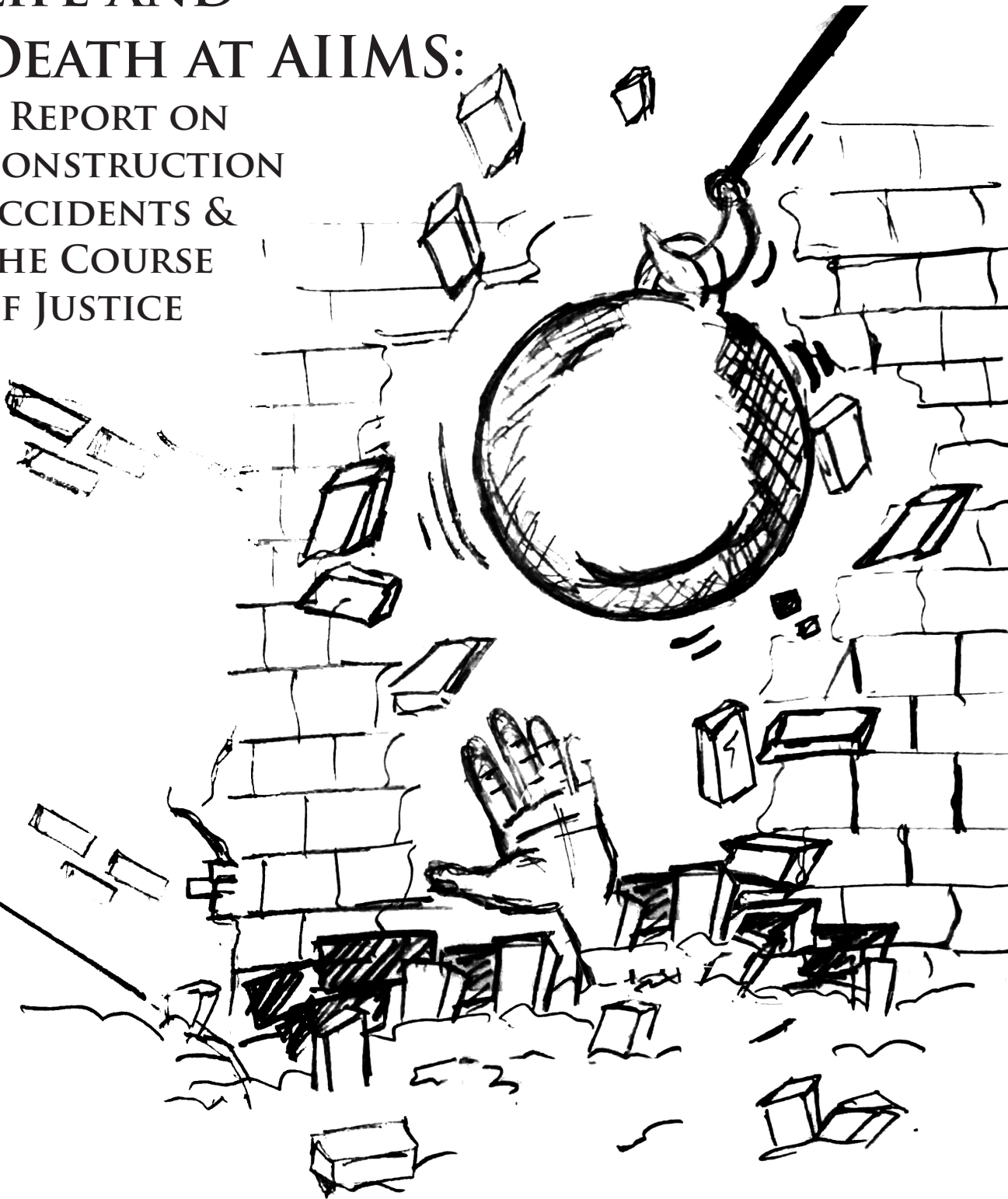


LIFE AND DEATH AT AIIMS:

A REPORT ON
CONSTRUCTION
ACCIDENTS &
THE COURSE
OF JUSTICE



Peoples Union for Democratic Rights
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Preface

On 9th March 2016, the media reported an accident at a construction site of All India Institute of Medical Sciences (AIIMS), Delhi in which two workers were killed and three were injured. In less than 35 days, on 13th April 2016, another accident took place at the same construction site in which one worker died and two were severely injured. It is no ordinary site and happens to be the new Mother and Child Ward in premier Medical Research and Hospital, AIIMS. As per the media reports FIRs were registered against the construction Company, enquiry committees were set up and compensations were announced. Over five months having lapsed since the first accident and four months since the second, the fate of compensations announced and the criminal investigation process, still hangs in the balance. Contrary to the 'fast track' response of the Delhi government as well as the AIIMS authorities in announcing compensation and registering criminal cases, PUDR fact-finding reveals the reality about dangerous working conditions, lack of accountability and criminal liability, and discrepancies in the process of granting compensation.

