

REGULATORY FRAMEWORK FOR INSURANCE IN INDIA

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ABSTRACT

The history of insurance can be traced back to the Great Fire of London in 1666, which destroyed over 13,000 homes. The devastating consequences of the fire prompted the establishment of insurance as a top priority. Insurance has come a long way since then, and it is now a highly refined risk management tool. The primary aim of insurance is to shield people from unforeseeable incidents that could be harmful to them. Insurance is a type of risk management in which the insured passes his potential future loss to another company in exchange for a payment called a premium, and the insurer agrees to pay the insured a certain sum of money if a defined occurrence occurs. As a consequence, insurance is a type of contract or agreement in which one party agrees to pay a negotiated sum of money to another party in exchange for a consideration to compensate for the loss, harm, or injury to something of value in which the insured has an interest. The insurance industry has become the most rapidly expanding sector in a relatively short period of time. Insurance is a must because the future is always uncertain, and one should always be prepared for the worst. Insurance provides a sense of protection to a person or a business organisation against any significant loss or financial challenges that they might have to face as a result of changes in future events. Property insurance has become a necessary function of modern society to protect against the financial effects of its failure or injury. Individuals and companies are covered and supported by insurance, which is a vital component of society. It promotes trade and exchange, creates jobs, shares risk, and promotes creativity by encouraging individuals and businesses to participate in more risky business practises. The Legal Framework for Insurance Disputes in India is discussed in this article, as well as whether changes in the Regulatory Framework of Insurance Policies as a result of the Pandemic. Data Protection in the Insurance Sector in India has also been debated, which is something that needs to be taken into account when dealing with insurance laws.

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INTRODUCTION

Meaning and Definition

Insurance is a contract in which one party agrees to pay a fixed amount in the event of a particular event or indemnify another against a contingent loss in exchange for a premium. It is a contract in which one party compensates the other for a loss that happens as a consequence of the contract's terms. Insurance is the business of offering financial security against risks affecting land, life, health, and legal liability.¹ Insurance is the act, scheme, or business of insuring property, life, or one's individual against loss or harm resulting from specified contingencies, such as fire, injury, death, or disablement, in return for a payment proportionate to the risk involved. Some define insurance as a scheme that prevents individuals, associations, or companies from financial loss by assigning risks to a wide number of people who agree to share financial losses in return for premium payments. The primary aim of insurance is to protect people's interests from uncertainty by ensuring that compensation can be made in the event of a catastrophe. It is beneficial to individuals, businesses, and industries, as

well as society as a whole. The rule of insurance encompasses a broad variety of insurances, including life insurance, maritime insurance, motor insurance, and fire insurance, among others.

People are still worried about threats. Risk-related losses may be shared by agreed-upon individuals. This occurs because losses occur without warning and can affect anyone at any time. When it comes to the rule of insurance, the loss is shared by a variety of individuals through the charging of a premium dependent on the risk of loss.

Nature of an Insurance Contract

The first General Insurance company was founded in Calcutta in 1850, and it was the first insurance company in India. Later, the market became more competitive. When the government realised this, they decided to put the customer's interests first and formed the Insurance Regulatory and Development Authority, an independent regulatory agency (IRDA).

When it comes to insurance, it is helpful to both people and companies, as well as society. Insurance offers reassurance. Insurance offers protection and peace of mind by eliminating fear and uncertainty. Also mortgaged land is protected by insurance. Since the mortgaged property is covered, the insurer may reimburse the unpaid debts to the dependents. Insurance relieves them of their

¹ Digvijay Jha, 'Contracts of indemnity and insurance: Features and Distinctiveness'. Available at https://www.academia.edu/40408565/article_15

reliance by assisting them and providing sufficient coverage. Insurance promotes investment, and systematic savings are possible because premiums must be charged on a regular basis. In the case of insurance, the deposited premium cannot be quickly withdrawn until the policy's term expires. At the end of the policy's duration, the balance will be billed, along with a bonus.

REVIEW OF LITERATURE

Past research has found out how Law of Insurance has evolved through years. Some studies have emphasised on the instrumentalities of Law of Insurance.

Insurance is characterised as a cooperative mechanism for spreading the loss caused by a specific risk among a group of people who are exposed to it and agree to insure themselves against it. Risk applies to the probability of a financial loss.²

Insurance is intended to shield men from unforeseeable incidents that may otherwise be harmful to them. It is a guarantee that if a certain incident occurs, a certain amount of money will be paid to the person who has been insured.³

STATEMENT OF THE PROBLEM

This research work aims to add to the prevailing data in the direction of Law of Insurance. This study claims to make a thorough analysis of the Insurance Law in India. It talks about all the present legislations, rules and regulations which deals with Law of Insurance in India. This research paper concentrates on this question in particular and tries to answer it in a humble manner.

