Open Vocational Education Programme

Diploma in Insurance Services

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LEGAL FRAMEWORK

Designed & Developed
by

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विद्याधनम् सर्वधनं प्रधानम्

NATIONAL INSTITUTE OF OPEN SCHOOLING
A-24-25, INSTITUTIONAL AREA, SECTOR 62, NOIDA (U.P.)

Diploma in Insurance Services

LEGAL FRAMEWORK

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Dear Learner,

Welcome to the National Institute of Open Schooling!

By enrolling with this institution, you have become a part of the family of the world's largest Open Schooling System. As a learner of the National Institute of Open Schooling's (NIOS) Vocational Programme, I am confident that you will enjoy studying and will benefit from this very unique School and method of training.

Before you begin reading your lessons and start your training, there are a few words of advice that I would like to share with you. We, at the NIOS, are well aware that you are different from other learners. We realize that there are many of you who may have rich life experiences; you may have prior knowledge about trades and crafts that are part of your family's legacy; you may have a sharp business sense that will make you fine entrepreneur one day. Most importantly, you have the drive and motivation that has made you enroll with this institution, which believes in the spirit of freedom. Yes, we are aware that you have many positive aspects in your personality, which we respect and relate to them.

During the course of your study, NIOS will treat you as the manager of your own learning. This is why your course material has been developed keeping in mind the fact that there is no teacher to teach you. You are your own teacher. Of course, if you have a problem, we have provided for a teacher at your Accredited Vocational Institution (AVI). I would advise you that you should always be in touch with your AVI for collection of study material, examination schedules etc. You should also always attend the Personal Contact Programmes and practical/ Training sessions held at your study centres. These will give you the necessary hands on training that is very essential to master a vocational course.

Studying for a vocational course is different from any other academic course. Here, while the marks obtained in the examination will indicate your grasp on your subject knowledge, your real achievement will be when you are able to apply your vocational skills in the market. I hope that this skill-based learning will help you perform your tasks better .This course of One year duration Diploma Course in Insurance Services developed by leading experts of Insurance sector. It is a multi-skilled programme, which will expose you to a variety of skills in Insurance sector. We hope that you will find it useful. On behalf of NIOS, I wish you the very best for a bright and successful future.

Dr. S. S. Jena
Chairman
National Institute of Open Schooling

Dear Learner,

In the fast expanding world of activities, learning new skills has become a necessity. Learning and re-learning has become essential for all. In such an environment, vocational education has assumed great importance. Vocational education, as a stream of education, promotes skill development and training of youth and directs them towards meaningful employment.

In keeping with the needs of the Learners, NIOS conducts Vocational Education Programmes in many areas through distance mode. These programmes include Agriculture, Business & Commerce, Home Science, Engineering & Technology, Computer Science, and Health & Paramedical. The Courses offered in these areas are aimed at providing self employment & wage employment opportunities for NIOS learners.

Diploma in Insurance Services is a One year Diploma course in Insurance Services. This course has been developed with the help of many leading experts of Insurance Sector. The course syllabus is designed keeping in view the requirements of the insurance sector.

This is multi-skilled programme, which will expose you to variety of skills. It includes Business Environment, Principles of Insurance, Life Insurance, General Insurance and Legal framework. This will help in identifying learner's preference for future vocation. We are confident that this course will prove to be beneficial to you.

We wish you all the best in your future career.

Dr. K. P. Wasnik
Director (VE)
National Institute of Open Schooling

Dear Learner,

This programme is specially for all those who are school dropouts and have started small enterprises, want to work in the Insurance sector as a skilled workforce and contribute substantially to the progress of India.

The multi-skill content with hands-on experience of this programme stimulates the intellect by going through concrete operations and then abstracting the concepts. At the same time by giving a variety of skills usable in everyday life, allowing them to form their preferences and know their aptitudes thus enabling them to choose a career. It also improves their self-image and gives them confidence and hope for the future.

The Insurance sector has completed its full circle in the year 2000, i.e. Private sector to Public sector and now back to Private sector. After 44 years, the monopoly of Life Insurance Corporation is no more and after 27 years four Public Sector general Insurance companies lost their monopoly. As on date there are 50 life and general insurance companies and few are queue to get license.