The Death Prone Category of Construction Workers

With constructions happening all around us, construction workers with 35 million persons constitute the second largest category of workers after agriculture in India and account for largest number of inter-state migrant workers. Safety of structures/sites/shop-floors, in particular of workers, needless to say, is of utmost importance. A number of laws are applicable for the safety and welfare of workers, such as *Contract Labour (Regulation and Operations) Act 1970*, *Minimum Wages Act 1948*, *Payment of Wages Act 1976*, *Inter-State Migrant Workmen's (Regulation of Employment and Condition of Services) Act 1979* and the *Building and Other Construction Workers Act 1996*. The last mentioned is applicable to all establishments employing 10 or more workers in any building and other construction works. The Chief Labour Commissioner of India is entrusted with the task of enforcement of this Central Act & Rules. Notwithstanding these laws the incidence of accidents in India at construction sites has shown a consistent escalation. As for the accountability of the same, it is woefully absent.

Accidents at construction sites and violation of labour laws are rampant across India and specifically in Delhi. National Crime Research Bureau's data available up to 2014 provides for deaths due to accidents, both natural and man-made. In 2014 all over India, 4,61,556 accidental deaths due to un-natural causes took place, showing a rise of 14.2% over the same in 2013 which was then

3,77,758. In Delhi there were 8046 accidental deaths due to un-natural causes in 2014. In terms of number of deaths per one lakh population it works out to a rate of 39.7%, which is higher than the national average of 36.3%. Three categories of accidental fatalities, based on medical findings, are most common in Construction Industry, namely Electrocutation, Falls and Accidental Fire. In 2013, the number of deaths due to Electrocutation, Falls and Fire were respectively 10,218, 12,803 & 22,177 all over India. In 2014, these numbers were respectively 9,606, 15,399 & 19,513. Percentage wise whereas Electrocutation was the cause of 2.6% and 2.1% in 2013 and 2014 respectively; Falls remain steady at 3.2% and 3.4%; and Fire shows a decline from 5.5% in 2013 to 4.3%.

Notwithstanding the slight fall between 2013 and 2014, it is the propensity of these accidents to occur at construction sites that is a cause for worry. NCRB data shows that out of 3,77,758 accidental deaths in 2013 and 4,61,556 in 2014, deaths due to electrocution, falls and accidental fire together were 45,198 and 44,518 respectively. They together constitute more than 12% of the total deaths due to accidents. In other words Construction site accidents constitute a very large number of un-natural deaths at workplace in India.

What the data does not reveal is how much or how many such accidental deaths are caused due to fatal working conditions and negligence of the employer/

constructor, how many FIRs of accidental deaths are investigated and how many resulted in prosecution and conviction. What is rarely explored is what happens to the family of the deceased both in terms of compensation, either promised or denied, and apportioning responsibility for the accident. Indeed the criminal investigation into such accidents have rarely been interrogated or monitored.

PUDR's engagement with construction workers and their rights goes back to Asian Games in 1982, which saw the Supreme Court convert our press statement on the Asiad construction workers plight into a Public Interest Litigation (PIL). The Court held that the fundamental right to life also means a life to earn livelihood and wages which can ensure a life of dignity, setting a new parameter for establishing the workers' right to a dignified life and livelihood. Unfortunately, the Supreme Court directives have largely remained on paper and are seldom implemented. PUDR, nevertheless, has persisted by taking up the workers' struggle for justice and a life of dignity. In the wake of the Common Wealth games organized in Delhi in 2010, blatant violations of labour laws were found at the different construction projects of the games including those involving fatal injuries to the construction workers. PUDR had conducted a fact-finding at the Common Wealth Games site

in 2008 to encounter unconcealed facts related to violations on account of labour laws, related to safety conditions at the work sites, assurance of minimum wages, etc. It had found a nexus between the construction companies, the contractors and the state labour department contributing towards dreadful conditions of the construction workers. Following the non-redressal of the issues raised by us at various government platforms, PUDR had filed a Public Interest Litigation in Delhi High Court in 2010 along with two other organizations- Nirman Mazdoor Panchayat Sangam and Common Cause. The Court in its hearing constituted a Monitoring Committee to take steps to redress the grievances of construction workers in Delhi. The Committee in its report tabled at the Court revealed several incidences of abuses of labour norms and appalling conditions at construction sites and made recommendations to mend the same (see PUDR reports, *Games the State Plays*, August 2010). In the final order in 2012, the High Court had directed the state authorities to take action on the basis of these recommendations and submit a report in six months. In spite of this, not much has changed. The accidents at AIIMS provide evidence that in so far as work place safety is concerned, hazardous working conditions and negligence on part of employers are part of routine.

The Accidents at the AIIMS Construction Sites

The 9th March 2016 accident

On our first visit to the site on 17th March 2016, the PUDR team interacted with officials of the construction Company Ahluwalia Contracts India Ltd under which the workers were employed, the workforce at the construction site, personnel at the Ahluwalia labour camp, and other sources in AIIMS. In the accident, two workers Islam Sheikh and Vinod Kumar, both aged 35 years, were killed and three workers Ranjeet Basak, Vijay Kumar and Naseeb Yadav were injured. Islam and Ranjeet had come from West Bengal, while Vinod, Vijay and Naseeb were from Bihar. The probe brought to the fore several discrepancies in the claims made about the circumstances leading to the incident.

