are a

number of attorneys, a number of American lawyers and about 135 court actions are there under 134 American jurisdictions, filed in a week after the Bhopal tragedy and were all consolidated before the US Judge Keenan and they were transferred to India. Now the question is: What happens about their fees? A team of lawyers in the United States of America has already made a joint statement saying: "Since we appeared before the Courts what, about our contingency fees?" They say that it must be charged to the Union Carbide. They also suggested that "If the concern are not able to make a separate provision, they will take it for granted that this particular compensation of 470 million dollars which is already prescribed, now it becomes 420 after deduction of 45 and 5 millions. From that 420 million, should we expect that it should be adjusted against that. That is the question that they have raised. It is not a theoretical question. So, in a joint statement, they have said it in the United States of America. It has appeared in the Indian papers. Therefore, there is another legal implication that has to be taken note of. And if that happens, there will be further dwindling down of the amount and the kitty that will be available for the relief of the victims.

By passing and unprecedented order, prohibiting all criminal and civil prosecutions or any other litigation, past, present or future, the Supreme Court has exceeded the bounds of 1985 Act and the jurisdiction of the Bill is challenged. I have here the Bhopal Gas Leak Disaster (Processing of Claims) Act 1985. It refers to a number of things power of the Central Government to represent claimants, the claimant's right to be represented by a legal practitioner. These are the powers of Central Government, commissioner and other officers and employees. Power to delegate all these has been very clearly state. There is also a scheme that is mentioned here. The pivotal point of this entire Act is that this Act would like to assist those who are the victims of such tragedies. A right of redressal is already granted. For that, a provision for counsel is already made. As far as present judge-

ment is concerned, it will mean that all these doors are banned.

I have great respect for the Supreme Court. I have never challenged the conduct of the judges because I myself have raised point of order a number of times saying that on the basis of traditions of this House and also the provisions of the Constitution, Parliament cannot discuss the conduct of judges of High Courts and Supreme Court. Similarly, we are also insulated. The judges in the court cannot discuss the day-to-day proceedings of Parliament. The framers of the Constitution have made that provision both for the State Legislatures, Central Legislatures and also for the judges of the High Courts and the Supreme Court. But that constitutional provision has never barred this House to discuss the implications of any judgement. I will give the concrete instance. The Shankari Prasad Judgement, the Sajjan Singh Judgement was actually reversed and negatived by the Golak Nath Judgement. Some of us strongly differed with that and there was an agreement on both sides of the House. As a result of that, there came the Twenty-Fourth Constitution Amendment earlier it came through a Private Bill marked 'Constitution Amendment Bill' upholding the power of Parliament to amend Constitution. And I and Shri Somnath Chatterjee did not vote for that Bill. And when the Shah Bano Judgement was there in the court of law, judgement was already delivered one Private Member brought the Bill and that was sanctified by an official Bill over here in order to get the original law readjusted. Even after the Supreme Court Judgement they tried to change the very concept of some of the provisions of the law... (*Interruptions*) It is a very important subject. Though compensation is small, the time should be large. I would like to point out that I would like to respect the judges of the court. I will never challenge their conduct and I have never done it in my life time. But at the same time, the implications of the judgement for the future generations are to be discussed. Even when the Kesavanand Bharati Judgement came saying that you cannot amend through Article 368, the basic structure of the Constitution,

[Prof. Madhu Dandavate]

in the Minerva, Case, even the Government has sought review of that particular judgment in the Kesavanand Bharati case. I am pointing out to you that though we do not actually cast aspersions on individual judges, we are required to study the implications of judgement. We did it in the past. Under no circumstances, I would like to point out to you, while respecting the Supreme Court in this country, we will allow the Supreme Court to become the Third Chamber in this country superseding the power of the Rajya Sabha and the Lok Sabha. Therefore if we feel that certain injustice has been caused by certain judgement, we have the right to bring a constitutional amendment, we have a right to enact a legislation by which some of the distortions which are caused by certain judgements of the Supreme Court can be corrected. Sometimes they have been rightly corrected and sometimes in this House they have been wrongly corrected. After all that freedom is already there. That point also has to be borne in mind.

I would like to point out one more important aspect. I know you are impatient, but this will be my last point or this will be the semi-final point!

You realise what has happened because of the technology certain aberrations and certain distortions in the Bhopal plant. There is a rumour thick in the air that there might be a purchase of the hazardous French MIC technology. The French multinational Rhone-Poulence is making serious efforts to bring to India the Methyl Iso-Cyanate, that is MIC, the best pesticide technology which was the cause of the chemical disaster in Bhopal. When the Hon. Minister replies, I want a categorical assurance from him in this House that they will not allow the induction of this hazardous technology from France at all. You may celebrate the French festival; but don't try to have the induction of this hazardous technology. We don't want an answer 'it may be or it may not be'. We want a clear assurance in this House. Unless

that is done, we cannot prevent the recurrence of such a situation. What happened in Bhopal is likely to be repeated. Therefore, this assurance has to come through the Minister.

The Government should specifically assure that this should not happen because our experience in the past is very bad. Please don't misunderstand me and I hope the Members of the ruling party will not misunderstand me. I will quote a past precedent. In the past Shri Fakhruddin Ali Ahmed who was the Industry Minister had made a policy pronouncement regarding the automobile industry expansion. He had declared that we have enough factories in this country manufacturing small cars. What we require is vehicles required for public transport. Anyone applying for manufacturing cars will be given a licence only when he assures that he will be prepared to have only the manufacture of public transport. Within only a few weeks when Shri Sanjay Gandhi put an application, we found that the entire policy was reversed and the Maruti Car was allowed. (*Interruptions*)

SHRI CHANDRA PRATAP NARAIN SINGH (Padrauna): That is not very relevant. (*Interruptions*)

PROF. MADHU DANDAVATE: Give me a minute to explain what is the relevance.

SHRI CHANDRA PRATAP NARAIN SINGH: I object very strongly ... (*Interruptions*)

PROF. MADHU DANDAVATE: Are you on a point of order?

SHRI CHANDRA PRATAP NARAIN SINGH: Yes Sir. My point of order is that this is a discussion on the Bhopal tragedy. Under what rule or how does the Hon. Member go back to a licence issued to Shri Sanjay Gandhi which is also untruthful, which is not right? (*Interruptions*)

PROF. MADHU DANDAVATE: Mr. Speaker Sir, I hope you have ruled out the

point of order. Now, I come to the argument about the relevance. I will give you the relevance. (*Interruptions*)

SHRI CHANDRA PRATAP NARAIN SINGH: That should be expunged.

PROF. MADHU DANDAVATE: What should be expunged? What is unparliamentary?... (*Interruptions*)

SHRI CHANDRA PRATAP NARAIN SINGH: He is mentioning the name of a person who is not living, who is not a Member of the House. And it is not a fact... (*Interruptions*)

It is a mis-statement of facts.

