

# Corporate Manslaughter and Industrial Disasters in India: Penology Beyond Monetary Compensation

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## Abstract

Industrial disasters in India spanning chemical leaks, fires, explosions, mine collapses, and toxic waste contamination reveal a persistent tension between rapid industrialisation and the criminal law's limited capacity to impose proportionate punishment on corporate entities and decision-makers. India does not presently recognise a distinct offence titled "corporate manslaughter." Instead, prosecutions typically proceed through a patchwork of general penal provisions (notably "causing death by negligence") and sectoral safety statutes such as the Factories Act, 1948 and the Mines Act, 1952, supplemented by environmental legislation including the Environment (Protection) Act, 1986 and the National Green Tribunal Act, 2010. These frameworks have significantly advanced compensatory remedies often through constitutional tort and environmental adjudication yet the penological architecture (deterrence, denunciation, incapacitation, and retributive proportionality) remains underdeveloped when the wrong is systemic, organisational, and profit-driven. The statutory maximum for "causing death by negligence" under the Indian Penal Code is imprisonment up to two years, or fine, or both, a structure that struggles to express the gravity of mass casualty events or repeated safety violations.

This research argues that India's current approach often collapses corporate harm into negligence-based offences and compliance contraventions, producing outcomes that over rely on monetary compensation, regulatory settlements, and intermittent prosecution with low imprisonment incidence. Government data illustrates the magnitude of workplace harm and the enforcement gap: in registered factories, fatal injuries reported under the Factories Act show four digit annual fatalities (e.g. 1,154 in 2018; 1,017 in 2022), while non-fatal injuries remain substantial (e.g. 4,528 in 2018; 2,714 in 2022). Mines data similarly records recurring fatalities and serious injuries: in organised sector mines, reported deaths include 94 in 2019 and 53 in 2023, alongside serious/non-fatal accidents and injuries. Simultaneously, enforcement statistics published by the Government of India show thousands of prosecutions/convictions under the Factories Act (sections 92 and 96A) with very low imprisonment counts in the aggregate (single digits/low double digits for 2020-2022 totals), raising questions about deterrence and expressive condemnation.

Supreme Court jurisprudence has undeniably transformed the remedial landscape. In *M.C. Mehta v. Union of India* (Oleum Gas Leak), the Court articulated "absolute liability" for hazardous industries, signaling that enterprises engaged in inherently dangerous activities bear strict responsibility to ensure safety, and

constitutional remedies can include compensation. In Bhopal related decisions (Union Carbide Corporation v. Union of India; Charan Lal Sahu v. Union of India), the Court confronted mass tort claims and state representation, producing a settlement driven model emphasising immediate relief but generating enduring debate about the relationship between compensation and criminal accountability. In Indian Council for Enviro-Legal Action v. Union of India (Bichhri), the Court operationalised “polluter pays” and remediation principles, emphasising the full cost of environmental harm, again foregrounding reparative logic. In the Uphaar tragedy litigation, the Court wrestled with the legality of substituting imprisonment with fine in negligence caused deaths, offering a rare penological window into sentencing philosophy in disaster contexts.

Against this backdrop, this paper proposes a penology “beyond compensation” approach: (i) a dedicated corporate homicide/corporate manslaughter offence calibrated to organisational fault; (ii) sentencing guidelines emphasising custodial accountability of responsible officers; (iii) structured non-monetary sanctions for corporations (probation, monitorships, safety compliance orders, adverse publicity orders, debarment from public procurement, and dissolution in extreme cases); and (iv) integrated data driven enforcement using institutions such as DISH, DGFASLI, DGMS and open data platforms for proactive risk targeting. The paper uses doctrinal analysis and five Supreme Court case studies to demonstrate that while compensation is necessary, it is insufficient for deterrence and justice in industrial disaster governance.

**Keywords:** Corporate manslaughter; industrial disaster; penology; corporate criminal liability; Factories Act; DGMS; DGFASLI; DISH; absolute liability; polluter pays; sentencing; imprisonment; fines; compliance orders; National Green Tribunal.

## 1. Introduction

Industrial disasters are not merely “accidents”; they are often the predictable culmination of organisational decisions production targets overriding maintenance, cost-cutting on safety, regulatory evasion, and the normalisation of risk in densely populated environments. India’s post-liberalisation industrial growth has expanded hazardous processes across chemicals, energy, construction, mining, and manufacturing, increasing exposure to catastrophic harm. Yet the criminal law’s architecture still largely treats workplace death through a narrow negligence lens, typically prosecuted under section 304A of the Indian Penal Code (IPC), which caps punishment at two years’ imprisonment or fine or both. This ceiling, structurally designed for individual negligent acts, is difficult to reconcile with multi-fatality events involving systemic corporate fault.

The absence of a standalone “corporate manslaughter” offence in India is consequential. “Corporate manslaughter” is conceptually distinct from individual homicide: it targets organisational failure defective safety management systems, governance breakdowns, and policy-level recklessness rather than a single employee’s negligent act. India’s current approach instead disperses liability across: (i) general penal provisions (IPC section 304A; and in certain factual settings, more serious homicide provisions may be invoked); (ii) sectoral safety statutes such as the Factories Act, 1948 (especially the general duties and hazardous processes regime) and the Mines Act, 1952; and (iii) environmental statutes and tribunal-based

remedies focused on relief and restitution. This dispersion yields an enforcement reality where corporate culpability is either reduced to fines/compensation or translated into prosecutions that rarely impose imprisonment proportionate to the harm.

The Indian Supreme Court's environmental and public law jurisprudence has been a powerful corrective but primarily in the domain of civil/constitutional remedies. The Oleum Gas Leak case (M.C. Mehta v. Union of India) introduced "absolute liability" for enterprises engaged in hazardous activities, departing from older strict-liability limitations and emphasising that such enterprises must absorb the costs of harm. Similarly, the Court's "polluter pays" reasoning in hazardous waste cases (e.g. Bichhri) imposed remediation responsibilities and recognised environmental harm as a serious legal wrong. Yet these doctrinal innovations have not been matched by an equivalent evolution of criminal sentencing frameworks that can express the moral gravity of corporate-caused death.

This mismatch appears in data. Government figures reported in Parliament show that registered factories under the Factories Act recorded 1,154 fatalities in 2018 and 1,017 in 2022, with thousands of non-fatal injuries each year. Mines data similarly show recurring fatal accidents and serious injuries (e.g. 94 deaths in 2019; 53 deaths in 2023). Meanwhile, the Government's published enforcement totals for prosecutions and convictions under sections 92 and 96A of the Factories Act show thousands of convictions but extremely low imprisonment counts (aggregate imprisonment counts in single digits/low double digits across 2020–2022 totals). This does not, by itself, prove weak enforcement some cases may involve minor contraventions but it raises an important penological question: if workplace death is a recurring and foreseeable outcome of non-compliance, why is incarceration so rare, and why does corporate punishment remain predominantly pecuniary?