The contract for the construction was with the Ahluwalia Contracts India Ltd and all five workers were employed by the Company on a contract basis. The Company officials told us that cause of the accident was the *caving in of earth* at the construction site. The land at the site had been excavated for construction. The earth piled up next to the excavated site caved in; the workers swamped beneath and were buried under. Two workers died on the spot while three others were rescued and given medical help at the Safdarjung hospital. According to the members of the management at the labour camp at the construction site, the accident happened because there was a sewage line crossing beneath the construction site of which they had no

knowledge until the mishap took place. They were provided with a map of the site before the contract which had no mention of the sewage line. The water from the sewage line had been trickling into the mud and had loosened the soil. The loose soil in the piled up earth, could not take the weight of the huge mound of excavated earth. It collapsed on the workers who were working to lay down steel foundations, in the deep pit dug. On being asked what were they doing to prevent any future occurrence of such accidents, the management said, they had lowered down the piles of earth surrounding the excavated site. This remedy did not make sense to our team which had seen the construction site and could see no lowering down of the piles of earth. It was also perhaps not possible as the construction had already raised towering iron rods, the heights of which could not be reduced.

On the visit to the construction site, we found out that almost all members of the work force present were oblivious of the accident on account of being 'brought in' to the site after the accident. They all claimed to have joined work after the accident or that they were not present at the time of the accident, hence claimed to have only 'heard' of what happened. The workers told us that they are given all safety tools by the Company and are paid regularly as per the daily wage rate. Some workers told us that those who were injured and died were staying at the labour colony of the Ahluwalias' situated

The Ahluwalia labour colony

PUDR was informed by the Ahluwalia management staff that the Ahluwalia labour colony had been specially designed by the School of Planning and Architecture (SPA). When we showed interest in visiting the colony, there was reluctance to allow us there. Our team, however, visited the labour colony as directed by few workers at the site and with the help of few locals. We encountered a big asbestos locked gate on reaching there. The gatekeeper and one of the Company officials spoke to us across the locked gate. They refused to open the gate saying there were only some women and children at the colony and opening the gate would risk their wellbeing. The gatekeeper mentioned that there were about 500 families staying there while the other official said there were about 250 families. The gates opened only twice in the day, in the morning at 8 when the workers go out for work and at 5 in the evening when they return. We could see a generator in front of the gate (which started only when we began questioning). We were told, the children do not go to school but there was a lady who gave tuitions to all the children of the colony.

behind Safdarjung Hospital near Chhattisgarh Sadan and walked every day to work. Their families were staying with them and had all left for their respective hometowns. They also informed us that the Company had given a compensation of Rs. 1 lakh each to the families of the injured and Rs. 5 lakhs each to those of the deceased.

The Company claimed to have paid due compensation and had the receipts signed by the workers and their family members, except for Islam's, whose documents were being verified. The officials also told us that all the workers and the families of the deceased had left for their hometowns. The Company officials refused to give us their contact details and were not willing to show us the receipts of the compensation paid. From other sources within AIIMS, we found out that all the workers who were injured

were untraceable and their local phone numbers were switched off. We enquired from the Company officials about the local address of the injured workers and were told they were residing in the labour colony 'nearby'. On reaching the colony, the staff members told us that none of the families of the workers involved in the accident on 9th March, resided in the colony. According to them – the workers were staying at the construction site without their families.

The AIIMS authorities constituted an internal committee to look into the cause of the accident. PUDR accessed its report after filing an RTI with the AIIMS management and being called for document inspection thereafter. The internal technical report of AIIMS into the accident at OPD site on 9th March 2016, Para E, 'Probable Reasons of the Soil

Collapse' reads:

Prima facie this appears to be purely accidental. The caving in of the soil mass is such that it indicates the failure to have arisen due to the ingress of invisible percolating water through capillary action. The upper layer of the soil strata is of filled soil and mixed waste. This is the reason why this could not have been noticed and saturation of the soil mass would have caused the failure resulting into cave in.

The reason laid out in the report offers no explanation to the question why the percolation could not have been noticed, which points a finger at the contractor. The very nature of percolation of water from sewage line can't be sudden as there was no breakage in the sewage line. The percolation must have been happening over a period of time.

The AIIMS authorities have denied taking any obligation citing the provision in the contract they have signed with contractor which says that "the contractor (M/s Ahluwalia Contracts) shall indemnify the Employer (AIIMS) against all losses and claims in respect of 'death of or injury to any person during the construction'.

The internal committee of AIIMS also certified that the contractor (M/s Ahluwalia Contracts) has followed the CPWD specifications, employed the required safety personnel, had adequate first aid facilities and paid the compensation as per law, thereby giving a clean chit to the contractor. They also accepted that the soil investigation report provided to the contractor stated that the soil conditions at the site is firm, stiff to

very stiff and having a larger weight bearing capacity.