MR. SPEAKER: Professor Sahib you confine yourself to the subject.

SHRI CHANDRA PRATAP NARAIN SINGH: I want your ruling on this.

MR. SPEAKER: This is not unparliamentary.

SHRI CHANDRA PRATAP NARAIN SINGH: I am not talking of its being unparliamentary. I am talking about the mention of the name of Mr. Sanjay Gandhi.

MR. SPEAKER: I will allow you to rebut it.

(*Interruptions*)

MR. SPEAKER: Why are you all unnecessarily shouting. I do not give it much importance. You can rebut it when I give you a chance. There is nothing wrong about it.

SHRI CHANDRA PRATAP NARAIN SINGH: I do not want to rebut it. I want your ruling.

MR. SPEAKER: What have I to rule about it; There is nothing to rule about it. If he is mentioning something wrong you can put it right.

SHRI CHANDRA PRATAP NARAIN SINGH: will you allow mention of the name of a person who is not a member of this House and not living?

PROF. MADHU DANDAVATE: So many Bhopal gas victims are not alive. Can I not mention about them? (*Interruptions*)

MR. SPEAKER: The point is overruled. It is not something which is so much derogatory to anybody. It is not criminal to mention a name. So many names are mentioned. What does it matter? There is no allegation.

SHRI CHANDRA PRATAP NARAIN SINGH: It is an allegation. He says licence was given to Sanjay Gandhi. It is not an allegation? (*Interruptions*)

PROF. MADHU DANDAVATE: Let him prove it was not given I will accept it. (*Interruptions*)\*\*

MR. SPEAKER: Not allowed.

SHRI CHANDRA PRATAP NARAIN SINGH: I want your direction on this. He has made an accusation that Sanjay Gandhi got permission for the manufacture of Maruti. It is an allegation.

MR. SPEAKER: It is no allegation at all.

SHRI CHANDRA PRATAP NARAIN SINGH: it is an allegation. I walk out in protest against your ruling.

*At this stage Shri Chandra Pratap Narain Singh left the House*

PROF. MADHU DANDAVATE: Sir, I gave this instance only to indicate that sometimes certain announcements of the policies are made and they are reserved. I am only insisting as far as this MIC technology is concerned it is expected to be inducted from France. I want a categorical assurance that you will adhere by the assur-

[Prof. Madhu Dandavate]

ance that is given and under compulsions or under any pressure that would not be changed at all. (*Interruptions*)

Sir, in the end let me say that the settlement by the Union Carbide and Government is a betrayal of the interests of the Bhopal victims. Secondly...

AN HON. MEMBER: Sir, how long will he speak?

PROF. MADHU DANDAVATE: Number two, in my opinion, it is a surrender to the multi-national Union Carbide. Number three, it constitutes a denigration of the authority of Parliament in violating the Act which was already enacted. Sir, there is a callous disregard for human rights. There is a scientification of the simple settlement by the court. Therefore, I will conclude my discussion by saying that those of us, who are opposed to this type of settlement, are much disturbed by the retrograde judgement of the Supreme Court. We will continue to work through democratic and peaceful means through Parliament and outside to see that we get the Supreme Court judgement reversed and we see that the Government is not able to push forward such things.

SHRI SATYENDRA NARAYAN SINHA (Aurangabad): Sir, I listened to Prof. Dandavate with usual respect. I must say that some of the allegations made by him, like betrayal of interests of Bhopal victims, surrender of multi-national companies, callous disregard of human rights, appear to me to be not based on facts. Mr. Dandavate while starting this discussion referred to the conditions of those affected by the gas leak. We all agree with him that a large number of persons have suffered on account of the leakage and they are still suffering. It is because of this enormity of the human suffering, as the Supreme Court itself has said, that moved that Supreme Court to take a shortcut to provide a speedy relief to the victims of Bhopal gas leak. They have already said so in that order which explains it.

Sir, look at the time that has been taken in this case. For instance, it went to the District Court, USA and various other courts. Again, all the cases were consolidated and transferred in India. A District Judge was trying it here. It is still grappling with the interlocutory orders and has not proceeded beyond that. It has already taken four years. If you have any idea of how these cases are fought, I am sure, Prof. Dandavate will agree that it will go on and on at least for decades. Does he want that the gas victims should not be compensated, should not be given relief or should not be rehabilitated and wait for the final judgement of the courts? I think, the Supreme Court has taken a very extraordinary step. It has to be commended. It is the human consideration which weighed with them. It has outweighed all other considerations legal formalities, procedures, etc. They came to the decision that they should be given and they have made an award of \$ 470 million. This is also not arbitrary. They came to the conclusion after taking into account the decisions by the District Judge as well as the Madhya Pradesh High Court. The Madhya Pradesh High Court had made certain calculations on the basis of which the Supreme Court has come to this conclusion and awarded \$ 470 million.

16.45 hrs.

[SHRI SOMNATH RATH *in the Chair*]

My friend, Prof. Dandavate says: Why did you wait for four years? Why did you not accept \$ 300 million reportedly offered by Union Carbide three or four years ago. Perhaps the total interest together would have added up to this amount of 4.70 million dollars now being given. We have lost valuable time and money too. I would like to invite the attention of Prof. Madhu Dandavate and other friends to what was the offer made by the Union Carbide. They are supposed to have made an offer for 300 million dollars payable in instalments spreading over a period varying from ten to thirty years. If you take all that into account, you will find that it would have been half the amount. Prof.

Dandavate also referred to our claim of 3 billion dollars. We did make that claim but it was estimated on the basis that it was going to take at least 20 years because if the case was to go through all the stages such as Trial Court, High Court, Supreme Court, then execution of decree and all that, it will take 20 years. Why not calculate it and find out that this amount roughly represents what the victims would have got 20 years hence? What was of utmost importance? The victim should get immediate relief and compensation.

SHRI SOMNATH CHATTERJEE (Bolpur): How much money will they get per head?

SHRI SATYENDRA NARAYAN SINHA: That will have to be made later. So, it is necessary that relief should reach them as soon as possible. This was the main consideration with the Supreme Court when they made this award.

They have said "..... to enable the effectuation of the settlement civil proceedings relating to and arising out of the Bhopal gas tragedy hereby stand transferred to this court and shall stand concluded in terms of this settlement." I do not think that you have dispute with this particular portion. The main grievances could be criminal proceedings relating to and arising out of the disaster having been squashed wherever they are pending. Why was this done? The judges were anxious that whatever judgements that have been made should be implemented forthwith and the Union Carbide must make deposits by 23rd March. They have kept the case pending till 4th April so that they don't go back. In order to ensure that the Union Carbide accepts this settlement and acts accordingly, they have taken all these extraordinary steps. This does not mean that they do not have any regard to human rights. The under current always was that they wanted that this compensation business must be finished soon and money should be made available to the victims as soon as possible. For that a suitable machinery has to be evolved. I understand that the Bhopal

Government have already appointed a High Court Judge as the Commissioner for welfare of the victims. I still go further and say that Government should evolve a suitable machinery headed preferably by a retired Chief Justice of the High Court to ensure that the payment is made smoothly and fairly. The Minister for Relief for Bhopal has made a statement. He has said that there is need for such a machinery. He also said that depending on the past experience, money does not reach the people in the quantum which is intended and to the right persons. There are touts, middlemen and whenever the Government starts disbursing the money, the prices of commodities go up and troubles arise. Therefore, my suggestion to the hon. Minister would be that a suitable machinery should be evolved to be able to make disbursement equitably and fairly to the victims.