The conceptual premise of this paper is that industrial disasters require a penology that integrates: (a) deterrence (preventing future harm by increasing expected costs of violations), (b) denunciation (expressing societal condemnation proportionate to mass harm), (c) incapacitation (restricting dangerous operations and disqualifying negligent management), and (d) restoration (compensation and remediation). India's current model heavily weights restoration, particularly through the Public Liability Insurance Act, 1991, and the National Green Tribunal's power to award relief and restitution, with criminal liability functioning episodically rather than systematically.

This paper thus investigates what "penology beyond compensation" could mean in the Indian context. It does not argue against compensation indeed, immediate relief is essential in mass disasters, as reflected in Parliament's emphasis on safety enforcement by state inspectorates (CIF/DISH) and central agencies (DGMS). Rather, it argues that compensation should be accompanied by criminal and quasi-criminal sanctions capable of transforming corporate behaviour: enforceable safety orders, corporate probation, independent monitors, mandatory safety investments, and where warranted custodial accountability of the officers whose governance failures created the risk.

To ground this inquiry, the paper uses doctrinal analysis and five Supreme Court case studies: (1) Oleum Gas Leak (M.C. Mehta), (2) Bhopal settlement (Union Carbide), (3) constitutionality of Bhopal claims representation (Charan Lal Sahu), (4) hazardous waste remediation (Indian Council for Enviro-Legal

Action—Bichhri), and (5) the Uphaar tragedy sentencing debate (Association of Victims of Uphaar Tragedy). These cases demonstrate a jurisprudential pattern: strong remedial innovation but inconsistent criminal accountability. The paper concludes by proposing a legislative and institutional blueprint for a dedicated corporate manslaughter framework and sentencing regime aligned to India’s safety and environmental governance structures and informed by open data systems.

## RESEARCH OBJECTIVES

1. To map the existing Indian legal framework governing corporate caused deaths and industrial disasters across IPC/CrPC, the Factories Act, the Mines Act, and environmental statutes.
2. To evaluate enforcement design and outcomes (prosecutions, convictions, imprisonment incidence, fines) using official datasets and parliamentary/government publications.
3. To analyse Supreme Court jurisprudence on hazardous industries, compensation, and sentencing in disaster contexts, focusing on penology and accountability.
4. To identify doctrinal and institutional gaps that prevent punishment proportionate to corporate wrongdoing, particularly in mass casualty events.
5. To propose a reform model for “penology beyond monetary compensation,” including a corporate manslaughter offence and a structured sanctioning toolkit.

## RESEARCH HYPOTHESIS

H1: India’s present legal framework, which relies primarily on negligence-based IPC provisions and compliance-based sectoral statutes, results in a penological deficit in industrial disaster cases manifesting as over dependence on monetary compensation and under-utilisation of imprisonment and non-monetary corporate sanctions thereby weakening deterrence and expressive justice.

Null hypothesis H0: The existing framework provides adequate deterrence and proportional punishment through current penalties and enforcement mechanisms.

## RESEARCH METHODOLOGY

Doctrinal (black-letter) method: Analysis of statutes and subordinate legislation (Factories Act, Mines Act, Environment (Protection) Act, Public Liability Insurance Act, NGT Act, Companies Act provisions relevant to governance and penal consequences), and interpretive reading of Supreme Court judgments.

Empirical-descriptive method: Use of official data: (i) Lok Sabha answer reporting fatal/non-fatal injuries in factories and mines; (ii) DGMS statistical publication “SANKET” on coal mine accidents; (iii) Government press release reporting prosecutions/convictions under Factories Act; and (iv) open-data references (OGD platform; NCRB-linked dataset preview for factory/machine accidents).

Comparative penology (limited): Conceptual comparison with the idea of corporate manslaughter (as a category of organisational culpability) to assess what is missing in India’s current penal design without importing foreign law doctrinally as binding.

Case study method: Five Supreme Court case studies to extract doctrinal principles and sentencing/penological implications.

## MAIN BODY

### 1. Conceptualising “Corporate Manslaughter” in India

“Corporate manslaughter” denotes criminal liability for death resulting from an organisation’s gross failure in managing health and safety, attributable to senior management decisions, corporate culture, or systemic governance defects. India lacks this named offence; therefore prosecutors typically rely on IPC section 304A (“causing death by negligence”), sometimes paired with hurt provisions (sections 337/338) and sector-specific offences under safety statutes. The challenge is that section 304A is calibrated for negligent acts not amounting to culpable homicide, with a maximum of two years’ imprisonment, which is often inadequate for mass casualty incidents or repeated, profit-driven safety violations.

In industrial disasters, the “actor” is frequently organisational: multiple layers of decision-making produce unsafe conditions (ignored audits, deferred maintenance, understaffed safety departments, inadequate training, and defective emergency response). The law’s traditional focus on individual mens rea struggles to map onto corporate fault unless the evidence clearly identifies a directing mind. The Supreme Court’s public law remedies (compensation, closure directions, remediation) have partially bridged this gap, but the criminal law’s penal grammar remains narrow.

### 2. Statutory Framework: IPC/CrPC and Corporate-Caused Death

#### (A) IPC Section 304A - “Causing death by negligence”

Section 304A penalises causing death by a rash or negligent act not amounting to culpable homicide, with imprisonment up to two years, or fine, or both. This is the most common “manslaughter-adjacent” provision applied to disaster negligence (e.g. fire safety failures) because it avoids the higher thresholds of intention/knowledge associated with homicide provisions. Yet when dozens or thousands die, the ceiling becomes a structural barrier to proportional punishment, creating pressure to “solve” justice through compensation.

#### (B) Victim compensation in criminal process: CrPC Section 357

CrPC section 357 empowers courts to apply fines to compensate victims for loss or injury and to pay compensation in death cases to persons entitled under the Fatal Accidents Act. While essential, this mechanism is still linked to the sentence’s fine structure and does not itself substitute for robust penal sanctions against organisational wrongdoing. In disaster contexts, compensation may be large in aggregate, yet punitive incarceration or corporate-level non-monetary sanctions may remain rare.