On the basis of the committee's findings, AIIMS too must take responsibility of the accident not only as Principal Employer but also for providing incorrect information to their contractor which resulted in the death of two workers. Ironically both AIIMS and the Ahluwalia Contracts are trying to put the blame on the dead and the injured workers for their "carelessness" in causing injury and death to themselves! When the PUDR team went for inspection of documents related to the internal committee report, the officers present from AIIMS told us that "these workers are very careless and do not bother about their safety. They insist on working overtime and in that tired state accidents can happen".

When we asked that if workers are "careless" and insist on working overtime, then why don't the employers stop them to ensure that accidents don't happen, they chose to remain silent. Under law the responsibility rests with the Principal Employer who is getting a building constructed by a Company. It is not any building but a new Mother and Child Ward of India's premier medical science and hospital complex. If the contractor is convinced that there was an old drain through which seepage took place, then what has been done to plug this?

The 13th April Accident

A month later, another accident took place at the same construction site in which one worker was killed and two

were severely injured. [Twenty two years old, Diwakar Yadav lost his life in the accident and Mahesh Mahto and Sushil Ram were injured to the extent of being physically incapacitated.](#) PUDR visited the site on 17th April. The site where the second accident occurred was about 100 metres or so from the earlier mishap. The management of Ahluwalia Contracts refused to meet us. Both the cases are registered at the Hauz Khas Police Station (PS). PUDR team could not meet the Investigating Officer (IO) SI Mr Satish

Lohia for the March accident, but we did meet the ASI Mr. Devendra Nath the IO for the April accident.

In the March accident it was the caving in of earth that was cited as the cause, whereas in the second accident the IO admitted that the workers were unloading a 24 feet long “pad” (which even the FIR does not explain). The “pad” had been “welded” together. We were told that the beam supporting the scaffold on which workers were standing, gave way and the workers fell from a height of 90

Negligence as practice for the Ahluwalia Contracts India Ltd

Negligence at the construction site leading to fatal accidents is not new for the Ahluwalia Contracts India Ltd. The Company was one of the contractors for the construction projects for organizing the Commonwealth games in Delhi in 2010. On 14th December 2008, an accident had occurred at the residential block of the Commonwealth Games Village construction site near Akshardham temple, killing a 28-year-old worker, Shailendra Kumar, at the Ahluwalia construction site, when a crane collapsed on him. Forensic Science Report had later concluded that the crane was defective.

PUDR had investigated the case and the workers at the site claimed that a number of workers had similarly died or were injured in accidents at the site, the bodies of the victims were simply disposed off and the injured sent back to their villages. The workers had led an agitation against the Company on account of malpractices such as non payment of minimum wages as per the statutory norms, inadequate basic facilities such as electricity, water at the labour camps, non-issuance of pass books to workers regarding registration with the Welfare Board, etc. The agitation also demanded Rs. 5 lakhs as compensation for Shailendra’s family while the Company was ready to pay only Rs. 60,000. With pressure, they were made to pay Rs. 5 lakhs, but none of the other issues raised by workers were addressed. In fact, the workers claimed that those protesting were harassed by the goons of the Company. A case of criminal negligence was registered in the incident of the death of Shailendra, but nothing came out of the investigation. See PUDR report, In the Name of National Pride, Blatant Violation of Workers’ Rights at the Common Wealth Games Construction Site, April 2009.

meters. The beam supporting the scaffold was not a single continuous beam but built by welding two separate beams. Even if an undisclosed sewage line was responsible for the March accident, Ahluwalia Contracts can be held responsible for the second accident as the Company seems to have used substandard material for cost cutting and extra profit, risking the lives of the workers.

The natural course of action in this case, involving not one, but two fatal

accidents, involving the same Company, at the same site would be to take prompt measures towards both redressal and prevention. Disquietingly, however, the response of the AIIMS authorities as well as the Central Government in the April incident has been absolutely lax with neither any internal report being tabled by AIIMS nor any government level enquiry being heard of. The AIIMS authorities who had promptly set up an inquiry committee in the first accident are silent on the second one.

The Fate of Criminal Investigation

With respect to the first accident, an FIR # 0251 dated 09/03/2016 was recorded at Hauz Khas PS on the same day, under section 288 (Negligent conduct with respect to pulling down or repairing buildings), section 337 (Causing hurt by act endangering life or personal safety of others) and section 304A (causing death by negligence) of IPC. The FIR says that *“in course of gathering information it was found that at the construction site where the accident had occurred the mud was dug 45 feet deep, but there was no precautionary steps taken to prevent the mud from sliding down”* thus two died and three were injured. Since the scene of the accident was thus described in the FIR and the construction Company took no *“precautionary steps”*, it appeared, prima facie that the responsibility fell on the Contractor, Consultant and the Principal Employer.

