BHOPAL GAS LEAK DISASTER

(REGISTRATION AND PROCESSING OF CLAIMS) SCHEME, 1985

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THE BHOPAL GAS LEAK DISASTER (REGISTRATION AND PROCESSING OF CLAIMS) SCHEME, 1985.

In exercise of the powers conferred by Section 9 of the Bhopal Gas Leak Disaster (Processing of Claims) Act, 1985 (21 of 1985), the Central Govt. hereby frame the following scheme, namely :–

Short title and Commencement.

(1) This scheme may be called the Bhopal Gas Leak Disaster (Registration and Processing of claims) Scheme, 1985.

(2) It shall come in to force on the date of the publication in the Official Gazette.

Definiton.

2. In this Scheme, unless the context otherwise requires:–

*(a) "Act" means the Bhopal Gas Leak Disaster (Processing of Claims) Act, 1985 (21 of 1985); *(aa) "Bhopal Gas Victims Monthly Unit Scheme" means the "Bhopal Gas Victims Monthly Unit Scheme, 1992" made by the Board of the unit Trust of India in exercise of the powers conferred by the Section 21 of the unit Trust of India Act, 1963, (53 of 1963);

(b) "Section" means a Section of the Act ;

(c) words and expressions used herein and not defined but defined in the Act, shall have the meanings respectively assigned to them in the Act.

Authorities for registration of claims.

3. The Deputy Commissioners appointed under section 6 of the Act shall be the authorities for registration of claims (including the receipt, scrutiny and proper categorisation of such claims under paragraphs 5 of the Scheme) arising within the areas of their respective jurisdictions and they shall be assisted by such other officers as may be appointed by the Central Government under section 6 of the Act for scrutiny and verification of the claims and other related matters.

Manner of filing claims.

4. (1) An application for claim shall be made to the Deputy Commissioner concerned in Form No. 1 or, as the case may be, Form No. 2 or Form No. 3 or Form No. 4 or Form No. 5 appended to this Scheme within a period of sixty days from the date notified by the Commissioner inviting applications for claims :

Provided that if the Deputy Commissioner is satisfied that the claimant was prevented by sufficient cause from filing the application for the claims within the siad period of sixty days, he may entertain the application for the claim within a further period of sixty days but not thereafter.

(2) Not withstanding anything contained in sub-paragraph (1) an application for a claim arising in future on account of the Bhopal gas leak disaster may be made to the Deputy Commissioner within such further period, after the expiry of the period specified in the provision to the said sub-paragraph (1) as he may specify from time to time.

(3) The claim may be made by any person affected by the Bhopal Gas Leak Disaster or, as the case may be, the spouse, children or other heirs of such deceased person or by a representative duly authorised by such person in this behalf or, in the case of a minor so affected, by his guardian.

(4) A separate claim form in respect of each category of claim specified in paragrape 5 of the Scheme shall be filed by each person having a claim. Each person filing a claim shall be considered to have a single claim regardless of the number of categories of claim included therein.

(5) The Deputy Commissioner shall provide the required forms for filing the applications free of cost.

Transfer of Application for claim.

*4 A. (1) Notwithstanding anything contained in paragraph 4, all applications received for **Claims whether before or after the commencement of the Bhopal Gas Leak Disaster (Registration and Processing of Claims) Amendment Scheme, 1987, by the Director of Claims or by any other officer specified in the order of the Government of Madhya Pradesh No. 373/691/I-Four/Coordination/85, dated 7th May, 1985, shall stand transferred along with relevant records, to the office of Deputy Commissioner concerned as if such applications had been made to that Deputy Commissioner under Paragraph 4 and such Deputy Commissioner may further process the said applications in accordance with the provisions of this Scheme.

(2) The Commissioner and Deputy Commissioner may summon any claimant whose application for claim has been transferred under sub-paragraph (1), for verification of particulars in the application and may also call for such additional information as may be required by the Commissioner or the Deputy Commissioner, as the case may be.

Categorisation and registration of claims.

5. (1) On receipt of a claim under paragraph 4 of the Scheme, the Deputy Commissioner shall subject to the provisions of sub-paragraph (3) and sub-paragraph (4), case the claim in the appropriate category under sub-paragraph (2) and thereafter register the claim.

(2) The claims received for registration shall be placed under the following Categories, namely ;

(a) death;

(b) total disablement resulting in permanent disability to earn livelihood.