### 3. The Factories Act, 1948 and Workplace Safety Regulation (DISH/DGFASLI)

#### (A) Core duties and hazardous processes

The Factories Act, 1948 contains structured obligations on occupiers and managers relating to health, safety, and welfare; it also includes special provisions relating to hazardous processes (Chapter IVA: sections 41A-41H) and general duties of the occupier (section 7A). The Act's design is preventive: licensing, inspections, safety committees, emergency standards, disclosure duties, and worker participation in safety management are intended to reduce risk ex ante.

#### (B) Penalties: Section 92 (general penalty)

Section 92 provides that for contravention of the Act/rules/orders, the occupier and manager are each guilty and punishable with imprisonment up to two years, or fine up to one lakh rupees, or both; continuing contraventions attract additional daily fines. Importantly, where contravention of safety provisions results in death or serious bodily injury, minimum fines are prescribed (₹25,000 for death; ₹5,000 for serious bodily injury). The statutory maxima again reveal a penological limitation: for deaths arising from systemic failures, the imprisonment range mirrors IPC 304A's ceiling and may not adequately deter large corporations with "deep pockets."

#### (C) Enforcement institutions: DISH and DGFASLI

The enforcement of the Factories Act and rules is undertaken by State/UT authorities through Chief Inspectors of Factories/Directorates of Industrial Safety & Health (DISH), empowered to initiate penal action against occupiers and managers for violations. At the national level, DGFASLI consolidates data and provides technical inputs; government reporting emphasises that non-compliance produces unsafe conditions and accidents.

#### (D) Empirical snapshot: factory fatalities and injuries

Official figures (registered factories) show fatalities above ~1,000 per year across 2018-2022, alongside thousands of non-fatal injuries. This indicates that industrial harm is not episodic; it is systemic. The question becomes whether enforcement and sentencing patterns reflect this reality.

### 4. Mines Act, 1952 and DGMS: Penal Design and Accident Governance

The Mines Act, 1952 provides a specialised safety regime for mines and is administered by the Directorate General of Mines Safety (DGMS). DGMS is described as the regulatory agency under the Ministry of Labour & Employment for occupational safety, health, and welfare of persons employed in mines, conducting inspections and investigations and promoting safety culture.

(A) Penal provision with “dangerous results”: Section 72C

Section 72C provides enhanced punishment where contravention of the Act/regulations/rules results in loss of life: imprisonment up to two years, or fine (up to ₹5,000), or both; lesser ranges apply for serious bodily injury and danger. It also allows courts to direct fine amounts as compensation to injured persons or legal representatives. This reveals another penological constraint: the fine maxima are historically low, and the imprisonment ceiling again parallels Factories Act/IPC negligence maxima, limiting deterrence for corporate-scale mining operations.

(B) Empirical snapshot: mines accidents

Parliamentary data shows organised sector mines reporting fatal accidents and deaths (e.g. 84 fatal accidents/94 deaths in 2019; 49 fatal accidents/53 deaths in 2023) plus serious/non-fatal accidents and injuries. DGMS “SANKET” further documents coal mine fatal accident and fatality trends, including a decadal analysis (2013-2022) with year-wise fatal accidents and fatalities.

## 5. Environmental Laws: Penal Sanctions vs Remedial Dominance

(A) Environment (Protection) Act, 1986: Section 15 penalties

Section 15 provides imprisonment up to five years or fine up to one lakh rupees or both for contraventions, with additional daily fine for continuing contraventions; if the failure continues beyond a year after conviction, imprisonment may extend to seven years. While this appears stronger than some sectoral fines, environmental enforcement often proceeds through directions, closures, and compensation-based remediation, including via tribunal routes, rather than frequent custodial punishment.

(B) Public Liability Insurance Act, 1991: “No-fault” immediate relief

The Public Liability Insurance Act, 1991 is designed to provide immediate relief to persons affected by accidents while handling hazardous substances and imposes duties on owners to maintain insurance and contribute to relief mechanisms. This is crucial for victims but reinforces a compensatory emphasis often without parallel institutional momentum for punitive corporate sentencing in criminal courts.

(C) National Green Tribunal Act, 2010: Section 15 - relief, compensation, restitution

Section 15 empowers the Tribunal to grant relief and compensation to victims of pollution and environmental damage, and to order restitution of property and environment; such relief is in addition to relief under the Public Liability Insurance Act. The NGT model is explicitly restorative excellent for remediation but again raises the risk that corporate accountability becomes predominantly pecuniary or injunctive, not penal.

## 6. Companies Act, 2013: Governance, Fraud, and “Penal Channels” (Limits for Disaster Death)

Industrial disasters often involve governance failures—board oversight gaps, suppression of safety reports, misrepresentation to regulators. While the Companies Act is not a “manslaughter” statute, it provides penal tools for corporate misconduct. Section 447 punishes “fraud” with imprisonment (6 months to 10 years) and fine (not less than amount involved, up to three times), with a minimum of three years if public interest is involved; the explanation defines fraud broadly as abuse of position, concealment, and deception in company affairs. In disaster contexts, if safety compliance fraud or falsified certifications are proven, Companies Act offences may complement safety statutes yet this depends on investigative capacity and evidentiary traceability from accident to boardroom.