These insurance companies need trained manpower to be present on all India bases. To cater the needs of the insurance industry NIOS has designed a course namely "Diploma in Insurance Services" for the students who have minimum qualification of 12th standard.

The course syllabus is designed keeping in view of the requirements of the insurance sector.

In this module the student will be made familiar with the activities related to industry and commerce, job opportunities in the insurance sector, various forms of business organization, basic accounting principles as well as principles of management.

We hope that this programme will help you to carve an niche in your career and play an important role in the society.

With best wishes.

Dr. Ajay Garg

Senior Executive Officer

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National Institute of Open Schooling

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INSURANCE REGULATORY & DEVELOPMENT AUTHORITY ACT

1.0 INTRODUCTION

In other modules of this course you have studied the meaning of insurance and its importance and how it plays a very important role in economic development of the country. By now you must be well versed that in insurance business, there is a contract between individuals or group or businessmen and insurance companies. The duration of these contracts varies from one year to thirty years or more and volume of such contracts are also very large.

As you know the insurance contract is of promises or assurances by the insurance companies to compensate the insured in case of mishappening but nothing is tangible. When the product is intangible (which can not be seen or touch) and volume of such contracts is huge then the disputes do arise in any industry. To settle these disputes the Government of any country appoints regulator and also enforces the law which controls the industry.

1.1 OBJECTIVES

In this module we will study various Acts which are directly related to insurance business and some acts which indirectly deal with the insurance business. In the following para we have referred about two Acts LIC Act 1956 and GIBN Act 1972 but we will not explain these acts as they have lost their importance due to changed scenario in respect of the Insurance sector in the country. We will be covering the following Acts in this module:

- Insurance Regulatory & Development Authority Act 1999.
- Insurance Act 1938.
- Consumer Protection Act 1986.
- Insurance Ombudsman.
- Marine Insurance Act 1963.
- Carriage of Goods by sea Act 1925.
- Bill of Lading Act 1855.
- Motor Vehicle Act 1988.
- Inland Steam Vessels Act 1977.
- Public Liability Act 1991.
- Workman's Compensation Act 1923.

For the benefit of those of you who are studying various Acts for the first time, we would like to mention that Acts lay down the rules and regulations framed by the Government in respect of specific activities. These rules & regulations are explained in sections which have been serially numbered and are called "Section 1 or 2 or 30 and so on".

At the end of this lesson, you will be able to:

- ➢ Know about the Controlling and regulating Authority for Insurance sector in India.
- ➢ Define how many members constitute the Authority.
- ➢ Enumerate procedure of their appointment.
- ➢ Enlist the Duties, Power and functions of Authority.

1.2 HISTORY

In India also, Government started exercising control on Insurance business by passing two acts in the year 1912 namely

- Provident Insurance Societies Act V of 1912 and
- Indian Life Insurance Companies Act VI of 1912.

These acts were later comprehensively amended and a new Act namely Insurance Act 1938 came into existence for controlling

- Investment of funds,

- Expenditure and
- Management of the insurance companies

The Office of Controller was established to implement this act.

Again, this Act was amended in 1950 as per the need of the hour. But in view of growing malpractices in Life Insurance business and also due to the illiteracy level being high and lack of will for spread of Life Insurance business, it was nationalized by Government of India.

LIC Act was passed in June; 1956, and this Act came into force from 1st Sept.1956. Similarly general insurance business was nationalized Act came into force w.e.f 1st April 1973 through General Insurance Business Nationalization Act 1972 (GIBNAct 1972). To implement these acts the Government made some minor changes in the Insurance Act 1938.

In early 90's, with the world market forces playing with full strength; growing literacy level; better regulatory systems and need for fast growth in this sector, the need of the hour was to go with the world and throw open Life & General Insurance Sector to private entrepreneurs once again so that there is no monopoly and the customer/ consumer/ buyer gets more choices than one type of Insurance product.

To study the liberalization process in Insurance sector in India, Malhotra Committee was formed under the Chairmanship of Late Shri R.N. Malhotra. The Malhotra committee submitted its report in 1994 which recommended that private companies be allowed to operate in India. The Government accepted the Committee's recommendation and Insurance Regulatory Authority (IRA) was set up in 1996 to show the path for privatization of insurance Industry. The main aim was the development of Insurance covering all strata of society (to not only rich but poor, folks from rural, tribal, unorganized sector, social sector, disabled community, daily wagers, women at large, etc.) gained importance through concerns put forth by political leaders, trade unionists, social organisations, co-operatives and policy makers; which amended the name IRA to IRDA (Insurance Regulatory & Development Authority). Again some amendments were made in the Insurance Act 1938 for smooth functioning of IRDA.