A point was made that as the Central Government as also the State Government has incurred some expenditure over relief and rehabilitation and that is perhaps to the tune of Rs. 80 to Rs. 90 crores, they might deduct this amount and it will further reduce the quantum of money available for compensation to the Bhopal gas victims. I would make a suggestion to the hon. Minister that the Government should show a good gesture by saying that they are not going to realise this money out of this amount.

I would also suggest that the Government should continue to look after the medical needs of the victims.

I have gone through some papers and find that the Government have already started various schemes to rehabilitate these victims. They have provided sites in the industrial estates, provided certain avocations to them, and helped them by giving loans etc. Almost all help is being given.

In this connection, I would also say that if cash is to be paid to the victims, there is an apprehension that the money may be spent not in a useful and productive manner. I

[Sh. Satyendra Narayan Sinha]

would make a suggestion that a bank account should be opened and we might create some kind of a fund which will generate regular income for the victims, so that money is not squandered over unnecessary things.

It was said that it is a surrender to the multinationals. It is not a question to surrender at all. In a way, the multinationals have submitted to our jurisdiction. The Union Carbide could very well have taken a different attitude. Suppose if the Indian courts had awarded a decree, would it have been possible to execute the same in India? Does the Indian subsidiary of the Union Carbide have enough assets to satisfy the decree? We might have to go to the United States for execution of the decree and you can well imagine how much time it would have taken. Now, the Union Carbide have agreed to surrender before our court's jurisdiction and agreed to pay this money. I would not say that it is a betrayal of the Bhopal gas victims... (*Interruptions*)

PROF. MADHU DANDAVATE: I used that word - betrayal, because I could not find a stronger word.

SHRI SATYENDRA NARAYAN SINHA: It is not a betrayal at all. Human considerations may be responsible for this judgement. You will agree that the victims must be given succour immediately. That is the main consideration.

SHRI SOMNATH CHATTERJEE: You have done very well of a very bad case.

SHRI SATYENDRA NARAYAN SINHA: Documentation of the injured persons and victims is being done. I hope it will take two or three months when we will know exactly the figure pertaining to the victims who have to be given compensation. The amount has been arrived at on the basis of a certain formula by the Madhya Pradesh High Court. The cases which went for the final judgement, with regard to them, the Madhya Pradesh High Court assessed that for seri-

ous injury each person should be compensated by giving Rs. 2 lakhs or Rs. 1 lakh and fifty thousand depending on the nature of the injury. Then, there were various facts and circumstances before the Supreme Court and the Supreme Court took all these facts and circumstances into consideration before coming to the particular amount to be paid as compensation.

DR. DATTA SAMANT (Bombay South Central): About 2 lakh claimants are not traceable.

SHRI SATYENDRA NARAYAN SINHA: About 5 lakh people have asked for the claims. All of them will not get the compensation because it so happened... (*Interruptions*)

MR. CHAIRMAN: You can ask clarification from the Minister concerned and not from the Member. Please allow him to speak. You will have your say.

SHRI SATYENDRA NARAYAN SINHA: May people filed the applications for the claim. It has to be scrutinised now and it is being done.

My submission is that Prof. Dandavate should not criticise the Supreme Court judgement and on the contrary the judicial activism shown by the Supreme Court is innovative which Mr. Somnath Chatterjee will also agree and we should commend it. Secondly, I would request Prof. Dandavate, who is a very very reasonable person, not to carry out what he has said, because that creates a cloud of suspicion all around. If you are proceeding democratically, then you should accept the Supreme Court judgement because it is the highest court of the land and its judgement have to be accepted.

PROF. MADHU DANDAVATE: Did you accept Shah Bano judgement?

MR. CHAIRMAN: No, side talk please. Order, order.

SHRI SATYENDRA NARAYAN SINHA: With these words I support the judgement of the Supreme Court and I would say that the Supreme Court has taken very extra ordinary step in seeing that the victims get relief as expeditiously as possible.

SHRI V. SOBHANADREESWARA RAO (Vijayawada): Mr. Chairman, Sir, first of all I would like to seek a clarification from the Government on the fact as to whether there was an out of court settlement prior to the Supreme Court pronouncing its judgement. Sir, if there was an out of court settlement, I would like to say with deep pain in my heart that it is nothing short of a sell out to these multinationals. I would also say that this is a mere stabbing in the backs of the Bhopal Gas Victims.

The Union Government which itself demanded 3250 million dollars has now accepted a paltry sum of 470 million dollars. As you are aware, it was estimated that more than 3300 people were killed. We find that the death claims filed for compensation come to around 4135. Nearly five lakh and eighty thousand people have claimed that they were affected by the gas leakage.

17.00 hrs.

The consequence are disastrous. Just a few hours back, we have gone to the Boat Club Lawns to see the gas victims. My predecessor, Prof. Dandavate, has already described their plight and I would not like to repeat what he has said. But, I would like to add just one thing. Apart from the disabled ladies who have come to Delhi to protest, there are many many thousands of children in Bhopal, who are suffering the ill-effects of the gas leakage.

The Indian Council for Medical Research has conducted a study which is quite alarming. The overall infection rate in the babies born subsequent to this disaster has increased and there is also a high incidence of fever, cough, cold, loose motions and acute respiratory problems among the children born after the gas tragedy. In the age

group of 0 - 5, reduced lung capacity coupled with crepitations was registered at a rate of 10.13 percent, while in the case of normal children in the very same age group, it is well below 0.37 percent. Also, among 26 percent of the gas-hit children, symptoms of breathlessness are still continuing even now.

On that disastrous day, nearly 2,117 pregnant mothers inhaled the poisonous gas and delivered their babies. Of them, till now 232 infants have died and we do not know what is in store for the remaining children.

Not only are these affected people suffering now, but future generations of these families may also suffer some disorders because this gas leakage can lead to genetic effects as well.

While this is the magnitude of the damage that has already occurred and while much more is still in store, how has the Government accepted this settlement?

When the Union Carbide had earlier come forward to give \$ 350 million, the Government had turned down the offer saying that it was defying credibility and logic. Even the mooted compromise figure of \$ 615 million was described by the Government as wholly inadequate. If we take into account the compound interest and expenses incurred, the Government has now virtually accepted the very same offer which was once considered to be ridiculously low.