## 7. Compliance, Data Systems, and the Enforcement Gap (DISH, DGMS, OGD, NCRB)

### (A) Compliance architecture

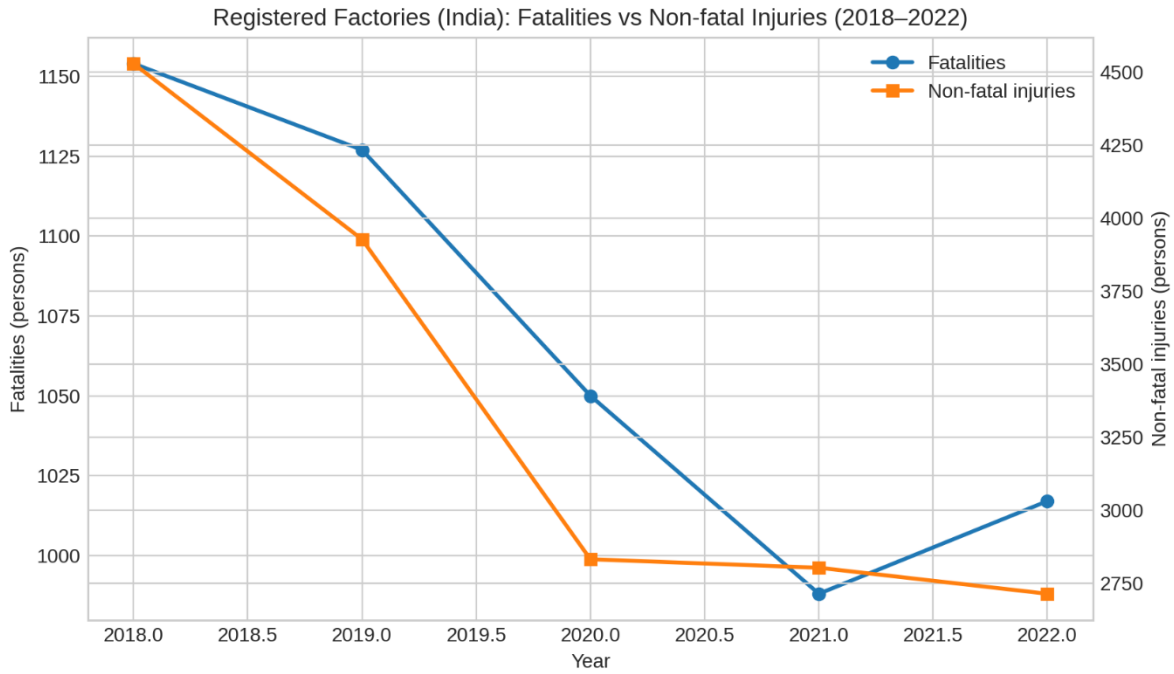
Both factories and mines statutes rely on inspections, notices, and prosecutions. Parliament’s answer explicitly notes that the Factories Act and Mines Act provide safety and welfare provisions; enforcement occurs through CIF/DISH for factories and DGMS for mines. DGMS publications describe how accident notices, inspections, enquiries, and prosecutions are used to reduce hazards and show improving trends in some periods.

### (B) Open data and risk targeting

India’s Open Government Data (OGD) platform provides a national repository for datasets to support transparency and research. Complementary datasets (e.g. NCRB-linked “factory/machine accidents” series) indicate year-wise counts of accidents, injuries, and deaths, supporting macro trend analysis (though definitional differences must be handled carefully). A “penology beyond compensation” agenda needs this data layer: prosecution and sentencing must be systematically aligned with risk indicators (repeat offenders, hazardous processes, prior contraventions, proximity to populations), rather than purely complaint-driven or post-disaster reactive.

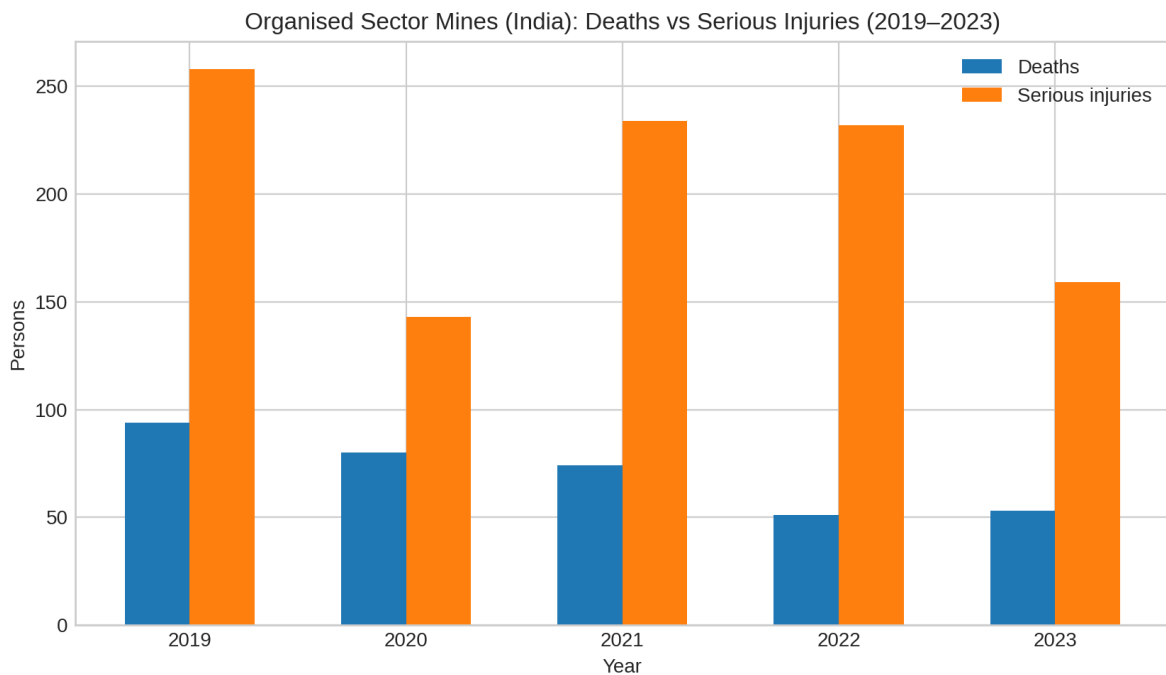
8. Charts, Tables, and Empirical Illustrations (Official Data)

Figure 1: Registered factories—fatalities vs non-fatal injuries (2018–2022)



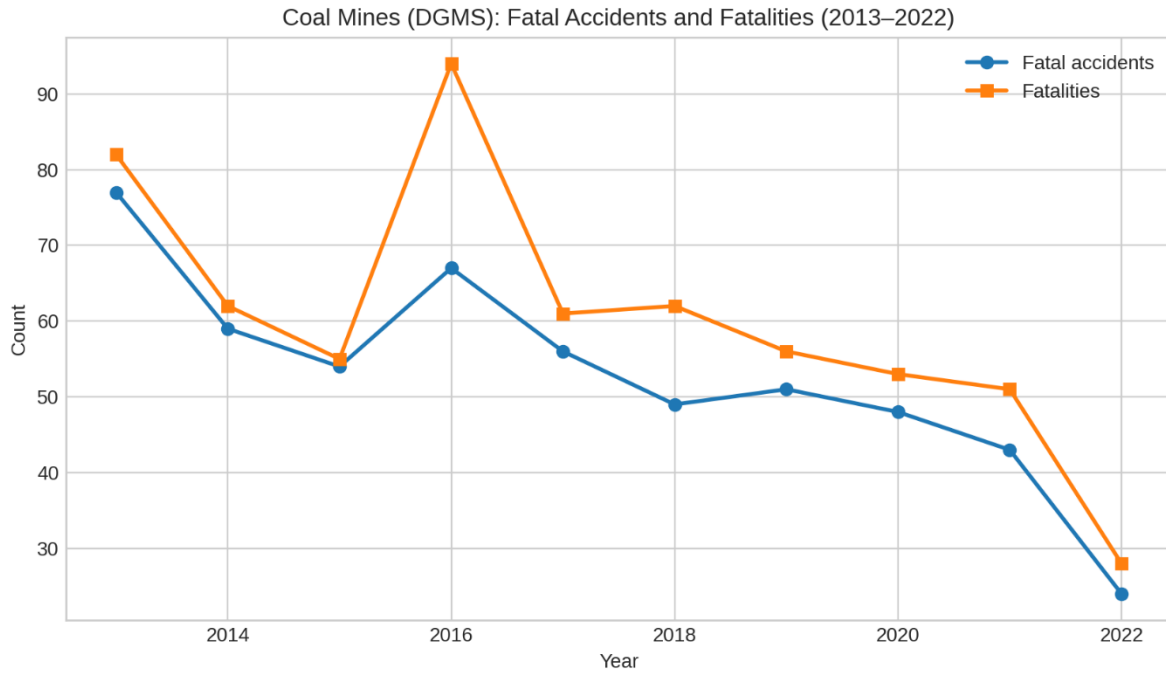
Source basis: Lok Sabha Unstarred Question No. 66 (answered 22.07.2024).