1.3 INSURANCE REGULATORY DEVELPMENT AUTHORITY ACT (IRDA) 1999

This Act was passed by Parliament in Dec.1999 & it received presidential assent in Jan.2000. The aim of the Authority is **"to protect the interest of holders of Insurance policies to regulate, promote and ensure orderly growth of Insurance industry & for matters connected therewith or incidental thereto."**

Under this Act, an authority called IRDA is established which replaces Controller of Insurance under Insurance Act 1938.

1.3.1 Definitions

Like any other Act, various terms have been defined as follows under section 2: -

a) "Appointed Day" means the date on which the Authority is established.

b) "Authority" means the Insurance Regulatory and Development Authority.

c) "Chairperson" means the chairperson of the Authority.

d) "Fund" means the Insurance Regulatory and Development Authority Fund.

e) "Interim Insurance Regulatory Authority" means the Insurance Regulatory Authority set up by the Central Government.

f) "Intermediary or Insurance intermediary" includes Insurance brokers, reinsurance brokers, insurance consultants, surveyors and loss assessors.

g) "Member" means a whole time or a part time member of the Authority and includes the Chairperson.

h) "Notification" means a notification published in the Official Gazette.

i) "Prescribed" means prescribed by rules made under this Act.

j) "Regulations" means the regulations made by the Authority.

1.3.2 Features of Authority

- Corporate body by the aforesaid name which means it will act as group of persons, called members, who will work jointly not as an individual person like Controller of Insurance.
- Having perpetual succession which means any member may resign or die but the Authority will work.
- A common seal with power to enter into a contract by affixing a stamp on the documents.
- Sue or be sued means the Authority can file a case against any person or organization and vice versa.

1.3.3 Composition of Authority

The Authority shall consist of nine persons as per details given below:.

- Chairperson.
- Not more than 5 whole time members.
- Not more than 4 part time members.

These persons shall be appointed by the Central Govt. from amongst persons of ability, integrity & standing who have knowledge or experience in life Insurance, general Insurance, actuarial science, finance, economics, law accountancy, administration or other discipline which would in the opinion of the Central Govt. be useful to the Authority. (Section 4)

1.3.4 Tenure (Section 5)

- The Chairman tenure will be for 5 years and eligible for reappointment till he attains the age of 65 years.
- The appointment of members will be for 5 years and eligible for reappointment but not exceeding the age 62 years.

1.3.5 Removal of Members (Section 6)

The Central Government can remove any member of the Authority if he :-

a) Is declared bankrupt

b) Has become physically or mentally incapable of acting as a member

Notes

c) Has been awarded punishment by any Court.

d) Has acquired such financial or other interest which affect his function as a member.

e) Has so abused his position as to render his continuation in office detrimental to the public interest.

But no member can be removed form the office unless & until the reasonable opportunity of being heard is given to such member in the matter.

1.3.6 Salary & Allowances (Section 7)

The Chairperson and full time members' shall receive the salary & allowance as prescribed by the Government.

1.3.7 Bar on future employment (Section 8)

The Chairperson and the whole time members cannot accept any appointment without Govt. approval within 2 years from the date on which he ceases or retires from the office.

INTEXT QUESTIONS 1.1

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1. List the Composition of Authority.
2. The Authority shall consist of nine persons i.e. Chairperson, not more than 5 whole time members and not more than 4 part time members.
3. Mention the maximum age of the Chairperson of IRDA.
   a. Maximum age of Chairperson of IRDA is 65 years.

1.3.8 Superintendence & Direction (Section 9)

The Chairperson shall have overall control & provide direction in respect of all administrative matters of the Authority. He will chair the meeting as and when he is present in the meeting.

1.3.9 Meeting of Authority (Section 10)

The meeting of the Authority will be held at the time and place as decided by the Chairperson as per regulation made under this act. If the Chairperson is unable to attend the meeting then the members will choose the Chairperson from amongst the present members.

