

# Insurance

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- ▶ Principles and legal concepts in relation to insurance of plant & machinery; contract of insurance; insurable interests; liability to insure; duties of the insurer and the insured
- ▶ Types of fire policies; reinstatement value, indemnity policies and policies for other perils; terms and conditions; perils, beneficial and restrictive clauses
- ▶ Value at risk, sum insured and condition of average, over and under insurance; provisions regarding inflation, depreciation, obsolescence and betterment; other provisions
- ▶ Preparation of claim for damages due to insured perils
- ▶ Obligations and rights of insurer and insured

# History

- ▶ No Indian history of Insurance.
- ▶ First proper insurance company was formed in London in 1676. (Fire Insurance ONLY)
- ▶ Life insurance, accidental insurance, business insurance, professional insurance, transit insurance etc came in slowly.
- ▶ Actuary – the mathematicians – are the key to business, They do the data analysis, and then the probability of a damage.

Insurance = cover a risk with money. If the damage happens, there is money refunded, else the money is taken by the insurer.

# Important Definition

Insurance

Risk

Peril

Hazard

Insurer

Insured

Underwriting

Policy of insurance

Proposal

Claim

Indemnity

Cause of loss / Damage

Average Clause

Under insurance factor

Depreciation

Excess Clause

# Risk

- ▶ Exposure to danger
- ▶ Hazard
- ▶ Chance of Mishappening
- ▶ Uncertainty of future
- ▶ Possible financial loss
- ▶ Business risk
- ▶ Machine risk

# Peril

- ▶ A specific risk or cause
- ▶ Fire
- ▶ Earthquake
- ▶ Flood
- ▶ Theft
- ▶ Riot
- ▶ Covid

- Perils can be
- Insured perils
  - Excluded perils
  - Uninsured perils

# Hazard

- ▶ Action, Condition that makes peril to happen
- ▶ Explosive stored at home.

# Underwriting

- ▶ Examining
- ▶ Classifying
- ▶ Rating
- ▶ Accepting
- ▶ Declining

# Policy

- ▶ Conditions of Insurance
- ▶ Contract

# Proposal

- ▶ What the insurer asks to do the insurance as per requirement of insured.



# Claim

- ▶ Compensation sought as per insurance policy

# Indemnity

- ▶ Fundamental concept of Insurance
- ▶ Compensation of loss only
- ▶ Restoration to formal state.

# Cause of Loss

- ▶ Causa Proxima
- ▶ Doctrine of Proximate cause

## Average Clause

- ▶ Compensation payable gets restricted proportionately

## Under Insurance

- ▶ Related with average clause
- ▶ Equals value of the property at the time of loss.

## Depreciation

- ▶ Fall in value
- ▶ Different reasons
- ▶ Different rates
- ▶ Different treatment

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*Excess Clause is where part of the loss has to be borne by the insured.*



# Basic of Insurance

Insurer – who is doing the insurance

Insured – who has purchased the insurance.

## Principle of Good Faith (UBERRIMAE FIDEI)

- All information is revealed to each other.
- There may things that may not be required to disclose. (A fracture 20 years ago in car insurance)
- Duration
- Contractual
- Alterations
- Mis – representation
- Wilful non disclosure.

# Principle of Insurable Interest

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- ▶ There should be an interest in the property being insured. One cannot insure a stranger's car
- ▶ There has to be SOME interest in the insured subject.
- ▶ Example... Family members, Employee, Creditor – if there is a loan. (some HFC do a life policy for the loan amount).
- ▶ The interest must be present – at the time to buy the insurance – and at the time loss happens. Both the cases are important.
- ▶ Insured benefits from it's safety, well being, freedom from liability.
- ▶ Gets harmed by it's loss, damage or some liability.

*By Statute  
By Contract  
By Common Law*

# Insurance

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## Principle of Indemnity

In case of a loss (non life). One can insure of any value but the payment will be made as per the repair / replacement value.

Car, 7 years old, insured at 5 lakh. Accident happens. Repair cost is Rs 40K. So 40K will be paid. If Total loss, the value of car (after depreciation) will be paid.

Higher value insurance is OK, but pay back is NOT related to the insured value.