I would like to say that the Union Government has let down the nation and it has done great injustice to the gas victims of Bhopal. While the responsibility of the Government is to ensure that justice is done to the gas victims, it has deceived them. If I am to use an apt expression, it is just like the fence eating the crop instead of protecting it. If the Government has any genuine interest in or sympathy for these unfortunate victims, it would not have accepted this settlement. As mentioned by Shri Satyendra Narayan Simha, the Government is very anxious for some settlement or the other. That is why, it

[Sh. V. Sobhanadreeswara Rao]

was prepared to accept the settlement which is not at all just and fair.

From the year 1984-85 to 1986-87, the Government of India has given only Rs. 76 crores as loan at an interest of 9.5 percent, which is very inadequate. The Union Government has not spent any money from its pocket. During this year, that is 1988-89, it has advanced a loan of Rs. 10 crores to the M.P. State Government.

How can you provide relief and rehabilitation with this paltry amount? This is the question. Even the Ninth Finance Commission in its interim report has recommended that the Union Government must clear the Seven Year Action Plan as proposed by the Madhya Pradesh Government to the Union Government. What action did the Union Government take? Was that recommendation of the Ninth Finance Commission accepted? Let the hon. Minister clarify that point.

This Government has already yielded to these multi-national companies. As our learned Prof. Dandavateji has said, it has allowed the Pepsi Cola. Now it is yielding to this Union Carbide. The Union Government had also permitted the same Union Carbide to close down its Chembur Unit in Bombay much against the interests of thousands of workers who are working there though the company is making lot of profits. Somehow it is unfortunate on the part of the Government to bow down to these powerful trans-national companies. It has mortgaged the rights of the victims. Now the Union Government does not have money for helping the Bhopal victims. If the Union Government is prepared to spend a good amount of money for providing relief and rehabilitation to the Bhopal Victims in a greater measure, the Government need not accept this settlement which is much below their original demand which they claimed. But unfortunately, the Government spends a lot of money on national and international trade fairs or festivals. Even the Prime Minister's foreign tours

have no dearth of funds. He goes on and on. The Government spends any amount of money on his tours but they don't have money which is needed for helping the Bhopal victims. It is most unfortunate on the part of our Government to accept that the life of an Indian to be so cheap. It has no value. If you compare them with the citizens of the USA, they have no value. That is what they think. In USA to which the Union Carbide belongs, an asbestos giant Manville Corporation which was dealing with asbestos was struggling for half a decade with thousands of people claiming damages for lung diseases which was caused by the asbestos which it was putting into ships and buildings since World War II. It has to pay nearly Rs. 3000 crores. It has set up a trust for paying compensation to the claimants. When that is the case, why did the Government accept this paltry sum? With due respects to the learned Judges of the Supreme Court, I wonder why did they give a judgement of this nature when the matter pending before the Court was purely relating to interim relief? Regarding interim relief, a judgement was given earlier by the Bhopal District Court which said that nearly Rs. 550 crores should be given to the victims who are affected by the gas which may be adjusted against the final decree. So, the main problem is how did the Supreme Court gave this judgement making a full and final settlement with the Union Carbide? It has not taken any evidence. It has not consulted all the parties concerned apart from the Union Government as Prof. Dandavate has said. There are two organisations which are representing thousands of victims who are suffering even today. They have not taken any evidence of those people. It has given a full and final judgement. It has given a judgement saying that in present, past or future, nothing can go against the Union Carbide. May I know whether the Government is defending the Bhopal Gas Victims or it is defending the Union Carbide. You just go through Section 3a of the judgement. Instead of discharging its responsibility to defend the Bhopal gas victims it has agreed that if at future date somebody goes to court our Government of India as well as the Madhya Pradesh Gov-

ernment will fight on behalf of the Union Carbide.

Is there any more unfortunate part of the judgment than this clause? This judgment has negated the rights of the victims, fundamental rights to seek justice from a prior forum. By giving this judgment, they have denied the people of Bhopal their fundamental rights. It has transgressed the Bhopal Gas Leak Disaster (Processing of Claims) Act, 1985 which was passed by this Parliament. Therefore, they have taken away the powers to the Parliament also. How can the Supreme Court give such a judgment? I demand that the Union Government should try to revoke this judgment, obnoxious judgment. I also demand that the government should do it immediately.

It is quite disturbing to find our Attorney General, Mr. Parasaran, saying that it would take 350 years to decide on the 5.7 lakh of claims currently lodged with the government. How can Bhopal gas victims get any justice from such an Attorney General who has no sympathy for those victims? He himself is saying that 350 years will be taken. Is it not his duty to plead for the gas victims? Is he pleading for the Union Carbide? I demand that the Union Government must advance at least Rs. 300 crores immediately to provide relief, rehabilitation and succour to the victims and proceed legally to get proper justice to victims.

I also demand that the Union Government should accept the recommendations of the Ninth Finance Commission in its interim Report on the Action Plan and help Bhopal gas victims.

With these words, I conclude my speech and thank you for giving me time to speak on the subject.

[Translation]

SHRI K.N. PRADHAN (Bhopal): Mr. Chairman, Sir, the world's greatest disaster occurred in Bhopal. It has been most unfor-

fortunate that we people could not assess properly the aftermath of this tragic incident. Nor could we properly attend to the needs of the victims of this mishap.

17.13 hrs.

[MR. DEPUTY SPEAKER *in the Chair*]

In such matters, it is expected from our colleagues of opposite side that they will highlight the issue and suggest course of action most beneficial for those hapless people. But I am sorry to say that our colleagues from other side did not stand to the test of time and since the very first day this gas-tragedy occurred, they tried to gain political mileage out of it. They have not shown any sympathy for the gas-affected people. (Interruptions) Please listen to me. (Interruptions)

The hon. Prime Minister, Shri Rajiv Gandhi was the first political leader to reach Bhopal after the tragedy. No other political leader did likewise. None of them thought of going there to make an on-the-spot assessment of the extent to which people had been affected. This shows how much sympathy they have for the poor.

Hon. Prof. Madhu Dandavate pleaded the case of the poor very strongly. No matter how many political parties have been changed by Shri Dandavate, still I consider him to be basically a socialist. I regret to say that he has not said anything as to what can be done to help the gas victims. Using complex jargon, he has tried to create a cloud of suspicion over this settlement. There is an old saying that even Hakim Lukmaan did not have any remedy for suspicion. So nothing can be done if the hon. Member has suspicious mind. The hon. Member has nothing to gain, however, loud he may be in his criticism. The fact is that he has never tried to understand the problems facing the Bhopal gas victims. (Interruptions) We have been trying to make you understand but they would be able to understand only when they bid *adieu* to the coloured glasses they put on (Interruptions)

[Sh. K.N. Pradhan]

Those who do not know anything about it deliver long speeches containing empty words of sympathy. But I shall explain the plight of gas victims in detail. *(Interruptions)* It is not us but you people play the role of American agent which I can prove even.