Figure 2: Organised sector mines deaths vs serious injuries (2019-2023)



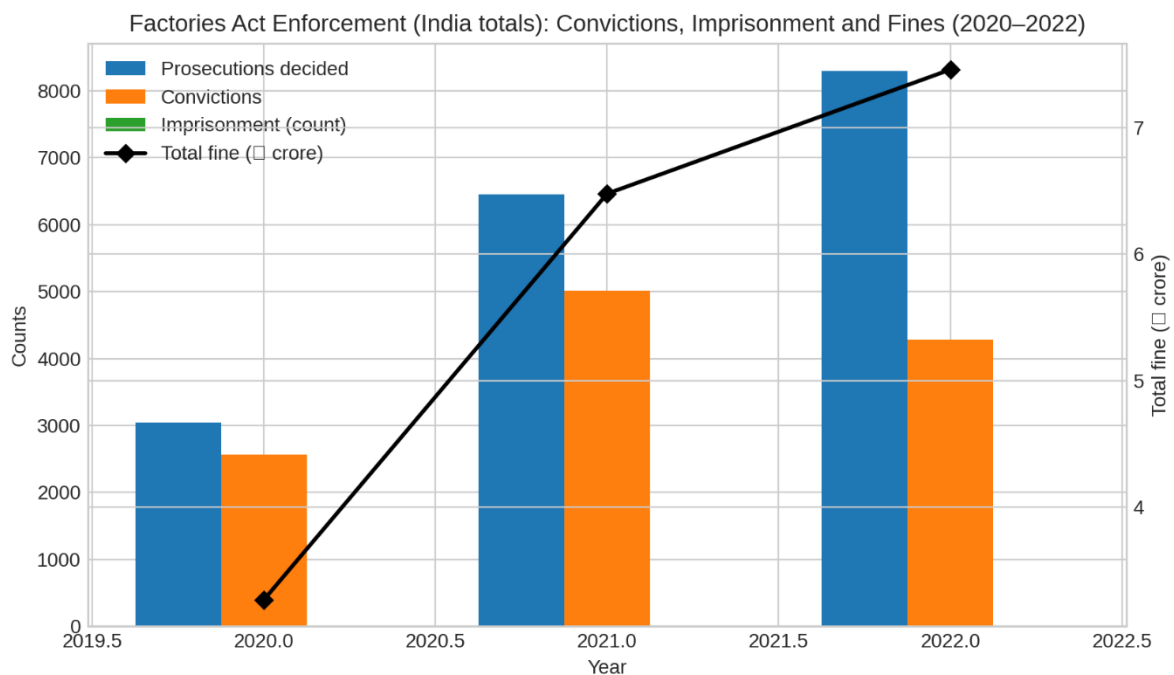
Source basis: Lok Sabha Unstarred Question No. 66 (mines Annexure-II).

Figure 3: Coal mines (DGMS)-fatal accidents and fatalities (2013-2022)



Source basis: DGMS “SANKET” Table 2.1.

Figure 4: Factories Act enforcement totals convictions, imprisonment, fines (2020-2022)



Source basis: PIB release on prosecutions/convictions under Factories Act sections 92 and 96A.

## **9. Penology Analysis: Why Compensation Alone Is Insufficient**

### (A) Deterrence failure under low maxima

When statutory maxima for occupational death offences cluster around two years' imprisonment (IPC 304A; Factories Act section 92; Mines Act section 72C), large enterprises can treat violations as priced risks especially if probability of inspection/prosecution is low and fines are not revenue-linked. DGMS and parliamentary reports show recurring fatality counts, indicating that deterrence is not fully effective.

### (B) Expressive justice and proportionality

Mass casualty disasters raise a moral demand for denunciation. Courts can provide compensation and remediation, but the penal system must also communicate that organisational indifference to life is a serious public wrong. The Supreme Court's discussions in disaster-linked cases show awareness of this expressive dimension, especially in sentencing debates (e.g. Uphaar) and hazardous enterprise liability (Oleum). Yet without a dedicated offence and structured corporate sanctions, denunciation is fragmented and inconsistent.

### (C) Incapacitation and prevention through sanction design

Penology beyond compensation includes restrictions on operations, compliance monitors, and disqualification of responsible managerial personnel. Sectoral regimes already contain preventive powers (inspections, prohibition of employment in dangerous cases, closure directions), but criminal sentencing rarely integrates these as structured outcomes. A corporate manslaughter framework could institutionalise such sanctions as sentencing options.

## **10. Supreme Court Case Studies**

Case Study 1: M.C. Mehta v. Union of India (Oleum Gas Leak) - Absolute Liability as "Proto-Penology"

Citation: (1987) 1 SCC 395; AIR 1987 SC 1086.

The Oleum Gas Leak litigation arose against the backdrop of heightened public anxiety after the Bhopal disaster. The petitioner sought closure of hazardous units of Shriram Foods & Fertilizers, and during the pendency of the petition, oleum gas leaked causing death and injuries. The Supreme Court treated the matter not only as a question of regulatory compliance but as a constitutional and tort law inflection point: the Court's Article 32 jurisdiction was characterised as remedial (not merely injunctive), allowing the Court to fashion relief for infringement of the right to life under Article 21, including compensation.