All the issues to be discussed in the meeting shall be decided

Notes

by a majority of votes by the present and voting. In case of equal voting the decision of Chairperson of that meeting will be final.

1.3.10 Invalidation of proceedings of Authority (Section 11)

The proceedings of Authority will not become invalidate (not valid in the eyes of law) due to following reasons:-

- Defects in the formation of the Authority.
- Defect in appointment of any Member.

1.3.11 Officers & Employees of Authority (Section 12)

The Authority may appoint officers and employees as it considers necessary for the efficient discharge of its functions. The terms & conditions of such officers shall be governed as per the regulations made under this Act.

1.3.12 Transfer of Assets, Liabilities etc (Section 13)

As stated above that initially the Authority was formed under the name "Insurance Regulatory Authority (IRA)" and later on the name was changed to "Insurance Regulatory & Development Authority."(IRDA) Therefore the assets and liabilities of IRA will be transferred to IRDA on the date of establishment of the Authority.

1.3.13 Duties, Powers & Functions of Authority (Section 14)

Duties: The Authority shall have the duty to regulate, promote and ensure orderly growth of the Insurance business and re-insurance business subject to the provisions of any other provisions of the act.

Powers & Functions to:-

(a) Issue to the applicant (Insurance company or Insurance Agent or Surveyors or Insurance Brokers or Third Party Administrators) a certificate of registration, renew, modify, withdraw, suspend or cancel such registration;

(b) Protection of the interests of the policyholders in matters concerning assigning of policy, nomination by policyholders, insurable interest, settlement of insurance claim, surrender value of policy and other terms and conditions of contracts of insurance;

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(c) Specifying requisite qualifications, code of conduct and practical training for insurance brokers , agents, surveyors, Third Party Administrator ;

(d) Specifying the code of conduct for surveyors and loss assessors (Who assess the loss of policyholder in case of General Insurance);

(e) Promoting efficiency in the conduct of insurance business;

(f) Promoting and regulating professional organisations connected with the insurance and re-insurance business;

(g) Levying fees and other charges on insurance companies, Agents, Insurance Brokers, Surveyors and Third party Administrator;

(h) Calling for information from, undertaking inspection of, conducting enquiries and investigations including audit of the insurers, intermediaries, insurance intermediaries and other organisations connected with the Insurance business;

(i) Control and regulation of the rates, advantages, terms and conditions that may be offered by insurers in respect of general insurance business not so controlled and regulated by the Tariff Advisory Committee under section 64U of the Insurance Act, 1938 (w.e.f., 1/1/2007 TAC has ceased to function).

(j) Specifying the form and manner in which books of account shall be maintained and statement of accounts shall be rendered by insurers and other insurance intermediaries;

(k) Regulating investment of funds by insurance companies;

(l) Regulating maintenance of margin of solvency i.e., having sufficient funds to pay insurance claim amount;

(m) To settle the disputes between insurers and intermediaries or insurance intermediaries;

(n) Supervising the functioning of the Tariff Advisory Committee;

(o) Specifying the percentage of premium income of the insurer to finance schemes for promoting and regulating professional organisations referred to in clause(f);

(p) Specifying the percentage of life insurance business and general insurance business to be undertaken by the insurer in the rural or social sector; and

(q) Exercising such other powers as may be prescribed.

Notes

1.3.14 Grants from the Central Government (Section 15)

The Government after approval from the Parliament may grant funds to discharge their duties as per this Act.

1.3.15 Constitution of Funds (Section 16)

(1) There shall be a fund to be called "The Insurance Regulatory and Development Authority Fund" and there shall be credited there to:—

   a. all Government grants, fees and charges received by the Authority;

   b. all sums received by the Authority from such other source as may be decided upon by the Central Government;

   c. the percentage of prescribed premium income received from the insurer/insurance intermediaries.

(2) The Fund shall be applied for meeting:—

   a. the salaries, allowances and other remuneration of the members, officers and other employees of the Authority:

   b. the other expenses of the Authority in connection with the discharge of its functions and for the purposes of this Act.

1.3.16 Accounts and Audit (Section 17)

(1) The Authority shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the Central Government in consultation with the Comptroller and Auditor-General of India.