(c) permanent partial disablement affecting the overall capacity to earn his livelihood ;

(d) temporary partial disablement resulting in reduced capacity to earn livelihood

*(da) injury of utmost severity;

*(db) minory injury ;

(e) temporary dislocation of means of livelihood;

(f) claims of the Government, authorities under the control of the Government, local authorities and institutuions for expenses incurred in providing relief aid and rehabilitation to the person affected by the Bhopal Gas Leak Disaster ;

(g) administration expenses incurred by the Central Government, Government of Madhya Pradesh or local authorities to cope up with the Bhopal Gas Leak disaster, including all local and administrative expenses attributable or related the said disaster;

(h) claims relating to loss of revenue to Government authorities under the control of Government or local authorities arising out of, or connected with Bhopal Gas Leak Disaster;

(i) claims on account of damage to the fauna including milch and drought animals;

(j) claims arising from damge to flora including destruction of agricultural crops, vegetables, trees and orchards;

(k) claims on account of damage to environment including pollution of soil, flora, fauna and water systems;

(l) claims relating to loss and destruction of property;

(m) claims relating to loss of business of employment or both;

(n) claims in respect of injuries that are likely to be suffered on account of the Bhopal Gas Leak Disaster;

(o) any other claim or claims which the Deputy Commissioner may determine for reasons to be recorded in writing as arising out of, or connected with, the Bhopal gas leak disaster.

(3) on the consideration of a claim made under paragraph 4 of the Scheme, if the Deputy Commissioner is of the opinion that the claim falls in a catergory different from the category mentioned by the claimant, he may decide the appropriate category after giving an oppourtunity to the claimant to be heard and also after taking into consideration any facts made available to him in this behalf by the Government in this behalf.

(4) Where the Deputy Commissioner is of the opinion that a claim made under paragraph 4 does not fall in any of the caterfories specified in sub-paragraph (2) he may refuse to register the claim;

Provided that before so refusing, he shall give a reasonable opportunity for a personal hearing to the claimant.

(5) If the claimant is not satisfied with the order of the Deputy Commissioner under sub-paragaph (3) or sub-paragraph (4) he may prefer an appeal against such order to the Additional Commissioner who shall decide the same.

(6) Every appeal under sub-paragraph (5) shall be filed in such Form as may be specified by the Commissioner within 60 days from the dateon which the order sought to be appealed against is communicated to the calimant preferring the appeal.

(7) The Additional Commissioner shall give a reasonable opportunity to the claimant of being heard before passing an order and a copy of every order passed under this sub-paragraph shall be sent by the Additional Commissioner to the Deputy Commissioner and the claimant.

(8) on categorisation and registration of the claim of aclaimant the Deputy Commissioner shall make available the information to the Commissioner who may transmit the same to the Central Gover nment for enabling it to discharge its function under section 3 of the Act.

Matters to be teken in to consideration for categorisationof cl.ims.

6. The Deputy Commissioner, while categorising and registering rhe claims under paragaph 5 of the Scheme shall :-

(a) give due consideration and weightage to the data, collected and provided by the Government or the autho ities authrised by the Government in this behalf, relating to cases arising out of, or connected with the Bhopal Gas Leak Disaster;

(b) obtain copies of claims filed in different courts or before other authorities, whether within or outside India, to the extent feasible, for proper consideration of the claims made before him.

Maintenance of record.

7. (1) The Commissioner shall cause to be maintained a registerfor regstration of claimsin serial order according to the receipt of applications for claims and a register for listing the claims, category-wise as laid down in paragraph 5.

(2) The Commissioner may also cause to be maintained such other recored or register as he may deem necessary for the purpose of carrying out the provisions of this Scheme.

Procedure.

8. The Commissioner shall have the power to regulate his own procedure, and the procedure to be followed by the Deputy Commissioner and other officers and employees appointed under section 6, in all maters arising out of discharge of his or, as the case may be, their functions under this scheme, including the place or places where he shall hold his sittings.

Processing of Claims of Account Fund.

9. There shall be created and maintained by the Central Government a Fund to be called the Processing of Claims Account Fund.

(2) The Fund shall include the amount wich the Central Government may after due appropriation made by Parliament by law in that behalf, credit to the said Fund and any other amounts which may be credited to such Fund.

(3) The amount or as the case may be, the amounts in the said Fund shall be applied by the Commissioner for meeting expenses in connection with administration of this Scheme and of the provisions of the Act.

Claims and Relief Fund.

10. (1) There shall be created and maintained by the Central Government a Fund to be called the Claims and Relief Fund.

(2) The Fund shallinclude the amounts received in satisfaction of the claims and any other amounts made avaiable to the Commissioner as donation of relief purposes.