OBJECTIVES OF THE STUDY

- a) Study the meaning of Insurance.
- b) Study the evolution, features and nature of an Insurance Contract.
- c) Critically analyse the existing Insurance Regulation in India.
- d) Learn about what is covered under an Insurance Contract.
- e) Explore what is not covered under an Insurance Contract.
- f) Know how to settle the claim under Insurance.

SCOPE AND LIMITATIONS

The over-all motive of this research is to present a summary of the universal thoughtfulness of Law of Insurance and also to comprehend numerous boundaries to the said right which has been discussed in a variety of cases till now.

As I commenced with the research of Insurance, I was caught in a dilemma as to what to study in the first place – there is an unlimited supply of situations that describe the principles of Insurance.

This portion of research will give an outline of the

conceptual crucial notions, matters and studies related to the Insurance, and it will explain the practical and factual foundations of the study.

RESEARCH QUESTIONS

This research aims to study the. Based on this the following questions have arisen:

- What is the meaning of Insurance? How has the concept of Insurance evolved? What is the nature and features of Indian Insurance Act?
- Discuss the law on Insurance existent in India. What is the role of IRDA with respect to the Insurance Business in India?
- What are the changes in the Regulatory Framework of Insurance Policies Due to Pandemic
Is Data Protection necessary in the Indian Insurance Sector?

The author through this research paper intends to analyse and answer the various questions that are posed related to insurance in India.

HYPOTHESIS

Here, the hypotheses are as follows.

- The provisions on law of insurance in India are regulated by IRDA. The IRDA works to protect policyholders' interests at all times, even when lawsuits are filed, strategies are released, and the agreement is terminated.
- Various significant changes with respect to legal framework related to insurance has made by IRDA.

RESEARCH METHODOLOGY

This paper follows both Analytical research approach and Doctrinal research approach. Information is collected through secondary sources.

Secondary Data: In the possession of the researcher, any data collected previously for another reason is considered secondary data. Primary data is data that has been obtained first-hand, either by the researcher or by someone else, specifically for the purpose of the analysis. The information gathered for this project came from both primary and secondary sources.

Foundations of secondary data are:

- Internet,
- Magazines,
- Publications,
- Newspapers,
- Brochures.

THE LEGAL FRAMEWORK FOR INSURANCE DISPUTES IN INDIA

In India, the Insurance Regulatory and Development Authority (IRDA) regulates all life and general insurance companies. India is a large country with various opportunities in a number of industries, including the insurance industry. IRDA is a self-governing body whose

² M. N. Mishra, 2018, 'Insurance Principles and Practice', 22nd Edition, New Delhi, Vikas Publishing House Pvt. Ltd.

³ Avtar Singh, 2016, 'Law of Insurance', 3rd Edition, EBC.

primary purpose is to regulate fair practises in the insurance industry in order to avoid consumer harm. By 2020, the industry is estimated to be worth USD 280 billion. It implies that there is still a long way to go and that IRDA action is urgently needed. Here's how IRDA works to keep the development going:

- A definitive aim is to safeguard policyholders' rights at the time of cases, the issuance of the strategy, and the termination of the agreement. As a result, it guarantees that no insurance provider can reject a claim on their own initiative unless it exceeds the reach of the policy.
- There is a need to tame the market to a single tune that brings the players together and then encourages them to compete purely on the basis of discounts. As a result, the Insurance Regulation and Development Authority (IRDA) has developed a code of conduct for all insurance firms, surveyors, and loss assessors.
- To avoid any fraud, it calls for an annual or need-based audit, an investigation, and a request for information from insurance providers or intermediaries.
- Regulate insurance company rates and terms to ensure that customers are treated equally.
- If there is a misunderstanding between the insurer and the policyholder, the IRDA will step in to help.
- They allocated significant risks to the Tariff Advisory Committee in order to discourage insurers from quoting prices based on their own preferences. Following that, insurers calculate the percentage of premium income that will be required to fund professional organisations.
- IRDA establishes a minimum percentage for insurers to carry both life and non-life business, taking into account both urban and rural growth.