PUDR in the course of its investigation in March 2016 was told by the Ahluwalias that water had been seeping and trickling into the piled up mud about which the Company had no knowledge. This is in sharp contrast with the FIR that fixes responsibility on the contractors for not taking precautionary measures to avoid a mishap. The process of fixing culpability, however seems to have not proceeded further to take shape of any concrete investigation. More than four months have passed and despite filing RTIs to find out the progress of police investigation, all that we have gathered is that the ‘investigation is proceeding’.

The incident as described by the IO referred to in the FIR is nevertheless, significant. A two member committee constituted by the Delhi Government on 10th March 2016 in respect of the accident at AIIMS in its report mentions this

assertion: "It has been reported by the site-in-charge, who is a civil engineer that very old Nala (big drain) had been seeping and water had been slowly trickling into the mud walls due to which a big mound of wet earth fell from the top causing the accident". The committee accepted that all safety precautions were taken by the Company and the point made in the FIR regarding "no precautionary steps taken to prevent the mud from sliding down" is completely missing. It has also not been explained that if water was seeping and was noticed by the civil engineer then what steps were taken to alert the AIIMS management or the consultancy firm appointed by the AIIMS namely M/S Hospital Services Consultancy Corporation (India) Ltd (HSCCL), a Government of India enterprise. Were any written complaints or alerts sent to the consultant and the Principal Employer? If there are no records of any such communication, then is this merely a post-facto passing the buck between the contractor and the Principal Employer? The fact that the construction Company denied any knowledge of the sewage line that led to the 9th March accident, despite having a map of the construction site, raises questions of culpability both on the part of the Company and the AIIMS authorities. The Delhi government enquiry committee report took no cognisance of this fact, beyond a passing reference.

The same construction Company and consultants were involved in the construction that led to the second accident in little more than a month, about 100 metres from the March "cave in". The FIR

in this case No. 0368 dated 13/04/2016 invoked section 304 (culpable homicide not amounting to murder) and sections 288 (Negligent conduct with respect to pulling down or repairing buildings) and 337 (Causing hurt by act endangering life or personal safety of others) of IPC.

The FIR records the accident site as:

On one side of the under construction building about 90 feet from the ground a temporary iron pad fell...In search of an eyewitness ASI went to the site to collect more information. Reaching the accident site where workers were gathered around who spoke in one voice that they were working in the vicinity when they heard a loud noise and then saw the temporary pad fell 90 feet to the ground....On inspection it was found that the *channel had been welded* together to lengthen the structure and that above the setting it was loaded with weight more than its capacity. From looking at the accident site and the height of the structure security of workers was ignored and anyone could see that if the channel broke then death would be inevitable...

...It is worth noting that a month ago back on March 9th 2016, at the same construction site due to *carelessness* of the Construction Company an accident had taken place in which three workers were injured and two were killed. Therefore, despite knowing that there were shortcomings which posed a threat to lives of the workers, the Company did nothing and lives of workers were put at risk.

The investigation appears to continue

at a snail's pace and the Delhi police refuses to even provide basic information about how many witness statements have been recorded, how many were from the construction Company, consultant and the Principal Employer. In their response with regard to the first accident, the Additional Deputy Commissioner of Police, Hauz Khas informed PUDR that the *challan* in the case has still not been filed, 'the matter is sub-judice and hence no information can be shared with public till the finalization of the case'. Along the same lines, the response of the Additional DCP regarding the second accident, is that the information sought by us cannot be provided, under section 8(I)(h) of RTI Act, as it would "impede" the process of investigation.

Section 8 of the RTI Act 2005 deals with Exemptions and (I)(h) speaks of "information which would impede the process of investigation or apprehension or prosecution of offender". The information being considered as having the potential to obstruct investigation pertained to some quantitative data regarding number of witnesses summoned and testimonies recorded and how many were from AIIMS management,

Consultant HCSS and the builder Ahluwalia Contracts, or technical experts consulted. It is worth mentioning that the Delhi police has taken nearly two months to draft this RTI reply to PUDR. It took three visits to Hauz Khas PS, to get this perfunctory response. The fact that the Delhi police is non-seriously pursuing the probe and have little to show by way of progress is evident.

Two accidents in a row at a hospital site, which resulted in deaths and injuries to workers, at the same cannot be considered mere coincidence. FIRs recorded by the IO's in both cases, also suggest that it may not have been 'happenstance' twice over. To put workers lives at risk, without finding out whether there were lapses in safety and precautionary measures at work site, would be to compound the problems the workers face. Therefore the investigation being carried out by the police becomes so important. Although technically the police investigation is carrying on, we fear that this is going to end up in filing of a closure report which holds no one responsible, and absolves the construction Company and the Principal Employer of their responsibility.

Compensation Committees and the 'Missing Claimants'

The accident case of 9th March involved two levels of enquiry committees (Delhi govt. and AIIMS) and three levels of compensation. The first level of compensation was announced by the Ahluwalias, the second under the *Workmen's Compensation Act 1923* and the third by the Delhi govt.