(3) The amounts in the said Fund shall be applied by the Commissioner for the following purposes, namely :—

(a) disbursal of amounts in settlement of claims registered with the Deputy Commissioners ;

(b) disbursal of amounts as relief (including interim relief) to the persons affected by the Bhopal gas leak disaster ; and

(c) apportionment of part of the fund for disbursal of amounts in settlement of claims arising in future or for disbursal of amounts to the Government of Madhya Pradesh for the social and economic rehabilitation of the persons affected by the Bhopal gas leak disaster.

(4) Seperate accounts shall be maintained for receipt and disbursal of amounts in settlement of claims and for relief purposes.

Disbursal apportionment, etc. of certain amounts.

11. (1) The disbursal of any amounts under this Scheme shall be made by the Deputy Commissioner to each claimant through credit in a bank or postal saving accounts

• Bhopal Gas Victims Monthly Unit Scheme 1992.

•Inserted by Notification No. G.S.R. 910 (E) dated 2nd Dec. 1992 Gazette of India extraordinary.

(2) The Central Government may determine the total amount of compensation to be apportioned for each category of claims and the quantum of compensation payable, in general, in relation to each type of injury or loss.

(3) The Deputy Commissioner shall determine the quantum of compensation payable to each claimant within a category specified in paragraph 5 in accordance with the provisions of sub-paragraph (4) subject to any Court order, settlement or award of damages in any specific case.

(4) In determining the quantum of compensation payable to the claimants within different categories specified in paragraph 5, regard shall be had amongst other factors, to the following factors, namely :—

(a) the probable life span of the person affected by the Bhopal gas leak disaster ;

(b) the actual or projected earning capacity of the person so afflected ;

(c) the likely expenditure on immediate and anticipated medical treatment of the person so affected ;

(d) mental anguish and physical injury suffered by a person in the Bhopal gas leak disaster; and

(e) the type and severity of physical injury suffered by the persons so affected.

(5) In the event of a dispute as to disbursal of the amounts received in satisfaction of claims, an appeal shall be against the order of the Deputy Commissioner to the *Additional Commissioner, who may decide the matter and make such disbursal as he may, for reasons to be recorded in writing; think fit.

(6) The provisions of sub-paragraphs (6) and (7) of paragraph 5 of the Scheme shall apply to the appeal under sub-paragraph (5) as they apply to the appeal under sub-paragraph (5) of that paragraph.

Audit of Aocounts.

12. The Commissioner shall cause to be maintained all necessary books of accounts required for operating the funds created and maintained under paragraphs 9 and 10 of this Scheme and the said books of accounts shall be audited by the auditors appointed by the Central Government.

Function of the Commissioner & other officers etc. appointed under section 6 of the Act.

13. (1) The Commissioner shall be in charge of supervising the work relating to receipt registration, processing and settlement of claims filed under this Scheme and all other matters connected with the administration of the said Scheme.

*(2) Where an appeal has not been filed against the order of the Deputy Commissioner passed under sub-paragraph (3) or sub-paragraph (4) of paragraph 5, the Additional Commissioner may call for the record of any claim filed under paragraph 4. If the Additional Commissioner after re-examination of record considers it necessary or expedient so to do, he may revise, for reasons to be recorded in writing, the order passed by the Deputy Commissioner;

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*Substituted by the amendment Notification No. G. S. R. 394 (E) dated March 28, 1988.

*Amended and inserted by the Notification No. G.S.R. 449 (E) dated 10th June 1993, by the Gazette of India Extraordinary.

Provided that where the order in revision is likely to be prejudicial to the interest of the claimant, no such order shall be passed in revision unless the claimant has been given a reasonable opportunity of showing cause against the proposed order.

The provisions of this sub-paragraph shall also apply to the orders of the Deputy Commissioner passed under paragraph 11 of this Scheme for which appeal is contemplated in sub-paragraph(5) thereof.

(3) The Commissioner may, suo motu, call for the record of any claim filed under this Scheme and if he considers it necessary or expedient so to do, revise, for reasons to be recorded in writing, the order passed thereon;

Provided that where the orders in revision is likely to be prejudicial to the interests of the claimant, no such order shall be passed in revision unless the claimant has been given reasonable opportunity of showing cause against the proposed order.

(3) All officers appointed under section 6 of the Act shall work under the supervision of the Commissioner and assist him in carrying out the day-to-day administration of the Scheme and the provisions of the Act.

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"FORM No. 1

(*See* paragraph 4)

(for claims in respect of persons who were injured in the Bhopal Gas Leak Disaster)

Form No.

(1) **Name of Injured Person :**

Surname ... ...

Name ... ...

Father's Name ... ...

(2) **Address :**

House No. ... ...

Mohalla/Street ... ...

Locality ... ...

Place ... ...

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(3) Age (in Years) ..