The scope of work is broad, and IRDA as an organisation operates within those parameters, not favouring any one insurance company over another.⁴

1. Function of IRDA

For a long time, certain insurance firms declined to protect their policyholders. It used to be that it was either their choice or that it was a good or bad risk. As a result, the IRDA was created to regulate this type of behaviour.

The bankers are expected to treat accountholders with respect. Banking institutions are permitted to offer loans and interest rates that are set by the RBI. It makes it impossible for a monopoly to take over, which benefits the masses. Financial institutions such as banks and insurance firms will not be effective until business practises are advantageous to the majority of citizens, not just a select few.

CHANGES IN THE REGULATORY FRAMEWORK OF INSURANCE POLICIES DUE TO PANDEMIC

Policyholders have faced difficulties as a result of the pandemic era, as they struggle to make premium payments and ensure the continuity of their policies, which they require most in such uncertain times. In addition, traditional insurance distribution channels involving in-person solicitation have been impacted. However, in the long run, social distancing norms will undoubtedly push insurance sales to online and distance marketing channels.

IRDAI is keeping a close eye on the situation and has taken some steps to assist the insurance industry and its policyholders. The IRDAI has made the following significant changes to the applicable regulatory framework:

- a) March 4, 2020 - Guidelines on Handling of Claims Reported Under Corona Virus by IRDAI.
- b) March 23, 2020 - IRDAI Circular On 'Covid-19 Global Pandemic Related Instructions to Life Insurers'.
- c) March 30, 2020-Covid 19 Related Instructions from IRDAI.
- d) April 1, 2020 and April 15, 2020-Ministry of Finance Notifications/April 3, 2020 and April 16, 2020 IRDAI Circulars.
- e) April 4, 2020-IRDAI Circular.
- f) April 8, 2020-IRDAI Circular.
- g) April 13, 2020 and April 24, 2020.
- h) April 16, 2020- Circular of IRDAI.
- i) April 18, 2020- Circular of IRDAI.

DATA PROTECTION IN THE INSURANCE BUSINESS IN INDIA

Data security and safety guidelines have also been provided by the IRDAI, which apply to both insurance firms and insurance intermediaries. These are the Information and Cyber Security Guidelines for Insurers:

- Insurance E-Commerce Guidelines and Cyber Protection Guidelines.
- Guidelines for E-Commerce.

Given the enormous potential of insurtech innovations, as well as changing attitudes toward technology adoption in the insurance industry, it is critical that the regulator understands these trends and ensures compliance with data protection and privacy regulations, so that the interests of stakeholders are not jeopardized.

The E-commerce Guidelines, which were released by the IRDAI in 2017 with the aim of increasing electronic transactions, are enabling in nature. They refer to insurance providers, intermediaries, and those that set up an Insurance Self Network Portal (ISNP) for selling and servicing insurance products (i.e., a website or mobile application). ISNPs must have appropriate internal processes for updating, tracking, and assessing their controls, programmes, procedures, and protections in order to comply with these guidelines:

⁴ Ibid.

- The reliability of computerised data processing systems.
- Data privacy is protected at all times. Relevant individuals will review these internal processes on an annual basis.

Though the IRDAI has taken progressive steps in recognising the role of technological advances in the insurance sector, the industry as a whole has yet to fully realise their potential, especially in the fields of artificial intelligence, machine learning, and big data analytics. The IRDAI has also formed a committee on regulatory sandbox in the insurance space to help with this. The regulatory sandbox provides a secure and conducive atmosphere for stakeholders to experiment with insurtech solutions while minimising the negative implications of failure. Given the immense potential of insurtech technologies, as well as the evolving attitudes toward technology adoption in the insurance industry, it is important that the regulator recognises these developments and maintains compliance with data security and privacy regulations, so that the stakeholders' interests are not jeopardised.

CONCLUSION

Endowment policies and multipurpose policies with good returns are examples of profitable insurance investments. When it comes to businessmen, insurance reduces the risk of business losses, resulting in increased business efficiency. Furthermore, when we speak of society, the wealth of the society is safeguarded through the use of insurance. Insurance gives you a strong hand and mind, protects you from property loss, and gives you enough money to invest in your country's economic development. Due to the recent pandemic, there have been a few changes to the Regulatory Framework of Insurance Policies. The IRDAI has also issued data security and protection guidelines to ensure the smooth operation of the insurance industry in today's world.

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d) Ibid.

e) Data Protection in the Indian Insurance Sector – Regulatory Framework Part II. Available at <<https://corporate.cyrilamarchandblogs.com/2019/05/data-protection-indian-insurance-sector-regulatory-framework-part-2/>>