Mr. Deputy Speaker, Sir, at present two to three points are at issue. Firstly, whether the amount of compensation to be paid is enough, secondly whether the judgement is correct or not and lastly but not least as to what will or should happen to the gas victims in the wake of the court's judgement. For a person who thinks rationally, or who is honest, patriotic and compassionate to the gas victims, the third question is most important. But this hardly matters for colleagues from other side as they are not concerned about it. *(Interruptions)*

Hon. Members of the Opposition criticised the court judgement. Hon. Shri Dandavate said that the judgement should be rejected. Let me say that I am not a mere representative of the gas victims. I am a victim myself. The area where I live was also affected by the gas leak although in a minor way. I am telling this because they do not fully understand the plight of the gas victims.

Though very less amount of gas had reached the place of my residence, now I find that my liver, lungs and heart had been affected by the gas. As a Member of this House, I enjoy a lot of facilities. I got my health checked up at the medical centre at the Parliament House Annexe, in Dr. Ram Manohar Lohia Hospital and in a hospital in Bombay and also by the renowned physicians. But these facilities are not available to the hapless victims of the Bhopal gas tragedy. I am telling this so that you could just imagine what would be the condition of those people who were residing at the places where the leaked gas was much thicker. *(Interruptions)*

I beg your silence please so that I may make my point. It is not a matter to be jested

about. Please listen to what I am saying I was going to tell that our bureaucracy did not understand this aspect fully. They did not pay special attention to it and dealt it with their usual manner in which they used to do at the time of natural calamities such as tremors, drought or floods which caused some damages and passed off over the time. But this is not the position with the gas tragedy. A gas victim may look like a man of sound health outwardly and a medical check up may not detect any specific ailment in his physique in the first instance, but in reality it is seen that his resistance power has gone down and his lungs and liver have been affected. 3,500 people died there and 15 to 20 thousand people became seriously ill. Thousands of people, though they are not immobile and carrying their activities like a person of sound health, are in fact ill. After the gas leakage I began to feel suffocation, but I did not care for that. Only when I felt giddiness and restlessness, I realised the gravity of the problem and felt that this must be the position with all the gas victims of Bhopal. To-day a gas victim, may look like a healthy person outwardly, but nobody knows when he will be aggravated by some ailment all at a sudden. The most important thing is what will be the fate of the victims. I would like to lay stress on the very point that whatever may be the cause of the tragedy, the future of the gas victims is uncertain. The Government will have to take suitable measures to secure their future. Our hon. friend Prof. Madhu Dandavate said that he did not want to cast any aspersion on the judgement of the Supreme Court. In this connection, I would like to emphasize on the point that when we had no intention to cast any aspersion on any one, why so much hue and cry was made. The only thing I would like to say is that the amount of compensation is very meagre. I am not one among those who would take a political advantage of this situation by rousing the public sentiments so as to bring them in their fold. The Victims are too wise to be befooled. They know what is good and what is bad for them. At the time of election also, the entire opposition had made utmost effort to have any inkling that people were disenchanted with the Con-

gress Party. But on the contrary 70 per cent votes were cast in favour of Congress Party and not only this the Congress Party got 85 to 95 percent votes in those areas which were the worst affected of this tragedy. The people reposed their confidence in Shri Rajiv Gandhi that their interest would be safeguarded and even today they continue to have confidence in him. I am not saying this thing as to what those people were doing who are not present in the House at the moment. Where from these huge funds came? Did you ever realise as to how influential the Union Carbide is. The company utilised them... (*Interruptions*)

PROF MADHU DANDAVATE: No such person has so far taken birth who could utilise me.

SHRI K.N. PRADHAN: When a proposal was mooted to take up the cases of compensation in an American Court scores of advocates from U.S.A. swarmed into Bhopal. They made efforts so that they may get the cases. Had the cases been taken up in the U.S.A. advocates from that country alone would have argued the cases and out of the total number of cases some cases could have been proved and some cases could not. They would have remained worried for their fees which they were to get only when there was a positive decision. When the people get rid of these advocates, the Union Carbide arranged such people who filed scores of different cases in a bid to sabotage the law suit. The judgement of High Court has been referred to in connection with interim relief. You have enquired as to how the Supreme Court arrived at this decision. In this connection I would like to tell you that the court was misled by the cases filed on behest of you people at intervals and the wrong information provided by them. The High Court ordered that a sum of Rs. 250 crores should be paid as interim relief. The High Court also decided that at the time of making a final settlement the amount of compensation should be paid at the rates of at least Rs. 2 lakhs to the next of the kin of the deceased, Rs. 2 lakh to those who are seriously ill and Rs. 50,000 to those who re-

ceived minor injuries. In so far as interim relief is concerned, they were of the view that people who are seriously ill or the next of the kin of the deceased should be paid Rs. 1 lakh each, those whose injury is of slightly lesser degree should be paid Rs. 50,000 each and those who received minor injuries should be paid Rs. 25,000 each as the minimum amount towards interim relief. What does it mean. It means, that according to supreme Court's views, double of this sum could be the full compensation. Rs. 250 crores, when doubled, becomes Rs. 500 crores. The company gave Rs. 715 crore. I also say that it is a smaller amount. Now I would like to ask Prof. Dandavate if he will be able to provide justice to those poor people who died or became disabled and whose case he pleaded so vociferously and for whom he shed crocodile tears in his speech. Could the hon. Members, who are sitting here, tell me as to how many cases are pending in their district courts. Why these cases are not crossing even the preliminary stages? What time would have those cases taken to reach the High Court and the Supreme Court stages? Even then nobody knows what time would have these cases taken in the courts of the U.S.A. and the number of stages they would have been required to pass through there. The renowned jurists in our country have opined that this case might have taken at the least 20 years. What will be the value of this money after 20 years? You have calculated the value of earlier money. But you are not prepared to tell as to what will be the value of money that the poor people are about to get right now. Several of you will raise the question as to what will be the position once the case is rejected? How the money supposed to be received will be received and who will execute the deal. The Supreme Court has show its wisdom, because the Court delivers its verdict on the basis of facts placed before it. If democracy is alive in this country it is only due to the fact that the people of this country believe in democracy. But one cannot deny that the judiciary played a significant role in strengthening the roots of democracy in this country. Only those people who have no faith in democracy or who want to cause damage to