(2) The accounts of the Authority shall be audited by the Comptroller and Auditor-General of India at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the Authority to the Comptroller and Auditor-General.

(3) The Comptroller and Auditor-General of India and any other person appointed by him in connection with the audit of the of the accounts of the Authority shall have the same rights, privileges and authority in connection with

such audit as the Comptroller and Auditor-General generally has in connection with the audit of the Government accounts and, in the particular shall have the right to demand the production of books of account, connected vouchers and other documents and papers and to inspect any of the offices of the Authority.

(4) The accounts of the Authority as certified by the Comptroller and Auditor General of India or any other person appointed by him in this behalf together with the audit-report thereon shall be forwarded annually to the Central Government and that Government shall cause the same to be laid before each House of Parliament.

1.3.18 Establishment of Insurance Advisory Committee (Section 25)

(1) The Authority may, by notification, establish with effect from such date as it may specify in such notification, a Committee to be known as the Insurance Advisory Committee.

(2) The Insurance Advisory Committee shall consist of not more than twenty-five members excluding ex-officio members to represent the interests of commerce, industry, transport, agriculture, consumer fora, surveyors, agents, intermediaries, organisations engaged in safety and loss prevention, research bodies and employees' association in the insurance sector.

(3) The Chairperson and the members of the Authority shall be the ex-officio Chairperson and ex officio members of the Insurance Advisory Committee.

(4) The objects of the Insurance Advisory Committee shall be to advise the Authority on matters related to insurance.

(5) The Insurance Advisory Committee may advise the Authority on such other matters as may be prescribed.

1.3.19 Miscellaneous Provisions

- The Central Government can issue the direction to the Authority on policy matters not on administrative and technical matters and the Authority is bound to follow such direction.
- The Central Government can supersede any act of the Authority.

- The Chairperson, Members and employees of Authority shall be deemed to be public servant while performing the duties as per the provision of this Act.
- The Authority can delegate its powers to Chairperson or members or officers and employees of the Authority as per regulation made under this act.
- The Authority has the power to make rules related to salary & allowances and other terms & conditions to be applicable to its Chairperson, members, employees or officers.
- The Authority has power to make regulations to be followed at its meetings
- The rule & regulation made by the Authority shall be placed before the Parliament.
- Any rule or regulations made under this act will bar the applicability of other laws of the land.
- The Authority has the powers to make amendment in Insurance Act 1938, LIC Act 1956 & GIBN Act 1972.

1.4 SUMMARY

The main aim to form IRDA is to create a regulator which will regulate and develop the insurance sector in the country and control all individuals or organizations who are directly or indirectly involved with the insurance sector. The Authority has the powers to issue regulations related to insurers, insurance intermediaries, surveyors, third party administrators for their registration, renewal of their license and review their workings for smooth functioning of insurance sector. The Authority also protects the interest of the policyholders for whom the insurers are issuing the policies. With this the Authority does not become supreme as it is accountable to the Central Government.

1.5 TERMINAL QUESTIONS

1. Explain the power & functions of the Authority.
2. What is the composition of the Authority and its tenure?
3. Define Insurance intermediary, appointed day and member.

Notes

1.6 OBJECTIVE TYPE QUESTIONS

1. IRDA was formed in _______(1999/2001)
2. Total members of IRDA are _____(9/10)
3. The retirement age of member is ___(62/65)
4. Choose the correct option

   IRDA does not specify requisite qualifications, code of conduct and practical training for

   a) insurance brokers.

   b) agents & surveyors.

   c) Third Party Administrator.

   d) Insurer.

5. ______can supersede the IRDA (Central Govt/Supreme Court)

1.7 ANSWERS TO OBJECTIVE TYPE QUESTIONS

1. 1999
2. 9
3. 62
4. d
5. Central Govt.

2

REGULATIONS ISSUED BY IRDA

2.0 INTRODUCTION

Till 1999 the insurance sector was controlled by Controller of Insurance as per the provisions of Insurance Act 1938 but after formation of the IRDA it is felt by the Authority that the most of the provisions of this Act were irrelevant in the present scenario of the country. Therefore the Authority issued various regulations, as deemed fit, to develop the insurance sector in the country.