# Insurance

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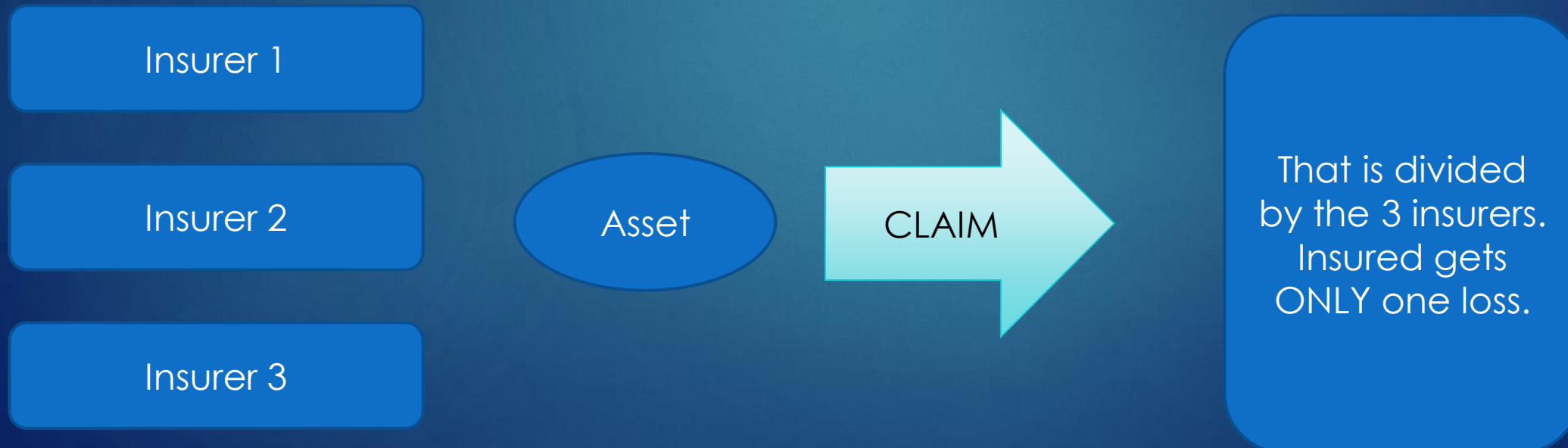
## Principal of Contribution

Apply for loss (Non life).

If insurance is taken from multiple insurers, and a loss happens, you will get **ONLY** the loss value. NOT the loss from 2 companies.

Companies will share the loss or divide among themselves.

Multiple insurance is higher cost as well. And there is no actual advantage



# Principle of Mitigation of Loss

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- ▶ Insured has to take all due care to reduce the loss.
- ▶ Car – to be OK, serviced regularly etc. If that reasonableness is not there, insurer may refuse the claim.
- ▶ Insurer has to show that he has taken all due care as if there is no insurance.



# Principle of Causa Proxima

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- ▶ The active efficient cause that sets in motion a train of events which bring about a result without the intervention of any force started and working actively from a new and independent source.
  - ▶ Principle of Cause and effect
  - ▶ Cause traced and effect proved. That is it.
  - ▶ Closest cause to be considered. Not a remote cause.
  - ▶ Cause to be nearest to the context of time.
  - ▶ So has to be
    - ▶ DIRECT
    - ▶ DOMINANT
    - ▶ EFFECTIVE

- Single or concurrent causes.
  - These are treated differently.
- Time elapsed between cause and effect may be longer / shorter.
- RELATIONSHIP to be established.

**ONUS OF PROOF OF CAUSE IS ON INSURED**



# Principle of Subrogation

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- ▶ Ownership of the property, loss due to fire or marine, passes from the insured to insurer. Car – total loss... claim settled. Car is now the property of Insurer. They will sell and get whatever proceeds they want.
- ▶ Loss – due to a third party. Insurer cannot claim against the third party. If insured gets some compensation from third party, that goes to the insurer.
- ▶ Into the shoes of another.

Claim from transporter in marine claim  
Right if recovery from Parking lot

# Legal Concepts of Insurance

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## Competent Parties

1) Minors 2) Mental issue 3) Under influence of intoxication.

The above are NOT competent to buy an insurance policy, whether self or through some one

If there is a contract like that – it will be termed not a valid one.

# Insurance Contract

Contract between the insurer and insured. (Called POLICY)

It has...

1. What is insured
2. Conditions of insurance
3. Limitations – max value and time limits.
4. Exclusions – what is NOT covered.

Also to be seen...

- a) Offer and acceptance of the insured good or activity.
- b) Consideration. That is premium and value of loss covered.
- c) Competent parties – are both the parties are legally OK to make the contract.
- d) Legal purpose. (Cannot take a policy of a car and then smash it).

# Contracts

## Contracts of Adhesion

The contract is accepted in full or rejected totally. There is no half way. Once accepted it stays the same for the time period.