[Sh. K.N. Pradhan]

the very root of democracy can cast such aspersions. We cannot cast any aspersion on the judgement or the judges of the Supreme Court. The persons who criticise the rehabilitation work did not take it in its right perspective. In no other industrial disasters of similar magnitude in the world, the rehabilitation work was taken on such a massive scale as in the case of this tragedy. This thing you can confirm from the world history. You may cite the examples of any rehabilitation work you might have come across. The U.S.S.R. was struck by a severe tremor recently. What has been the position there. In the case of flood and drought also, the rehabilitation work never comes upto mark. As compared to them, it is a very serious tragedy. Nobody on this earth can compensate the losses caused by disasters of this nature. The members of the family of the deceased in the disaster were paid at the rate of Rs. 10,000 each and as many as 83,000 persons were paid at the rate of Rs. 1500 each as interim relief and more than one lakh people were given free ration for more than a year. Hospitals and dispensaries were opened. Work is being undertaken to improve the environmental condition. All these works have been executed by the Government. One thing is certain that you people believe in making only irrelevant talks. You want to enjoy feasts sitting on the bodies of deceased persons. I would also like to tell a few things to the hon. Minister of Industry that we have not been able to understand the Bhopal gas tragedy in the right sense of the term. I would also like to tell a few words about the bureaucracy and the officers. Democracy is prevalent in this country and it is expected from people's representatives that they at least come up to the aspirations of the people. We can make a proper assessment of the situation taking into account the human factor. But the bureaucrats are stone hearted persons. They have no humanitarian feelings. As such this work should not be left on them alone. The Government should not treat the decision of the bureaucracy as its policy and final word that nothing further can be done once decision is taken by them

without taking its pros and cons. This tragedy is so severe in nature that though the tragedy has passed off but its aftermath is not only affecting the present generation whose longivity has been reduced due to low resistance power but will continue to affect the next generation also. When a postmortem was conducted on the bodies of still born children and those who died few days after their birth and a medical check up was arranged for the women who conceived after the gas leakage or who were pregnant at the time of gas leakage, it was found that they have been affected. It proves that the next generation will also remain affected. Some contents of cyanide have been found in the children who are alive today and some or the other part of their body has been affected. Let us bear with the fact that the Union Carbide has been acquitted of the charges for the past, present and future. But it becomes our moral duty and it is also the moral duty of the Central Government to secure the future of those persons who have been affected by the gas. Even today at least 2 persons die daily due to after effects of gas disaster in Bhopal every day. Their case is different who die in the natural course. If we make an honest survey, it will be seen that the number of natural deaths is more than the number of unnatural deaths. It is because the people lost the power of resistance. Every dying person in Bhopal dies much ahead of his natural death. You can imagine the condition of the gas victims from these figures. Even today about 15 to 20 thousand people are found to be seriously affected who need prolonged treatment. As Shri Datta Samant was telling just now that there was a proposal to rehabilitate 5 lakh people. Out of this figure there were some workers who left the place and some others came there. It is absolutely right that all those present in Bhopal were affected. They did not go anywhere. But it is not so as you say. Rather, when free ration cards were distributed and the question of providing houses came up, some labourers from Uttar Pradesh and such other places came there so that they could get something on this pretext.

I, too was approached by a few individuals to sign certain documents. But I refused to do so. How could I certify that he had been living there. Anything could happen in future. Confining myself to this, I would like to give a few suggestions and hope that the hon. Minister would pay adequate attention to them.

(1) Neither the Central Government, nor the Government of Madhya Pradesh or Corporation of Bhopal or other semi-Governmental organisations should have any authority to claim any amount out of the amount of compensation to be given by the Union Carbide.

(2) Till now, the Central Government have advanced an amount of Rs. 91 crores in the form of loans out of which Rs. 89 crores have already been spent up and the remaining amount of Rs. one or two crores will also be spent for the same purpose. As a matter of fact, it wouldn't be proper that the amount of Rs. 91 crores, which had been advanced to the Madhya Pradesh Government by the Central Government whether in the form of free loan or in any other form, and which has been spent up by them for that purpose, should not be deducted from the amount of compensation.

(3) Since the said amount has been given by the Central Government itself, so it should be treated as a grant given by them to the Government of Madhya Pradesh.

(4) The Government of Madhya Pradesh have submitted a seven year Action Plan costing an expenditure of Rs. 371 crores. There are some officials who are least bothered about the matter and they say that now it is for the Government of Madhya Pradesh to look to it what action they take after verdict of Supreme Court. But if the matter is viewed from humanity point of view, the Central Government have got a responsibility in this regard. So the seven year plan which will cost an expenditure of Rs., 371 crores, should be sanctioned in order to improve the lot of those people who have survived the tragedy. Whether your officers

intend to close down all these creches which have been working there and deprive the infants and the carrying mothers of the milk, food stuff and nutritious meals which we have been providing to them there.

Sir, whether the Government proposes to close down all the new hospitals which have just been opened and expanded or whether this Government intend to close down all those dispensaries which we have opened up there. I think that the Government must not be having such intentions.

Gas tragedy has adversely affected the resistance power of the people. In view of their reduced efficiency, the people residing there should be provided with such jobs to which they can attend efficiently. Many sheds have been opened up there for the purpose but still we have not been able to provide adequate employment. So, Sir, I would urge upon the Government to expedite the work for completion of the proposed plan to develop Bhopal as Garment Zone. The new industrial area which has just been declared by the Government and the foundation stone of which was laid by you, is now being developed. It would provide employment to several thousand people. Would you like to drop the plan of this industrial area? In the same way we need to improve the environment, for, everybody is aware of the health-hazard. Would you like to discontinue the preventive measures being taken in this regard? You must give an extensive consideration to all these aspects.

We have high hopes in the industrial area which is being developed there. The Government should keep the development plan alive in order to fulfil our aspirations. The Central Government should allocate the required amount of Rs. 371 crores for the proposed plan. The required facilities like railway container service, at national and international level, should be provided for it. The Railways and other public undertakings should also make available their ancillary services. Moreover, international cargo services for this area should be started by the Airlines. Custom authorities should also

[Sh. K.N. Pradhan]

provide the facilities of dry port. While the department of textile in the Ministry of Commerce should grant special quota for Garment Export. Similarly Export Corporation and small scale industry corporation of the concerned State should give special recognition to it. Approval Export Promotion Council should start training centre with their own funds.

Besides, I would like to submit a few things more about the gas tragedy. Specific quantity of MIC was stored there. 42 tonnes of gas had got leaked and 20-22 tonnes has been left with them as residue. The Government should take adequate safety measures against any possibility of negligence on the part of the concerned authorities causing leakage of gas and thus endangering the lives of people again. So I would like to urge upon to Government to get the residue destroyed in a safe manner.

Sir, whatever has been the verdict in the case of Union Carbide, it should not be permitted to operate any of its units at any cost because the local residents of that area have an aversion for the very name of Union Carbide and they get agitated with it and a horrible sight of death appears before their eyes. The total area of 87 acre land given to the Union Carbide by the Government of India on lease basis, should be utilized for the welfare of the gas affected people.