Key doctrinal move: The Court rejected the traditional constraints of the Rylands v. Fletcher strict liability framework and articulated a more stringent standard for hazardous industries commonly described as absolute liability based on the premise that enterprises engaged in inherently dangerous activities owe a

non-delegable duty to ensure that no harm results, and if harm occurs, they must compensate. This doctrine is not, strictly speaking, “criminal,” but it performs penological functions: it internalises costs, increases expected liability, and creates an incentive structure for prevention. It also explicitly recognises the relevance of “deep pockets” reasoning large enterprises should bear costs commensurate with their capacity and the scale of risk they introduce.

Penology beyond compensation what the case enables and what it leaves open: Oleum’s absolute liability is primarily remedial (compensation), but it implicitly advances deterrence by shifting accident costs decisively onto hazardous enterprises. Yet, it does not solve the “corporate manslaughter” gap: a company may be compelled to compensate, and its operations may be regulated or restricted, but the criminal law’s expressive condemnation and incapacitation tools remain limited unless parallel prosecutions succeed under IPC/safety statutes.

The Court also confronted institutional design questions: how should claims be processed, what machinery should assess damages, and how should constitutional courts gather evidence in public interest litigation? The judgment’s emphasis on avoiding hyper-technical barriers and on the Court’s capacity to appoint commissions shows judicial willingness to innovate for social justice in mass harm contexts. But the same innovation is not mirrored in sentencing architecture: even if criminal prosecutions occur under IPC section 304A or Factories Act section 92, maxima remain low (two years), and corporate entities cannot be imprisoned only fined unless officers are prosecuted individually.

Why Oleum matters for corporate manslaughter discourse in India: Oleum establishes a jurisprudential principle that hazardous enterprise risk must be treated as a serious public wrong, not a private mishap. It offers a normative foundation for a corporate manslaughter statute: if the legal system can impose absolute remedial liability due to the nature of the enterprise, it can also conceptualise organisational fault for penal purposes especially when death results from systemic non-compliance.

Limitations and the penological argument: Absolute liability’s greatest strength ensuring compensation can also become its weakness if it becomes the dominant societal response. Without structured punitive consequences (e.g. corporate probation, adverse publicity orders, disqualification of managers, imprisonment of culpable officers), the legal system risks communicating that deaths are “payable events.” This is the core penological critique that motivates the “beyond monetary compensation” agenda.

Case Study 2: Union Carbide Corporation v. Union of India (Bhopal Settlement) - The Compensation-Criminal Accountability Trade-off

Citation: 1989 SCC (2) 540; AIR 1990 SC 273 (reasons dated 04.05.1989).

The Bhopal Gas Leak disaster remains the paradigmatic industrial catastrophe in India, involving mass death and long-term injury from toxic exposure. In Union Carbide Corporation v. Union of India, the Supreme Court confronted interlocutory compensation appeals and ultimately recorded an overall settlement requiring payment of US \$470 million, described as being “not as fines, penalties or punitive damages,” and originally directing termination of related civil and criminal proceedings. The Court’s

reasons emphasised the “compelling need for urgent relief” and the humanitarian imperative to secure immediate assistance for victims facing survival crises.

The penological dilemma: The settlement model foregrounded compensation and procedural finality over retributive and deterrent punishment. The very phrasing payment not being punitive highlights a conceptual separation between relief and punishment. This separation is central to the present paper: compensation is necessary, but when it becomes the predominant mechanism, the penal system may fail to convey condemnation and deterrence appropriate to mass industrial death.

From a corporate manslaughter lens, Bhopal demonstrates the institutional weakness of relying on general criminal law to discipline multinational corporate negligence. If death is prosecuted under IPC 304A-like negligence frameworks (or parallel provisions), the ceiling is low and the evidentiary demands to attach liability to high-level decision-makers are high. When the legal system chooses settlement to accelerate relief, criminal accountability risks being perceived as negotiable. The Supreme Court itself acknowledged that the reasons were stated “with an open mind” to consider legal infirmities in review, indicating awareness of controversy and the gravity of terminating criminal process.

Structural implications for Indian penology: Bhopal’s settlement has had a long shadow: (i) it influenced legislative thinking behind no-fault immediate relief mechanisms (Public Liability Insurance Act) and environmental adjudication structures (NGT’s relief and restitution powers); and (ii) it reinforced a pragmatic judicial posture prioritising distributive relief in mass tort contexts. However, these developments strengthen the compensatory state while leaving the punitive state under-instrumented.

Why Bhopal is relevant to “penology beyond compensation”: The case demonstrates that a compensation-centric response can be legally and morally contested if it appears to dilute or extinguish penal consequences. Even where compensation is substantial, the absence (or perceived erosion) of criminal trials can undermine public confidence and the law’s deterrent function. Further, a settlement figure even if large may not be linked to corporate revenue, culpability grading, or repeat-offender status, whereas a sentencing regime could incorporate structured sanctions (mandatory safety redesign, monitorships, debarment, publicity orders) beyond money.

Doctrinal lesson: Bhopal underscores that India needs a framework that does not force a choice between relief and punishment. A corporate manslaughter statute could make criminal accountability more predictable and less negotiable, while still allowing immediate relief through no-fault and tribunal mechanisms. In short, Bhopal is a cautionary tale about the costs of compensation without robust penal closure.

Case Study 3: Charan Lal Sahu v. Union of India - State Representation, *Parens Patriae*, and the Place of Criminal Accountability

Citation: (1990) 1 SCC 613; AIR 1990 SC 1480 (judgment dated 22.12.1989).

Charan Lal Sahu arose from constitutional challenges to the Bhopal Gas Leak Disaster (Processing of Claims) Act, 1985, which vested exclusive authority in the Central Government to represent victims and

process claims. The case is crucial not only for mass disaster compensation governance but also for its institutional framing of accountability: when the State assumes the role of representative, what happens to individual autonomy, procedural fairness, and the pursuit of criminal liability?

The Supreme Court considered whether the Act violated Articles 14, 19, and 21; it also engaged with doctrines like *parens patriae* the State as guardian for those unable to protect themselves. This architecture was justified in part by the scale and complexity of mass disaster litigation, and the need for speedy, effective processing of claims. Yet the petitioners raised concerns of conflict of interest given the Government's association with industrial and regulatory structures and the lack of notice and participation before settlement decisions.

Penological relevance: The case illustrates a central tension: mass disasters demand administrative efficiency and distributive justice (compensation), but penal justice demands adversarial process, individualised culpability, and moral condemnation. A system designed for quick compensation may structurally deprioritise criminal prosecution, especially if civil settlement is treated as the primary “closure” mechanism. Charan Lal Sahu therefore becomes a lens for analysing how institutional design can unintentionally reconfigure penology: if the State becomes the principal actor, victims' plural interests—including demands for punishment may be mediated, diluted, or postponed.