Therefore, we shall be discussing the following important regulations in this following chapters :–

Procedure of :–

- Granting of license to companies to start insurance business.
- Approval of insurance product.
- Appointment of different insurance intermediary.
- Investing the insurance premium.
- Accounting & audit.
- Miscellaneous important provisions of Insurance Act.

These regulations were not issued in the above sequence but we have followed this logic - firstly the insurance company will come into existence, secondly the insurance product will be design and developed, thirdly the manpower is required to sell the product, fourthly the premium received by the insurance companies is to be invested, fifthly the accounts are to be maintained and lastly, various provisions.

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2.1 OBJECTIVES

At the end of this lesson you will be able to know:-

- The procedure of getting the license of insurance from IRDA.
- The procedure to get approval of insurance product from IRDA.
- The procedure to appoint an insurance inter-mediatory.

Before we start explaining the first regulations, we shall discuss various terms defined in Insurance Act 1938

2.2 DEFINITIONS

1 "Actuary" means an actuary possessing such qualifications as may be prescribed;

2 "Authority" means the Insurance Regulatory & Development Authority established under the Insurance Regulatory and Development Authority Act, 1999.

3 "Policy-holder" includes a person to whom the whole of the interest of the policy-holder in the policy is assigned once and for all, but does not include an assignee thereof whose interest in the policy is defeasible or is for the time being subject to any conditions;

4 "Approved Securities" means –

i. Government securities and other securities charged on the revenue of the Central Government or of the Government of a State or guaranteed fully as regards principal and interest by the Central Government or the Government of any State;

ii. Debentures or other securities for money issued under the authority of any Central Act or Act of a State Legislature by or on behalf of a port trust or municipal corporation or city improvement trust in any presidency-town;

iii. Shares of a corporation established by law and guaranteed fully by the Central Government or the Government of a State as to the repayment of the principal and the payment of dividend;

iv. Securities issued or guaranteed fully as regards principal and interest by the Government of any Part B State and specified as approved securities for the purposes of this Act by the Central Government by notification in the Official Gazette;

5. "Auditor" means a person qualified under the Chartered Accountants Act, 1949 to act as an auditor of companies;

6. "Certified" in relation to any copy or translation of a document required to be furnished by or on behalf of an insurer certified by a principal officer of such insurer to be a true copy or a correct translation, as the case may be;

7. "Court" means the principal Civil Court of original jurisdiction in a district, and includes the High Court in exercise of its ordinary original civil jurisdiction;

8. "Fire Insurance Business" means the business of effecting, otherwise than incidentally to some other class of insurance business, contracts of insurance against loss by or incidental to fire or other occurrence customarily included among the risks insured against in fire insurance policies.

9. "General Insurance Business" means fire, marine or miscellaneous insurance business, whether carried on singly or in combination with one or more of them.

10. "Government Security" means a Government security as defined in the Public Debt Act,

11. "Indian Insurance Company" means any insurer being a company:—

    (a) which is formed and registered under the Companies Act, 1956 (1 of 1956);

    (b) in which the aggregate holdings of equity shares by a foreign company, either by itself or through its subsidiary companies or its nominees, do not exceed twenty-six per cent paid-up equity capital of such Indian insurance company;

    (c) whose sole purpose is to carry on life insurance business or general Insurance business or re-insurance business.

Notes

12. "Insurance Agent" means an Insurance agent duly licensed and who receives or agrees to receive payment by way of commission or other remuneration in Consideration of his soliciting or procuring Insurance business including business Relating to the continuance, renewal or revival of policies of Insurance;

13. "Life Insurance Business" means the business of effecting contracts of insurance upon human life, including any contract whereby the payment of money is assured on death (except, death by accident only) or the happening of any contingency dependent on human life, and any contract which is subject to payment of premiums for a term dependent on human life and shall be deemed to include:—

    (a) the granting of disability and double or triple indemnity accident benefits, if so provided in the contract of Insurance.

    (b) the granting of annuities upon human life.

    (c) the granting of superannuation allowances and annuities payable out of any fund applicable solely to the relief and maintenance of persons engaged or who have been engaged in any particular profession, trade or employment or of the dependents of such persons.