Sir, I am fully confident that adequate attention would be given to these suggestions of mine. I have mentioned it very dearly that so far as the amount of compensation is concerned, it is totally inadequate. My hon. friend, Prof. Madhu Dandavate has opposed it. I would like to say that he should not try to achieve his political ends through this issue. If he has got real sympathy for the gas affected people and if he is really an able man, he should suggest the ways to get the maximum amount of compensation and also decide the matter at the earliest. If he can assure me on this point, I will also assure him

that I would ask the Government to have positive attitude on the matter. He might have been associated with different political parties at different times, but I consider him basically a socialist. It is due to this reason that I am saying all these things to him. If he succeeds to achieve a higher target in regard to the amount of compensation without any delay, I would personally ask the Government to be positive in this regard. We wouldn't let the Government throw the poor people into the abyss of uncertainty. We would continue our struggle against the Central Government to achieve something higher to compensate them. It does not behove opposition parties to start a tirade against judiciary in such a defiant manner. In fact, the judiciary have contributed a lot to strengthen our democracy.

[English]

SHRI SAIFUDDIN CHOWDHARY (Katwa): Mr. Deputy-Speaker, Sir, the hon. Speaker was very right in the morning to say that all the Members wanting to take part in the debate will be given enough time because this is a very important issue and a very sensitive issue.

Sir, the initiator of this debate, Prof. Dandavate, has referred to the Judgment or the Order of the Supreme Court and said that it has extinguished the past, present and future of the liabilities connected with this case. I feel it is our duty to resurrect the past, present and future connected with this case. This settlement is a betrayal of the country, its people, specially the victims of the tragedy who are facing the traumatic effect even today and who continue to face it in the years to come. Now, Sir, this settlement, which has come as the order of the Supreme Court, is the third betrayal. The first betrayal took place when the Government colluded with the multinational Carbide Company in allowing their operation without proper safety arrangements.

AN HON. MEMBER: You are wise after the event.

**SHRI SAIFUDDIN CHOWDHARY:** You become wise now. (*Interruptions*)

The second betrayal took place when the accident occurred and Government did not come to the rescue of the people and prolonged their sufferings through delayed action in regard to judicial remedy and allowing Warren Anderson to go scot free. The third betrayal, the biggest and most scandalous, took place on 14th February this year when the Government reached the so-called settlement with the highest court of the land failing to deliver justice.

Many times in the past we expressed our apprehension that this Government would go for an out of court settlement. You can go through the record and you will see, many times from these Benches we expressed our anguish, we raised our voice that they are not at all careful to prevent this multinational Carbide Corporation to subvert our attempt to reach relief to our people, to get proper compensation from them. Now, Sir, if we refer to the past a little bit, you will see that this suspicion of ours increased when we came to know that despite the fact that the Carbide Corporation constantly violated the safety norms in Bhopal, the Government officials and Ministers in Madhya Pradesh continued to defend their action.

Now, the Union Carbide which is infamous in USA as the environment's enemy No. 1 among the US multinationals was served re-location notice as early as in 1975 by the Municipal Administrator M.N. Buch. But a Minister in M.P. Assembly replied to this when it was raised in the House. He said, "It was not a stone that it could be lifted and taken out." Ironically Buch was transferred later. Now, you see what is behind all these things.

Now, Sir, the first phosgene leak took place on December 26, 1981. One person was killed. Fourteen days later, MIC gas leaked from this plant. Twenty-four people were affected. Despite all this, in December 1982 the State Labour Minister defended the present location of Carbide in the Assembly.

Sir, in May, 1982, a safety audit team from Carbide (Hqrs.) from U.S. came to Bhopal to check the safety status of the plant. The team pointed out 10 major flaws and some of them are run-away reaction due to several factors and reduced surveillance. UCC officials admitted that Bhopal safety was not up to the American standard. Now, we have our own scientists who inquired as to how all this happened in Bhopal. The Varadarajan Committee of 1985 said:

"The needless storage of large quantities of the material MIC in large size containers for inordinately long period as well as insufficient caution in design, in choice of materials of construction and provision of measuring and alarm instruments, together with the inadequate control on system of storage and on quality of stored material exhibiting instability led to the accident. Combination of conditions for the accident were inherent and extant."

Now, everybody knew all this. The employees there brought this to the notice of the people of this country. They pasted posters that this plant was going to kill the people. Many reports were prepared. They gathered dust.

Now, after that, when the accident took place, what did you do? I am not going into what our Government did, how many crores of rupees were spent for the relief and all that. The victims are there to speak about that. Now, why did you spend such a long time in running after U.S. courts. Who killed the time, who denigrated our judiciary here? Who ran after the U.S. courts? Before the Court of Justice Kennan, our Government submitted that Federal judicial system was the most appropriate forum of a just, speedy and equitable resolution of all claims. That means, our Government by their own submission, denigrated our judicial system and said, "U.S. system is much better to give relief to the victims who are in Bhopal." Now, it is true that compensation in U.S. is much more and law is also simpler. Now, they have gone much beyond what we have in

[Sh. Saifuddin Chowdhary]

our law in defining the product liability also. If somebody is harmed due to use or by the effect of a particular product of a company, then that person is entitled to claim compensation from that company. I do not want to go into all the instances. In 1980, \$200 million to former American servicemen in Vietnam who had been injured by exposure to agent orange, a devastating defoliant, was paid as compensatory money by the manufacturer because the judge ruled that the company owed "product liability" for causing the injuries.

But in our country, we have to prove that the company was negligent. But again we had faith in our own judicial system. They introduced innovatives. In the case of Shriram Food and Fertilizer Plant, Justice Bhagwati has shown that innovativeness. In December, 1986 when he gave the ruling, he said:

"We are of the view that an enterprise who is engaged in a hazardous or inherently dangerous industries which poses a potential threat to the health and safety of the persons working in the factory and residing in the surrounding areas, owes an absolute and non-delegable duty to ensure that no harm results to anyone."

The enterprise must be absolutely liable to compensate for such harm. This is the landmark judgement we have in our country. The Supreme Court by its 14th February judgement has undermined this achievement. You have allowed multi-nationals to go scot free. Why were Shriram Food and Fertilizers treated differently and this Carbide is treated differently? It is because they are Americans and they are superiors. Life is more valued there and cheap here! As the Carbide submitted to the court in USA you cannot apply the same standard for the valuation of life in USA and India. Life is cheaper here. But, Carbide's reach is very high. When the interim relief order, the compensation order was given by the Bho-

pal District Court, when Mr. Justice Deo gave the order, they raised a hue and cry. They wanted the case to be transferred from the court of Justice Deo. How did we react on this demand? You will be surprised to know that Justice Deo was transferred.

SHRI SOMNATH CHATTERJEE:  
Transfer by promotion.

SHRI SAIFUDDIN CHOWDHARY: We have all respect for the judges of our country and, for the judicial system of our country and, for the courts of our country.

When our Government was trying to have the case taken up by the US courts, Justice Kenan said:—

"It was not right for an American court to retain the litigation. This would amount to imperialism. The Union of India is a world power and its courts have the proven capacity to mete out fair and equal justice."