Why this matters for corporate manslaughter: Corporate manslaughter frameworks typically separate (a) victim compensation from (b) public prosecution for homicide-like wrongdoing. India's Bhopal claims regime, while rational for relief distribution, demonstrates that without a separate and robust penal pathway, criminal accountability can be entangled with settlement politics and administrative pragmatism.

Furthermore, Charan Lal Sahu underscores that disaster governance is not only about corporate defendants; it is also about the State's regulatory obligations under Article 21 and Directive Principles. The Act's justification was partly anchored in the State's obligation to protect human rights and ensure legal mechanisms for relief. But this same constitutional obligation can be read as requiring effective deterrence through penal enforcement especially where repeated safety failures persist across industries, as suggested by ongoing fatality and injury data in factories and mines.

Doctrinal takeaway for “penology beyond compensation”: The key lesson is that compensatory governance must not crowd out penal justice. A corporate manslaughter statute would help by: (i) making prosecution mandatory-consideration in qualifying disaster deaths; (ii) reducing reliance on negligence-only offences with low maxima; and (iii) providing structured sanctions that complement compensation rather than being displaced by it.

In sum, Charan Lal Sahu shows that mass disaster law is a constitutional governance problem: the State's design choices determine whether corporate-caused death is treated as an “administrative compensation event” or as a public wrong demanding punishment. India's future reform must architect both tracks explicitly.

Case Study 4: Indian Council for Enviro-Legal Action v. Union of India (Bichhri) - Polluter Pays, Remediation, and the “Criminal Deficit”

Citation: (1996) 3 SCC 212; AIR 1996 SC 1446 (judgment dated 13.02.1996).

The Bichhri litigation involved severe environmental and public health harms caused by chemical industries that discharged untreated hazardous wastes, contaminating soil and groundwater and destroying livelihoods. The Supreme Court's judgment is notable for its moral language condemning contempt for law and for operationalising a robust remedial framework requiring polluters to bear the costs of cleanup and restitution.

**Core principle:** The Court reinforced that industries causing environmental harm must pay for remediation ("polluter pays") and that the State must ensure enforcement. This principle complements the Environment (Protection) Act's broad regulatory powers and penalty provisions (including imprisonment/fines for contraventions). The case thus deepens "beyond compensation" thinking but mainly in a restorative/remedial register: the polluter must restore the environment, not merely pay damages.

**Penological question:** Remediation is essential; however, remediation orders do not fully substitute for punishment where harm reflects reckless or profit-driven disregard. Environmental crimes often involve long time horizons, diffuse victims, and complex causation factors that make criminal prosecution difficult. The Supreme Court's strong remedial stance responds to these barriers, but it may also reinforce a pattern where corporate offenders internalise environmental harm as a cost of doing business, particularly if penalties and imprisonment are not consistently applied.

The National Green Tribunal Act, 2010 later institutionalised relief and restitution powers, explicitly providing compensation and environmental restoration as tribunal remedies in addition to no-fault relief under the Public Liability Insurance Act. This shows an Indian policy choice: build strong restorative institutions for environmental harm. Yet, from a corporate manslaughter perspective, the missing piece is a criminal framework for deaths and injuries resulting from environmental-industrial failures that can impose proportionate sanctions on corporate leadership.

**Why Bichhri matters for corporate manslaughter:** The case demonstrates the feasibility of treating corporate-caused harm as systemic. The Court dealt with organisational wrongdoing (multiple units, patterns of illegal disposal, regulatory disregard), not isolated negligence. This supports the argument that criminal law should also recognise organisational fault especially where environmental mismanagement foreseeably risks death (toxic exposure, water contamination, chemical releases).

**Institutional design lesson:** The Bichhri case required expert assessments, ongoing monitoring, and sustained judicial supervision an approach mirrored in modern corporate compliance tools (monitorships, audits, safety management systems). DGMS and factory enforcement frameworks already use inspections, enquiries, and notices, but sentencing rarely mandates corporate governance reforms as part of penal outcomes. A corporate manslaughter statute could integrate Bichhri's remedial logic with a penal toolkit: corporate probation with enforceable remediation and safety milestones; adverse publicity orders; and director/officer disqualification for repeated or grave violations.

**Conclusion of this case study:** Indian Council for Enviro-Legal Action exemplifies the Indian judiciary's strength in crafting restorative justice for industrial harm. Yet it simultaneously illustrates the "criminal

deficit”: where wrongdoing is systemic, India’s criminal penalties (often capped low in sectoral laws) are insufficiently integrated into a coherent penology. To move beyond compensation, India must merge restoration with structured punishment and prevention-oriented sanctions.

Case Study 5: Association of Victims of Uphaar Tragedy v. Sushil Ansal - Sentencing, Substitution by Fine, and the Limits of Negligence Penology

Citation: (2017) 3 SCC 788 (review order dated 09.02.2017); linked sentencing discussion in earlier appeals.

The Uphaar cinema fire (Delhi, 13 June 1997) caused 59 deaths and injured many others. The case is central for corporate manslaughter discourse because it is a rare Supreme Court window into sentencing philosophy for negligence-caused mass death. The trial court convicted the cinema licence-holder and management under IPC sections 304A, 337, and 338, sentencing them to imprisonment; the sentencing trajectory then moved through appeals, a split verdict, and later review proceedings questioning whether imprisonment can be substituted by fine.

The legal issue: The review petitions debated whether the IPC permits substitution of imprisonment with fine, especially under section 304A. The Court examined sentencing discretion, the statutory structure (including default sentences linked to fine), and broader objectives of deterrence and public confidence. This is directly aligned with the paper’s theme: can money replace jail when death results from systemic safety negligence?

Penological stakes: If fines can readily replace imprisonment, corporate defendants may treat disaster liability as a financial problem. Uphaar highlights this risk: where the offender is economically powerful, a large fine may not carry the same denunciatory weight as incarceration, and substitution may undermine equality before law if poorer offenders cannot “purchase” reduced custody. At the same time, the Court grappled with contextual factors such as age and proportionality, reflecting the complexity of sentencing in long-litigated cases.

Why Uphaar demonstrates the need for corporate manslaughter law: The entire litigation occurred within the limits of IPC 304A: a maximum of two years’ imprisonment. When dozens die, the legal system’s maximum custodial expression remains modest. This creates systemic pressure to use fines/compensation as the primary response. Yet the Supreme Court’s engagement with whether fine substitution is legally permissible shows a recognition that sentencing must preserve deterrence and public legitimacy.