## Personal Contracts

Where the insurer is a person, like in a property or a car. If the car is sold but the policy is NOT transferred – it cannot be claimed.

## Performance & Discharge of Insurance Contracts

The indemnity value – max of the damage of the sum insured.

The insurer has to act in good faith BEFORE the policy and inform insurer of conditions.

Set of rules are there to inform the insurer – to do a claim. Just a call will not do it.

# Insurable interest & liability to insure

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Transit goods – insured by the ship.

Cars in a garage for repair

These are NOT the property of the insured, but he has an interest in them as he is the custodian of these till he delivers his service.

Parties which cannot have a financial loss in an event – CANNOT buy an insurance.



# Duties of Insurer

- ▶ Risk assessment
- ▶ Consideration calculation
- ▶ Making of contract & explain the provisions there of.
- ▶ Privacy protection
- ▶ Pay benefits in case of a loss.

# Rights of Insurer

- ▶ Right to avoid policy
- ▶ Enter and inspect the property.
- ▶ Reinstatement
- ▶ Subrogation
- ▶ Contribution
- ▶ Salvage



# Duties of Insured

- ▶ Pay premium
- ▶ Notice of a loss and proof of loss.
- ▶ Cooperate with insurer.
- ▶ Tell the truth

# Rights of Insured

- ▶ Can cancel the policy and get a pre-determined refund.
- ▶ Get his doubts cleared.
- ▶ Keep the details current in the policy

# Type of POLICIES

## Fire

- ▶ A general term for many type of losses
  - ▶ Type of exact risk
  - ▶ Nature of property
  - ▶ Contents of property
  - ▶ Occupancy hazards
  - ▶ Exposure hazards
  - ▶ The time element

## Types

- ▶ Valued
  - ▶ Loss cannot be ascertained after fire.
- ▶ Specific sum
  - ▶ Only that value will be paid
- ▶ Average Policy
  - ▶ If insured for a lesser value, the pay out will be reduced proportionally.
- ▶ Floating Policy
  - ▶ Goods in different stages of transit and ware houses.
- ▶ Comprehensive
  - ▶ Covers most of the common risks.
- ▶ Replacement
  - ▶ Compensation on basis of market price,
- ▶ Reinstatement
  - ▶ Policy is continued – if there was problem and that is sorted out. Insurer decides this.

# Other Perils

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- ▶ Sudden blast / combustion.
- ▶ Burning of property by a public authority. ( juggi jhopri)
- ▶ Heating or drying process inside property
- ▶ Total or partial work stoppage – like Covid.
- ▶ Government orders – partial or total stoppage.
- ▶ War or war like situation.
- ▶ Pollution and contamination.
- ▶ Over pressure, short circuiting, leakages etc.
- ▶ Terrorism
- ▶ Earthquake
- ▶ Burglary, house breaking theft etc

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These above are also available, but will require different premium. That will be specific to the situation and property value.

Term	Meaning
Value at Risk	Amount of loss due to financial matters – like interest rate, credit risk, currency risk etc
Sum Insured	Max value that the insurer can get.
Over Insurance	Put a bigger value than the actual market for a property or a event.
Under Insurance	Put a lesser value than the market value.
Condition of Average	The pay out will be less – if it is under insured, and max market value even it is over insured.
Insurance Inflation Protection	The insured value increases to compensate for inflation
Depreciation	Replacement value & Life expectancy. Cheaper of repair or total loss.
Obsolescence	Technology, machine, product has become obsolete and new products are available
Betterment	By a tenant – to carry out improvement – if required due to business need.

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All of these may not be ava

# How to Claim

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1. Check if you are covered for the claim.
2. Get immediate assistance –and they may be allowed in the claim.
3. Get a damage estimate
4. Inspection by a surveyor.
5. Negotiate the settlement.
6. Settle the claim.

Insurance of ALL types are regulated by IRDA – and any complaints or clarification can be had from their web site. [www.irdai.gov.in](http://www.irdai.gov.in)

There are many cheats claim agents and others.. Be careful



# Role of Surveyor.

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- ▶ Surveyor is an independent party.
- ▶ He is appointed by the insurer to see and assess the loss.
- ▶ Only for NON LIFE insurance.
- ▶ He will physically see the loss.
- ▶ Check the policy – if those are covered and to what extent.
- ▶ Put his report to the insurer.
  - ▶ Insured can also get a copy of the surveyor.
  - ▶ Insured may ask for a review of the finding of the surveyor.

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