

INSURANCE LAW

- *Sanyam Grover**

Abstract:

This Article offers a new perspective on insurance law by examining and combining two basic feature of insurance and insurance law: the nature of the insurance law issues concern a disputed claim. Insurance Law scholars are fond of reconceptualizing their subject. Insurance policies and insurance law have been likened to a means of public utility regulation, a product warranty, a social institution, or perhaps mostly simply, a thing. This article represents another conceptualization of the subject, and one that may be less foreign to the subject and performance of insurance relationships.

Every insurance policy is a contract is a contract between the policy holder and the insurer. Fundamentally, however, almost every insurance law problem, dispute, or doctrine is really about paying or not paying claims. These two features- contract and claim are at the heart of insurance law disputes. The significance of insurance as contract is generally recognized but the centrality of claims, less so. The article examines each of them separately and then combines them. Doing so provides a perspective on a large number of insurance law issues, and that perspective should change the courts' approach to a number of issues and doctrines. The focus is on personal lines particularly first party insurance in other settings.

The article first presents the contract and claim analysis. It then applies the analysis to several common issues in insurance law. The discussion demonstrates that courts sometimes use similar analysis, describes those tendencies suggests why they are incomplete and uses the contract to make them explicit.

I WHAT IS INSURANCE?

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Insurance is a contract which is represented by a policy in which an individual or entity receives financial protection or reimbursement against losses from an insurance company.

Insurance Law is the practice of law surrounding insurance, including insurance policies and claims. It can be broken into three categories:- (a) regulation of the business of insurance; (b) regulation of the content of insurance policies, especially with regard to consumer policies; and (c) regulation of claim handling.

II DEFINITION OF INSURANCE

A contract in which one party agrees to indemnify another against a predefined category of risks in exchange for a premium. Depending on the contract, the insurer may promise to financially protect the insured from the loss, damage, or liability stemming from some event. An insurance contract will almost always limit the amount of monetary protection possible. Insurance falls into the main groups of life, property, marine, aviation, health, transport, motor vehicle – third party liability, and personal accident and sickness.

Insurance is sharing collective responsibility by a large number of people to compensate few people in case of crises managing the collective responsibility the insurance companies work as trustee to take care of such collective responsibility and the insurance regulations provide specific guidelines to ensure the insurance functions due serve the society as per the expectations of pooling members.

III NATURE OF INSURANCE

1. Nature insurance is a device of sharing risk by large number of people among the few who are exposed to risk by one or the other reason.
2. If a large number of subscribers to insurance serve the purpose of compensation to few among them exposed to uncertain risks appears as a co-operative look.
3. Valuation of risk is determined as per predefined terms and conditions of the insurance policies.

4. Insurance provides facility of financial help in case of contingency.
5. However it depends on the value of insurance for which payment is made in case of contingency. This provides basis of the amount to be paid.
6. Insurance is a policy regulated under laws and therefore the amount of insurance can neither be paid as gambling nor as charity.

IV TYPES OF INSURANCE

1. Credit Insurance:

Credit insurance means of insuring the payment of commercial debts against the risk of non-payment by the borrower because of his insolvency or for some other reason.

A credit insurance is a type of business insurance designed to protect businesses from commercial and political risks that may impact the finances of the business. Such risks can be beyond the control of businesses or individuals.

Safeguarding against risks like loss or damage to the business is important to expand the business. Many national and private insurance companies in India provide credit insurance. This helps business owners overcome the loss to customer defaults and in turn, improve quality, increase business profits, and reduce risks of unpredictable customer insolvency. It also protects exporters of against any loss incurred during export of goods and services.

Types of Credit Insurance:-

Here are the different types of credit insurance.

- i) Credit life insurance:- Helps to pay off the debts in cases of the sudden death if the insured person.
- ii) Credit disability insurance:- If the insured faces permanent disability due to any reason, the insurer will pay off existing debts.
- iii) Credit insolvency unemployment insurance:- It aids in paying some or all of existing debts if the insured is involuntarily unemployed.
- iv) Credit property insurance:- It protects the insured's collateral property subject to the theft, loss or damage.
- v) Trade credit insurance:- It provides indemnity for bad losses in case of debt receivables due to the failure of customer repayment.

2. Group Insurance:

Group Insurance is insurance or life insurance obtained by a person as a member of a group, such as a professional organization, rather than as an individual, because in this way better terms can often be obtained. This is because there is an administrative saving for the company, and sometimes also because a particular group has a better life expectancy than people in general.

Group insurance is insurance coverage of a group under one master contract. The most common types of group insurance are life and health insurance, both of which can be given as a tax-free benefit to employees. The primary requirement is that the group being insured was not formed for the sole purpose or primary purpose of buying the insurance. Group insurance costs less than comparable insurance purchased individually, because acquisition costs and administrative expenses are lower. Unlike for individual insurance coverage, individual evidence of insurability is usually not required.

3. Life Insurance:

Life Insurance/Assurance is a contract by which the insurer/assuror undertakes to pay the person for whose benefit the cover is effected, or to his personal representative, a certain sum of money on the happening of a given event, or on the death of the person whose life is assured.