14. "Marine Insurance Business" means the business of effecting contracts of insurance upon vessels of any description, including cargoes, freights and other interests which may be legally insured, in or in relation to such vessels, cargoes and freights, goods, wares, merchandise and property of whatever description insured for any transit by land or water, or both, and whether or not including warehouse risks or similar risks in addition or as incidental to such transit, and includes any other risks customarily included among the risks insured against in marine Insurance policies;

15. "Miscellaneous Insurance Business" means the business of effecting contracts of insurance which is not principally or wholly of any kind or kinds included in fire, marine insurance business.

2.3 PROCEDURE OF GRANTING OF LICENSE TO COMPANIES TO START INSURANCE BUSINESS

No person can carry on Insurance business unless & until he has obtained a certificate from the Authority for a particular class of Insurance business. For e.g. A person can start life Insurance, marine Insurance, fire Insurance, health Insurance etc. But a life Insurance business cannot be combined with other type of Insurance business. Those who are already in Insurance Business like General Insurance Corp., National Insurance, New India Assurance, Oriental Insurance & United India Insurance have to obtain a fresh certificate within 3 months from the date of commencement of this Act or before such date as fixed by the Govt.

Even those insurers for whom the registration was not necessary before the commencement of this Act will require the registration certificate.

To get the registration certificate the following procedure is to be followed:

Every application in the prescribed form (IRDA/R1) for registration shall be made with the following enclosures:—

1. A certified copy of Memorandum and Articles of association if the applicant is a company.
2. The name, address & the occupation of the directors of the company.
3. A statement of the class of insurance business proposed to be carried on.
4. A statement indicating the sources that will contribute the share capital.

On receiving the above documents IRDA will verify the contents and may ask for additional information if any. The Authority may ask the Principal Officer to appear to their office for any information or clarification.

If the Authority is satisfied with the information and documents provide with the application form (IRDA/R1), the Authority may ask for an additional application in the prescribed form (IRDA/R2) which should be accompanied with then following documents:—

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1. Every Insurance shall deposit in cash or in approved securities or partially in cash or partially in approved securities as per details given below: -

   (i) In case of Life Insurance business, a sum equivalent to 1% of his total gross premium written in India in any financial year commencing after the 31^{st} day of March 2000 not exceeding rupees ten crores (Rs.10 crores).

   (ii) In the case of General Insurance business a sum equivalent to 3% of his total gross premium written in India in any financial year commencing after 31/3/2000 not exceeding rupees ten crores (Rs.10 crores).

   (iii) In case of reinsurance business, a sum of rupees twenty crores (Rs.20 crores).

   (iv) If the business is to be done in marine Insurance only & relates exclusively to country craft or its cargo or both the amount to be deposited Rs.1,00,000/- (Rs.1 lakh) only.

   (v) A certificate from the Reserve Bank of India showing the amount deposited.

2. A declaration verified by an affidavit from the "Principal Officer" that the equity capital of the company has been complied with.

   The paid up equity excluding preliminary expenses and registration charges should be Rs.100 crores for life or General Insurance business and Rs.200 crores for the Reinsurance business.

   If any insurer is carrying on business of insurance already then within 6 months from the commencement of the Act the paid up capital should be as per prescribed limits in the Act.

3. A certified copy of the published prospects and of the standard policy forms of the insurer.

4. Statement of assured rate, advantages, terms & conditions to be offered in connection with Insurance policies.

5. In the case of the business the certificate from the actuary that such rates are workable & sound.

6. In the case of marine accident & miscellaneous Insurance

business other than workmen's compensation & motor car Insurance the available forms, prospects and statements to be submitted.

7. The receipt of deposit of Rs. 50,000/- for each class of business.

8. If there is any foreign partner, a certified copy of Memorandum of understanding between Indian promoter and Foreign promoter including details of support comfort letters exchanged between the parties.

9. Any other document as desired by the Authority after scrutiny the application.

2A) If on the receipt of an application for registration and the authority is satisfied that

   a) The financial condition & the general character of management of the applicant are sound.

   b) The volume of business likely to be available to & the capital structure & earning prospects of the applicant will be adequate.

   c) The interest of the general public will be served if the certificate of registration is granted to the applicant then the certificate of registration is granted.

Refusal of Registration

- If the Authority refuses the registration the reason of such decision will be intimated to the applicant.
- The Applicant whose application has been rejected can file an appeal before the Central Govt. within 30 days from the date on which a copy of the decision is received.
- The decision of the Govt. shall be final and shall not be questioned before any court.