That is the opinion of Justice Kenan. Justice Kenan while sending the case to India gave three conditions to Carbide. These are very important, Mr. Vengal Rao. You mark it.

MR. DEPUTY SPEAKER: He knows what question you are raising. Therefore, already he has marked. Don't worry.

SHRI SAIFUDDIN CHOWDHARY: He says if the Carbide refused to accede to it, then the US court will again take up the case. What were the conditions? These are very important. The Union Carbide shall consent to submit to the jurisdiction of the courts of India and shall continue to waive defences upon the statute of limitation.

All this talk of going back to 20 or 50 or 350 years is all bogus.

The Union Carbide shall agree to satisfy any judgment rendered by an Indian court, if applicable and upheld by an appellate court in that country where such judgment and

affirmance comport with minimal requirement of due process. And the third was that Union Carbide shall be subject to discovery under the model of the United States federal rules and civil procedure after appropriate demand by plaintiff.

Justice Kenan stated these conditions and Carbide got a stay on the third condition. However on those conditions, the case was transferred to India.

Justice Kenan gave another landmark verdict in this connection. Where we are making it UCIL, Justice Kenan made it Union Carbide Corporation.

So, all the advantages are there in favour of us. Why should there be delay? These are our courts. Our courts are human courts. Lakhs of people are suffering there. They are mutilated and maimed. We cannot be insensitive. We cannot allow to delay the process of law. But, then why this talk of 20 or 50 or 350 years? Do you have no concern?

There is another interesting aspect. I believe all this should come to the notice of the people. When we filed our cases before the Bhopal District Court, John A. Clerico, a Corporation Vice-Resident and treasurer, filed a special affidavit saying Carbide was prepared to pledge a minimum of \$ 3 billion in Assets in reserve to meet any eventual decree against it. He offered to furnish a quarterly certificate verifying the existence of such assets by the independent valuer without acknowledging liability for the disaster. They were prepared to give three billion dollars but they were not prepared to accept liability. For them, the point was liability. They have stated that they were keeping three billion dollars asset in reserve. They thought that our Courts will measure up to the needs of the situations. They thought that the demand that has been placed before them, three billion dollars, would be increased by the Courts to five billion dollars. That was how they were afraid of. But a judicial aberration took place. How did the settlement come about? Why did our Gov-

ernment accept it? Now you are talking about the sufferings of the people. You could have imposed a levy on our people like the levy on drought. It may be called the levy for the Bhopal Gas Tragedy Disaster Relief. We would have been very happy to give that money. All the people of our country would have been happy. But that requires prestige, self esteem and self-honour of the people who are concerned with it, if it is there. for example, if six crore people in a State in the East can raise thousands of crores of rupees to set up a Power Plant because the Central Government denied the money, then why can't the 80 crore people raise thousands of crores of rupees for these victims? We cannot wait for Union Carbide to give money to give relief to these victims. I am not going into the total amount at all. They were ready to give. They understood that they have to give three billion dollars. That was their fear. Why did we sabotage this? Why did we arrive at this settlement? You have to give an answer. When election approach you understood that you have to settle the issue. Why did you do all such things? As the settlement has come, Mr. Pathak has to go to the Hague. Why? Why he is going? Why we are sending him to the International Court?

SHRI DIGVIJAYA SINGH(Rajgarh): Sir, I am on a point of order. He cannot cast aspersion of the Chief Justice...(Interruptions) I rise on a point of order. He has alleged that Chief Justice Pathak, after delivering the judgement, is going to the Hague. This is an aspersion and should be expunged from the proceedings. (Interruptions)

SHRI SAIFUDDIN CHOWDHARY: No. Who is sending him? (Interruptions)

MR. DEPUTY-SPEAKER: I will go through the record. (Interruptions)

PROF. MADHU DANDAVATE (Rajapur): This is a misunderstanding. He didn't say hell' He said 'Hague'. (Interruptions)

*Settlement for Payment of  
Compensation to victims  
of Bhopal Gas Tragedy*

MR. DEPUTY-SPEAKER: It is not necessary to bring in his name. Why do you want to bring in his name?

SHRI SAIFUDDIN CHOWDHARY: I have not said anything about Chief Justice Pathak. *(Interruptions)*

SHRI SOMNATH CHATTERJEE: The Government is proposing his name. He has not cast any aspersions.

MR. DEPUTY-SPEAKER: How can you connect that with this now? You can criticise the Judgement. I have no objection. But we cannot discuss his conduct.

*(Interruptions)*

SHRI SAIFUDDIN CHOWDHARY: I have not criticised Chief Justice Pathak. But I have the right to ask a question. The Union Carbide took this case to the Supreme Court on the question of payment of interim relief. That is where they could adjudicate. Why did they go out of their jurisdiction? Why did the Supreme Court spare the Union Carbide of criminal liability? What amount of money can compensate this tragedy? You have to tell about this. We do not just take it like this. If you say that the judiciary has done it, then I must say that it is a judicial onslaught of justice. What has our Government submitted to Mr. Keenan?...*(Interruptions)* We submitted to the Court that we cannot just accept what they say. We said:

"A multinational Corporation has a primary, absolute and non-delegable duty to the persons and country in which it has in any manner...undertaken any ultra hazardous or inherently dangerous activity... Union Carbide failed to provide the Bhopal Plant highest standards of safety and failed to inform the Union of India and its people of the dangers therein. This failure meant the Corporation was primarily and absolutely liable for any and all damages caused by the gas..."

This is our Government's stand. What happened to this? The whole world is looking up to us as to what action we are going to take in this matter. What kind of a verdict is going to be given by our court because these multinationals are treated as enemies everywhere by the people? They harm the environment and they do not care for the lives of the people. In the United Nations, a Committee on the Transnationals are also observing this. And we have surrendered. I do not know how much money from this will reach the victims of the Bhopal Gas tragedy. I do not know. We appreciate that women in thousands came to the Boat Club and they said: "they are suffering but they do not want to be humiliated." They have self-respect. They wanted us to take it up seriously. What I demand now is that the Government should file a review petition in the Supreme Court for the reversal of this judgment.

17.59 hrs.

BUSINESS ADVISORY COMMITTEE

Sixty-fifth Report

[English]

THE MINISTER OF STATE IN THE MINISTRY OF PARLIAMENTARY AFFAIRS AND MINISTER OF STATE IN THE PRIME MINISTER'S OFFICE (SHRIMATI SHEILA DIKSHIT): I beg to present the Sixty-fifth Report of Business Advisory Committee.

MR. DEPUTY-SPEAKER: The House stands adjourned to re-assemble tomorrow at 11.00 A.M.

18.00 hrs.

*The Lok Sabha then adjourned till Eleven of the Clock on Thursday, February 23, 1989/Phalgun 4.1910 (Saka)*