Life insurance is defined as a contract between the policy holder and the insurance company, where the life insurance company pays a specific sum to the insured individual's family upon his death. The life insurance sum is paid in exchange for a specific amount of premium. Life is beautiful, but also uncertain. Whatever you do, however smart and hard you work, you are never sure what life has in store for you.

It is therefore important that you do not leave anything to chance, especially 'life insurance'. As death is the only certain thing in life, apart from taxes, it pays to insure it well in advance. If you were to go by the dictionary definition, "life insurance" is a financial product that pays you or your dependants a sum of money either after a set period or upon your death as the case may be.

However, if you were to understand the term clearly and also appreciate its importance in your life, consider "life insurance" as a back-up plan for life. Life insurance in its simplest

form means being prepared financially, come what may. It ensures that your family and you receive financial support in case you are not able to bring in the much-needed income yourself.

4. Marine Insurance:

It is contract by which underwriters engage to indemnify the owner of a ship, cargo or freight against losses from certain perils or sea risks to which their ship or cargo may be exposed. In case of marine insurance another type of insurance is prevalent known as Mutual Insurance. This type of insurance is provided by ship-owners throughout the world who have clubbed together in various mutual protection and indemnity associations to cover hazards which are not covered by marine policies, which have standard clauses leaving a number of contingencies un-provided for, or only partially provided for. The liabilities of mutual insurance company are periodically divided amongst the subscribers in proportion to the tonnage they have entered with the company.

Marine insurance covers the loss or damage of ships, cargo, terminals, acquired, or held between the points of origin and the final destination. Cargo insurance is the sub-branch of marine insurance, though marine insurance also includes onshore and offshore exposed property, hull, marine casualty and marine liability. When goods transported by mail or courier, shipping insurance is used instead.

Marine insurance is an important component of international trade and commerce and subject to international regulations in every stage of operations.

Marine insurance adds the necessary element of financial security so that the risk of an accident happening during the transport is not an inhibiting factor in the conduct of international trade. In this sense, marine insurance is an aid to the conduct of seaborne international trade. Therefore, developing an efficient and competitive insurance market is of key important for developing countries like India as they integrate into the world economy.

5. Fire Insurance:

Is a contract of indemnity by which an insurance company undertakes to make good any damage or loss by fire to buildings or property during a specific time.

Fire insurance is a contract under which the insurer in return for a consideration (premium) agrees to indemnify the insured for the financial loss which the latter may suffer due to the

destruction of or damage to property or goods, caused by fire, during a specified period. The contract specifies the maximum amount, agreed to by the parties at the time of the contract, which the insured can claim in case of loss. This amount is not, however, the measure of the loss. The loss can be ascertained only after the fire has occurred. The insurer is liable to make good the actual amount of loss not exceeding the maximum amount fixed under the policy.

A fire insurance policy cannot be assigned without the permission of the insurer because the insured must have the insurable interest in the property at the time of contract as well as at the time of loss. The insurable interest in goods may arise out on account of (i) ownership, (ii) possession, or (iii) contract. A person with a limited interest in a property or goods may insure them to cover not only his own interest but also the interest of others in them.

The term 'fire' is used in its popular and literal sense and means a fire which has 'broken bounds'. 'Fire' which is used for domestic or manufacturing purposes is not fire as long as it is confined within usual limits. In the fire insurance policy, 'Fire' means the production of light and heat by combustion or burning. Thus, the fire must result from the actual ignition and the resulting loss must be proximately caused by such ignition. The phrase 'loss or damage by fire' also includes the loss or damage caused by efforts to extinguish the fire.

VI NEED OF INSURANCE

Life of everyone is full uncertainties. Nobody knows what is going to happen in next moment. This element of unknown situation always hounds around the mind of a person and keeps him worried to think as to what will happen in future in case of any mishappening. This worry is to think about the future of the person and his family. Among a number of worries the main and very important is economic uncertainty of himself or his family.

If anyone is satisfied with his present earnings, he also thinks whether or not his present day capacity of earning will last for long. Perhaps there remains an iota of fear that it may not last for the long. On this very point everyone thinks about to secure his future.

Under the impression of securing future one thinks about the adoption of saving and investment plans. . He not only thinks about himself but also about his family. In case of any miss happening everyone is worried as to what shall happen to his family.

Everyone knows that there is no substitute in case of death of an earning member of the family and no compensation is able to fulfil the gap in case of death of the earning member. But for supporting economically upto some extant the method adopted is known as insurance.

The life insurance is such a cover that provides security to the family of insured in case of his death. Life insurance is collection of laws and regulations that relate to insurance. Life insurance is a contract between two parties. It means pays out sum of money to insured person.

Today the life insurance does not cover the risk of life only but also provides many added benefits also in the field of saving and investments.

People need insurance because the unexpected does happen. Whether it is a fire, a car wreck, illness or a death, the financial consequences can be devastating if you are uninsured. Insurance helps people have peace of mind when life's unexpected events happen.

“Never be afraid to raise your voice for honesty and truth and compassion against injustice and lying and greed. If people all over the world would do this, it would change the earth”.