CODE

(4) Employment History : ..
1. Skilled,
2. Un-skilled,
3. Semi-Skilled,
4. Self employed,
5. Un-employed.

(5) Income per month (In Rupees) .. ..

(6) Identification :-

(A) Ration Card No. .. ..

(B) Any other Id, No. .. ..

(C) Religion .. ..

(7) Injury :-

(A) Eye .. .. *Yes/No

(B) Respiratory (Chest) .. .. .. *Yes/No

(C) Mental Illness .. .. *Yes/No

(D) GIT .. .. .. *Yes/No

(E) Gynaecological .. .. .. *Yes/No

(F) Other than above .. .. .. *Yes/No

(8) Treatment :

CODE

(A) Temporary and cured .. .. Yes/No

(B) Still receiving treatment .. .. Yes/No

(C) Hospitalised and cured.. .. .. Yes/No

(D) Hospitalised but still being treated .. Yes/No

(9) Treatment being taken for Yes/No

eye	Chest	Menta lill	G. I. T.	Gynace	Other

(10) Place of treatment being taken ..

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(11) Disability-Code :

1. Temporary .. ..

2 Permanent .. ..

(12) Treatment after Gas-Tragedy :

1. Date .. ..

2. Place .. ..

3. Total days .. ..

(13) Hospitalisation :

1. Date .. ..

2. Place .. ..

3. Total days .. ..

(14) If pregnant at the time of Gas-leakage .. ..
(Delivered Child)

(A) Normal Child .. .. Yes/No

(B) Abnormal Child .. .. Yes/No

(C) Died .. .. Yes/No

(D) Still-birth .. .. Yes/No

(E) Aborted .. .. Yes/No

(15) Total expenditure incurred because of Gas-Tragedy

for : .. ..

(A) Treatment (In Rupees) .. .. ..

(B) Displacement etc. (In Rupees) .. ..

Date .. ..

Any Relief from Government .. ..
Yes/No

If yes, amount received as ex-gratia payment :
(In Rupees) .. .. ..

(17-A) Total Compensation claimed : .. ..

(18) Any other information .. ..

(19) Family Code No. of Socio-Economic Survey ..

(20) Code No. of ICMR .. ..

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(21) Gategory in which claim falls (see paragraph 5) .....

(22) Any other relevant information.

*I/We/Institution have not made any other claim for compensation/have made other claims for compensation , the particular of which are given below:—

Sl. No.	Form No.	Date	Compensation sought

*I/We/Institution have not filed a separate suit in a court of law for compensation/have filed suit as detailed below in court of law:—

Sl. No.	Court where suit filed	suit No.	Compensation sought

Place :

Signature (with date)
Name:
Designation :
(Seal if any)

Witness:
1. Signature:
2. Name:
3. Address:

*Strike out whichever is not applicable.

VERIFICATION

I.....do hereby declare that to the best of my knowledge and belief what is stated above is correct, complete and is truly stated.

Signature of the applicant/respondent
Name:
Designation:
(Seal if any):

Witness:

Signature:

Name :

Address:

Warning : Any person making any misrepresentation is liable to be prosecuted.

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FORM NO. 2

(see paragraph 4)

(for claims in respect of loss of livestock due to Bhopal Gas Leak Disaster)

FORM No. 02

LIVE-STOCK

1. Name of owner:

2. Father's name :

3. Age (in years): .....

4. Profession:

5. Address :
   House No.
   Mohalla/Street
   Locality
   Place :

6. Purpose for which Live-stock was used: (Domestic/Business) — Code

7. (A) Number and kind of animals dead:
   Number
   (B) Date of death :
   (C) Proof of death:
   (i) Post Mortem — Code
   (ii) Evidence of removal of dead body
   (D) Cause of death

8. Market value of live-stock dead: (in Rupees)

9. No. and kind of Live-stock in capacitated becasue of Gas-Leak Disaster and market value there of:

	Poultry					Ass
Buft	Cow	Goat		Bull	Pig		Horse
Number							
Rupees							

10. No. and kind of Livestock with reduced efficiency and market value thereof

Number							
Rupees							

11. Loss of Total Income
In Rupees

12. (A) If Live-stock Insured:

Yes/No

Code

(B) Name of Insurance Company .....

(C) Type of Coverage .....

(D) Amount received from Company:

In Rupees

13. Any relief received from Government:

Yes/No

Code

If yes, amount received as ex-gratia payment :

In Rupees

13-A Total Compensation claimed : .....

(14) Category in which claim falls (See paragraph 5) .....

(15) Any other relevant information .....

* I/We/Institution have not made any other claim for compensation/have made other claims for compensation, the particulars of which are given below:—

Sl. No.	Form No.	Date	Compensation sought

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