The Delhi government set up an enquiry committee headed by the Deputy Labour Commissioner (South) ((DLC (South))) which tabled its report based on its visit to the construction site on 10th March, a day after the accident. The report reiterated the version of the Ahluwalias regarding the causes and the occurrence of the accident emphasising that the Company had ensured all safety tools to the workers. In paying no attention in deciding culpability for the mishap, the focus of the committee report was on compensation. The committee directed the Company to immediately pay compensation. Each of the deceased workers' families was paid Rs. 5 lakhs and the injured workers were paid Rs.1 lakh. PUDR later obtained copies of the receipts that the Ahluwalia Company had sent to AIIMS authorities, in which the injured workers and the heirs of the deceased had signed and received corresponding compensation with an undertaking that they do not hold anyone responsible for the accident. All receipts were dated 10th March despite the fact that the enquiry committee report tabled much later in the month of March mentions that the legal heir of Islam was yet to claim the

compensation. On our first visit to construction site on 17th March, the Company officials had also told us that they were waiting for documents verification from Islam's family.

Regarding the second level of compensation, the Company officials told us that the Company follows a policy of getting each worker insured at the time of hiring. The Company had obtained workman compensation policy from Bajaj Allianz. Insurance Company paid the compensation as per the calculations under the *Workmen's Compensation Act* in proportion to the wage scale of the workers. The two deceased were carpenters who earned Rs. 625 per day. According to the Delhi Govt. report, Islam's family was correspondingly entitled to an insurance amount of Rs. 8,73,880 and Vinod's family to an amount of Rs. 8,31,920 lakhs. The documents produced by AIIMS authorities, however, quoted a different figure provided to them by the Company. As per this report, Islam's family was entitled to Rs. 8,78,880 and Vinod's family was entitled to Rs. 7,63,240. The injured, Naseeb and Vijay also earned Rs. 625 a day while Ranjeet earned Rs. 353 per day. No compensation under the *Workmen's Compensation Act* was announced for those injured. The amount had been deposited by the Ahluwalias with the DLC South who is the Commissioner Compensation in this case.

PUDR visited the DLC office on 27th May 2016 to know the status of

The Curious Cases of Compensations

Date of Accident: 9th March 2016

Aggrieved worker	Compensation by the Delhi Govt.	Compensation by the Ahluwalia Contracts	Compensation under Workmen Compensation Act 1923
Islam Sheikh (Died in the accident)	- Rs. 2 lakhs announced by the Delhi Building and Other Construction Workers Welfare Board - Not paid so far - As per the RTI response from the Board on 28 April 2016, the Company did not make bank detail of the family available	Rs. 5 lakhs (paid with receiving from the family dated 10th March when the actual payment was made on a later date)	- Rs 8,73,880 as per the Delhi Govt. Enquiry Committee Report - Figure quoted by AIIMS authorities is Rs. 8,78,880 - Amount of Rs. 8,73,880 claimed on 12 August 2016 after PUDR's intervention
Vinod Kumar (Died in the accident)	Same as above	Rs. 5 lakhs (Paid)	- Rs. 8,31,920 as per the Delhi Govt. Enquiry Committee Report - Figure quoted by AIIMS authorities is Rs. 7,63,240 - Not claimed as yet - Money lying with the DLC with no intimation to the family
Ranjeet Basak (Injured)	- Rs. 10,000 announced by the Board - Status of the compensation not known	Rs. 1 lakh (paid)	Nil
Vijay Kumar (Injured)	- Rs. 10,000 announced by the Board - Status of the compensation not known	Rs. 1 lakh (paid)	Nil
Naseeb Yadav (Injured)	- Rs. 10,000 announced by the Board - Money not received despite making bank details available by the worker himself	Rs. 1 lakh (paid)	Nil

Date of Accident: 13th April 2016			
Aggrieved worker	Compensation by the Delhi Govt.	Compensation by the Ahluwalia Contracts	Compensation under Commissioner's Employ Compensation
DiwakarYadav (Died in the accident)	No action so far	Rs. 1 lakh paid	- Rs. 8,90,480 announced and paid through cheque - The family can only claim money through bank (SBI) - Bank says it can pay only in instalments after the deduction of Tax Only Rs. 90,000 paid so far to family by the bank
Mahesh Mahto (severe hand injury and bone fractures due to the accident)	No action so far	Rs. 1 lakh paid	Nil
Sushil Ram (severe abdominal injury due to the accident)	No action so far	Rs. 1 lakh paid	Nil

compensation amount under the *Workmen's Compensation Act*. The DLC said that the amount hasn't been claimed by the workers and is lying in govt. exchequers to be disbursed. On being asked if they have written to the workers' families to claim the amount, he said that is not what the law demands. The DLC said that they were not even registered workers, yet the government *suo-moto* decided to allow compensation and

henceforth can't take pro-active steps to ensure that the amount is disbursed. He was confident that families will claim the amount as '*Koi apna paisa chodta nahi hai*' (no one forgoes the money due). On being asked if the money would be held in exchequers for a limited period, he had no precedence to cite and said that the families will soon claim this amount.