Corporate structure problem: Cinema operations involve licensing, inspections, building standards, emergency exits, and management decisions. These are organisational variables. The criminal law, however, channelled the wrong through individual negligence offences, rather than an organisational homicide category that could: (i) impose corporate-level sanctions such as mandatory safety redesign and public compliance reporting; and (ii) treat senior management failure as a central element rather than a peripheral evidentiary struggle.

Link to regulatory enforcement data: The Government's published enforcement totals under the Factories Act show thousands of convictions but minimal imprisonment counts in the aggregate. Uphaar demonstrates how, even when courts consider imprisonment, institutional and doctrinal constraints may pull sentencing toward fines, especially with powerful defendants and long delays. Together, these patterns justify reform toward structured corporate criminal sanctions and sentencing guidelines that resist over-monetisation of punishment.

Conclusion of this case study: Uphaar is a jurisprudential warning: in mass death negligence cases, India's penal toolbox is thin and vulnerable to substitutionary logic. Penology beyond compensation requires a framework where corporate entities face non-monetary sanctions (probation/monitorship/publicity orders) and where responsible officers face predictable custodial consequences calibrated to organisational fault and foreseeability.

## RECOMMENDATIONS

### 1. Enact a dedicated Corporate Manslaughter / Corporate Homicide offence

India should legislate a specific offence targeting deaths caused by gross organisational failure in safety management. The offence should: (i) define organisational fault (systemic breach, tolerated violations, ignored warnings); (ii) require a link to senior management decisions or corporate culture; and (iii) scale penalties to harm magnitude and culpability. This fills the gap created by IPC 304A's low maximum and its design for individual negligence rather than organisational wrongdoing.

### 2. Adopt a structured sentencing framework with non-monetary corporate sanctions

Penology beyond compensation should include:

- Corporate probation with court-supervised compliance plans.
- Independent safety monitors for hazardous units, drawing from the inspection-and-enquiry model used by DGMS and factory inspectorates.
- Adverse publicity orders (mandatory public disclosure of conviction, causes, and corrective steps), strengthening denunciation.
- Debarment from public procurement/licensing for repeat offenders.
- Mandatory safety investment orders (ring-fenced capex for safety upgrades), aligning with the preventive design of the Factories Act hazardous processes regime.

### 3. Strengthen custodial accountability of responsible officers

Corporate entities cannot be imprisoned; therefore, deterrence requires predictable prosecution of the individuals who controlled safety-critical decisions (occupier/manager under the Factories Act; owner/agent/manager under mines law; directors/officers in company governance). Statutes already place responsibility on these roles and allow imprisonment (Factories Act section 92; Mines Act section 72C; EPA section 15). Sentencing guidelines should presume custody where death results from proven gross non-compliance, subject to reasoned departures.

#### 4. Data-driven enforcement using OGD + inspectorate integration

Government enforcement should operationalise risk-based targeting:

- Integrate DGFASLI, DISH, and DGMS inspection histories with open-data platforms for trend identification and repeat-offender mapping.
- Use datasets (including NCRB-style national series for factory/machine accidents) to prioritise sectors and regions where deaths are concentrated.
- Publish prosecution outcomes (convictions, imprisonment, corporate sanctions) in machine-readable form to enhance accountability.

#### 5. Align environmental restoration with criminal prosecution triggers

Where industrial harm involves hazardous substances, environmental remediation should not substitute for prosecution. The NGT's restitution powers and the Public Liability Insurance regime should operate as relief/restoration tracks, while criminal law proceeds independently for culpable death and reckless endangerment. Institutional protocols should mandate that serious accidents automatically trigger parallel criminal review, using DGMS/DISH enquiry outputs as evidentiary inputs.

#### 6. Enhance penalties in sectoral statutes to reflect modern enterprise scale

Statutory fine maxima in mines law (e.g. section 72C) and general safety penalties should be modernised and linked to turnover/profit for large entities, while maintaining minimum custodial ranges for gross violations causing death. This reduces “pricing in” of fatalities as business costs.

### CONCLUSIONS

India's experience with industrial disasters demonstrates a sophisticated remedial jurisprudence and a comparatively weaker penal architecture for corporate caused death. The Supreme Court's landmark doctrines absolute liability (Oleum), polluter pays and remediation (Bichhri), and mass-disaster claims governance (Bhopal/Charan Lal Sahu) have advanced compensation, restitution, and environmental governance. Yet these innovations, while essential for victims, do not fully resolve the penological deficit: criminal punishment remains constrained by low statutory maxima for negligence-style offences and by the absence of structured corporate sentencing tools beyond fines.

The empirical data reinforces the structural concern. Official figures report persistent fatalities and injuries in registered factories and organised sector mines across multiple years. Enforcement totals under the Factories Act reveal thousands of convictions but very low imprisonment counts in aggregate (2020-2022 totals). This pattern does not necessarily indicate prosecutorial failure in every case, but it strongly suggests that corporate wrongdoing is frequently processed as compliance contravention with pecuniary consequences rather than as a grave public wrong warranting incapacitation and denunciation.

The five Supreme Court case studies illuminate the conceptual architecture behind this outcome. Oleum provides a normative foundation for treating hazardous enterprise risk as exceptionally serious, but it

operates primarily through compensation and preventive directions. Bhopal demonstrates how urgency and humanitarian need can drive settlement-based relief models, but it also shows the long-term legitimacy costs when criminal accountability appears negotiable. Charan Lal Sahu illustrates how state-led compensation governance can be constitutionally justified yet may structurally mediate victims' penal demands. Bichhri shows the Court's capacity to impose remediation and full-cost responsibility, but again highlights the relative under-integration of punitive mechanisms. Uphaar exposes the criminal law's sentencing limits for mass death under IPC 304A and the contested boundary between imprisonment and fine, illustrating how easily punishment can become monetised.

Therefore, "penology beyond monetary compensation" must be understood as a dual-track justice model: restore the victim and environment, but also punish and prevent corporate wrongdoing through structured sanctions. India should adopt a dedicated corporate manslaughter/corporate homicide offence grounded in organisational fault, expand sentencing options for corporate entities beyond fines (probation, monitorships, publicity orders, debarment), and strengthen custodial accountability for responsible officers. Finally, enforcement must be data-driven leveraging DISH/DGFASLI/DGMS systems and open government data so that prosecution and sanctioning become systematic rather than episodic, thereby transforming corporate safety culture from reactive compliance to proactive prevention.

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