The third level of compensation was

to be paid by the Delhi government through the Delhi Building and Other Construction Workers Welfare Board. The Delhi government enquiry report mentions that none of the five workers were registered with the Delhi Building and Other Construction Workers Welfare Board as the criteria for registration demands minimum 90 days of service. Since none of these workers had completed 90 days of service, they were not liable for compensation. As per the *Building and Other Construction Workers (Regulation of Employment and Working Conditions) Act 1996* and its Delhi Rules 2002, the workers can avail benefits of the welfare schemes of the Board only if registered. Considering the fatal nature of the accident, however, the report mentions that compensation amount may be granted to the heirs of the workers from cess funds of the Board. Albeit, the report does not mention the compensation amount that would be granted from cess fund and recommends another committee to look into the matter to decide on compensation from cess funds. In an RTI response sought by us, the Board replied on 28th April 2016, I.D.No. 19/RTI/DBOCWWB/2015/706, that the Ahluwalia Company had not made available the bank details of the workers hence the amount had not been paid to them. Another RTI reply from Labour Dept., Delhi Govt. dated 23rd June 2016, ID No. 162/S.O. Planning/RTI/16/834 mentioned that Rs. 2 lakhs can be given to the deceased under Delhi Rules 2002, Rule no 278 and Rs.10,000 to injured under Rule No 280, which have not been

given so far.

Through an RTI response filed with the Board and the AIIMS authorities, PUDR obtained the home address of the workers. We wrote letters to find if the compensation amount had reached them. The workers called back on the phone and spoke about the accident. Islam Sheikh's brother confirmed that all the workers had been handed over cheques by Ahluwalia Company and they had signed undertakings regarding no culpability of the contractors for the mishap. Naseeb Yadav confirmed the same. The workers/families however, claimed to have no information regarding the compensation due to them under the *Workmen's Compensation Act*, i.e., the money that the DLC claimed was lying in govt. exchequers. PUDR informed Islam's family about the compensation under the Act and asked them to come and claim the money. We coordinated with Islam's brother and his wife on their arrival from Murshidabad to Delhi and in the second week of August and finally on 12th August the amount was claimed by the family after two rounds of the DLC office. Amount due to Vinod's family, is yet to be handed over by the DLC. Since, Vinod's family did not respond to the letter PUDR wrote, they must be oblivious of any such compensation amount in the absence of the government / DLC making any efforts to contact the families.

Regarding the compensation to be paid by the Delhi govt. through the Workers' Welfare Board, Naseeb informed us that they had visited the Board office and had handed over the

details of their Bank accounts but two months have passed and the money had not been transferred to their accounts. On being asked about the wages of the workers, we also found discrepancy in the wage rate provided by the Company. Naseeb said that he worked at Rs. 350 a day, though in the RTI response by the Delhi govt. quoting figures given by the Company, Naseeb was shown earning Rs. 625 a day.

In case of the 13th April accident, we only heard of compensations being dispensed under the Commissioner Employees' Compensation. The deceased Diwakar's family claimed to have received Rs. 8,90,480 lakhs under employees' compensation. The Company submitted a copy of the cheque with the AIIMS authorities without any receipt. PUDR could contact Diwakar's father who told us that the Company official told him to claim the money from the SBI branch in Madhepura. The SBI branch however, is denying him that money and has only paid him Rs. 90,000 so far claiming that they will release the money in instalments on which due tax would be deducted. If he wants the entire amount he will have to get a permission letter from 'concerned authorities'. The Company claimed that

they had paid Rs.1 lakh additionally. Caught in this rigmarole between bank and the Company, Diwakar's father is being denied the full compensation.

The two injured workers Mahesh and Sushil were both paid Rs. 1 lakh each which they confirmed. PUDR spoke to Mahesh who had many contradictions to point out in the version narrated by the Company. He said after the accident, the two injured workers were taken to the hospital, but were pressurized by the Company to take one lakh each and leave for their homes after the first aid. The workers were not paid additionally for the medical expense in spite of the fact that both were injured to the extent of being physically incapacitated currently. Mahesh had a hand injury for which he had to get a steel rod inserted. The doctors had asked him to make another visit a month later. However, when he went back, the Company refused to take responsibility for his treatment and also went back on the promise of paying for the medical attendant. He ended up paying Rs. 12,000 for the attendant which the Company was supposed to do. Both workers are now at their homes in Madhepura, Bihar, suffering from medical conditions and without jobs.

Criminal Negligence and Complicity in Crime

The facts gathered by us, point towards criminal negligence on part of the Contract Company and the Principal Employer. There is pervasive institutional apathy on part of the Central government, under whose jurisdiction AIIMS comes, Delhi government, and Delhi Police in fixing accountability that would amount to covering up the crime itself. There are also serious discrepancies regarding the amount and status of compensation announced by the Company and the Delhi government.

Immediately after the 9th March accident the entire work force at the site was replaced in an effort by Ahluwalia Company to cover up the incident. None present at the site claimed to know about the incident or the workers who were injured/died. Many were most evidently shying away from speaking to us. It is evident that the Contractors shunted out those who could bear witness to the negligent and life-threatening work conditions that claimed the lives of the workers. The Contract Company's dubious responses about the workers staying in the labour colony with their families were not corroborated by the other workers in the colony. The fact that the residents of the colony denied any knowledge of the workers, only support the claim that they had been hushed up.

The fact that workers lost their lives due to fatal work conditions is apparent from perusing the two FIRs. This fact is acknowledged neither by the AIIMS authorities nor the Delhi government

enquiry committee bringing to fore their lackadaisical approach towards work site accidents. This in turn helps the Construction Company escape culpability. The AIIMS management is also managing to get away with any criminal liability as the police investigation is not raising the question of the management as the Principal Employer failing to inform the contractor of the big drain below the construction site which resulted in cave in on 09th March 2016. The stoic silence maintained by the AIIMS authorities in case of the second accident is only an effort to let the matter die down to absolve the Principal Employer of criminal guilt.

The police appear also of not taking any action against the Ahluwalia Company for not cooperating with the investigation by forcing the workers to leave Delhi in case of the first accident. Even though the compensation amount of Rs. 5 lakhs was paid to Islam's family, it was paid on a date later than 10th March. The Company forged the signature of Islam's wife on the receipt for 10th March. This fact has not been acknowledged in the FIR in spite of it amounting to a criminal practice. In case of the second accident, the FIR itself acknowledges that welded iron rod was used in scaffolding that collapsed leading to death of the workers. This clearly shows that use of sub-standard material by the construction company led to this fatal accident. Despite the second FIR being registered under section 304 (culpable homicide) which is a non bailable offence, no arrests have been made so far.

Construction site accidents are recurring phenomena which are rarely investigated to fix criminal liability. More often than not, there is reluctance to probe negligence, if any, on part of the management to establish responsibility and bring to book those who are guilty. The manner in which the police investigation is 'progressing' glossing over major facts that suggest culpability of the employer and the contractor, PUDR is apprehensive that the case may be closed soon for 'lack of evidence', as happens to be the fate of most accident cases involving loss to workers.

The compensation amount under the *Workmen's Compensation Act* with regard to the 9th March accident lay in state exchequers without the claimants having any knowledge of it. It was only on PUDR's intervention in form of writing letters to each family about the compensation amount and coordinating with the DLC office that Islam's wife could claim money. As for Vinod's family, there has been no information. The conduct of the DLC office in not informing the families of the compensation can amount to 'intent' of not dispensing compensation. The slipshod approach of the Delhi government is also evident with regard to the compensation amount to be paid to the Workers' through the Welfare Board. The amount has not been dispersed by the Board in any of the cases despite workers having made visits to the Board office and having submitted the details of their bank accounts. The institutional apathy shown by the authorities makes them no less

responsible than the Employer and the Contractor in denying justice to the workers. It only shows a lax and irreverent style of functioning by different authorities where even the compensation figures quoted do not match. The figures quoted under the *Workmen's Compensation Act* for the deceased workers in the 9th March accident case, do not match in the records of the Delhi govt. report with that of the AIIMS report which was based on the cheque and drafts received by the workers/families. In case of compensation for Vinod's family, the difference is of Rs. 68680 with AIIMS report quoting the higher amount. In case of compensation for Islam's family the difference was of Rs. 5000 with AIIMS report quoting the lower amount. The compensation paid was according to the Delhi government report, to Islam's family, i.e., Rs. 5000 less than the amount quoted by AIIMS, but with bank interest benefits the amount paid increased by a few thousands. Even though the amount eventually paid was higher than the actual figure quoted in Delhi government report, it points out to the fact that the government did not verify the figures with the receipts signed by the workers/families.

Two consecutive accidents at the same construction site of premier medical institute of the country of the very same construction firm are too significant to be taken lightly. While accountability for loss of life of workers and injuries is needed, the apathetic approach towards compensation, and the families caught in bureaucratic rigmarole, is appalling.

AIIMS in capacity of the Principal Employer cannot be absolved of criminal negligence, even if the contractor is held responsible for negligence in safety and precaution at work site. The Central Government has shown no interest although AIIMS comes under their jurisdiction and so does the Delhi police. Delhi government, which is not directly

involved with AIIMS, nevertheless, after announcing compensation did not ensure that the compensation they announced was actually disbursed to the aggrieved families. Police investigation proceeds at its own pace, showing indifference in ensuring that the aggrieved, kith and kin of the deceased as well as the injured/ disabled receive their statutory dues.

We demand:

- Unbiased and timely completion of criminal investigation in both cases of accidents, apportioning responsibility, and criminal action against those guilty.
 - The families of the deceased must be contacted immediately by the DLC office and be paid the money due to them under the *Workmen's Compensation Act*.
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For Copies: Dr. Moushumi Basu, A-6/1, Aditi Apartments, D Block, Janakpuri, New Delhi: 110058
E-mail: pudr@pudr.org, pudrdelhi@gmail.com, cdrodelhi@gmail.com
Website: www.pudr.org

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