Cancellation of Registration

The Authority has the right to cancel the certificate of registration either wholly or in so far as it relates to a particular class of Insurance business if the any of the conditions specified for registration is not complied with.

Renewal of Registration

Every year the registration is to be renewed and the application is to be made to the Authority before 31^{st} Dec. of the preceding years with the prescribed fees i.e.,

(i) $1/4^{th}$ of 1% of premium received or Rs. 5 crores whichever is less.

(ii) It should not be less than Rs. 50,000 in each class of business.

(iii) For reinsurer companies $1/4^{th}$ of 1% will be considered of total premium in respect of facultative reinsurance accepted in India.

(iv) Fees to be paid in Reserve Bank of India.

INTEXT QUESTIONS 2.1

---

1. Mention the fees to be paid by any life insurer on registration and on renewal.
2. Mention the minimum capital requirement for any Insurer.

2.4 REGULATION FOR PRODUCT APPROVAL

No Insurance Company can sell any insurance product unless & until the product is approved by the Authority. The procedure to get the approval from the Authority is as follows:—

Life Insurance Products

The life Insurance products are classified as:—

1) Linked Business.
2) Non-Linked Business.
3) Non-life/General Insurance Business.

An insurer who wishes to introduce a new product or to make changes to any existing product or to withdraw an existing product shall submit the application in the prescribed proforma to IRDA with full details and reasons to make changes in any existing product or to withdraw an existing product.

The insurer shall not commence selling the product in respect of which additional information has been sought by the Authority until the Authority confirms in writing. If no such information is sought by the Authority, the insurer can commence selling the product in the market.

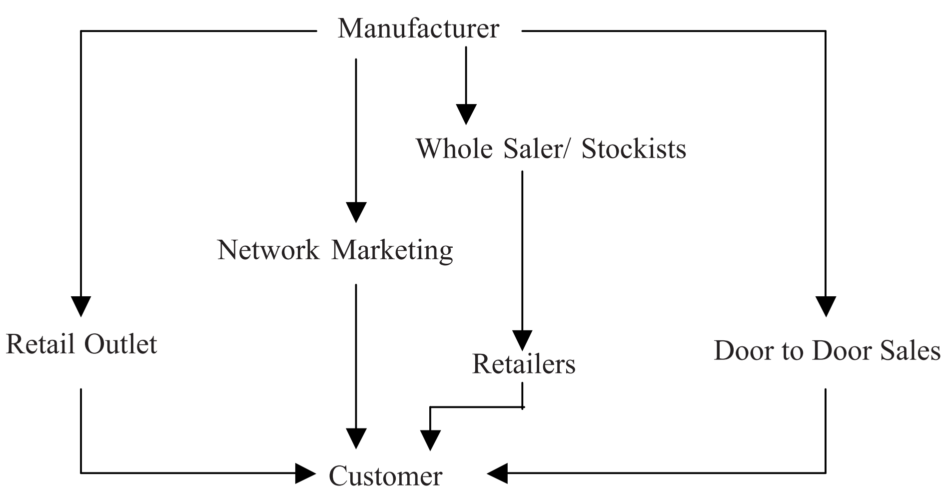
Period of Approval

Within 15 days (earlier 30 days) of the receipt of the application the Authority may seek additional information with regard to the product, and the insurer shall not commence selling the product in respect of which additional information has been sought by the Authority, until the Authority confirms in writing having noted such information. If no such information is sought by the Authority, the insurer can commence selling the product in the market, as set out in the application after the expiry of the said 15 days (earlier 30 days) period. This procedure is known as "File & use."

2.5 DISTRIBUTION CHANNELS

Distribution refers to the arrangement by which the product, after manufacture is moved till it reaches the customers, the objective is to ensure that the product is available to the customer when he wants to buy it.

Generally for the tangible products the distribution channels is as follows:



Wholesaler/ Stockists: The Wholesaler will buy the goods from the manufacturer in large quantities and hold the stock and distribute them to retailers as per their requirements.

Retailers: The retailer is one of the last distribution channel, who is selling the product to the customer.

Retail outlet: Sometimes the manufacturer open a retail outlet in each part of country to have a direct access with customer. For e.g.; BATA showroom for shoes, Titan for wrist watches.

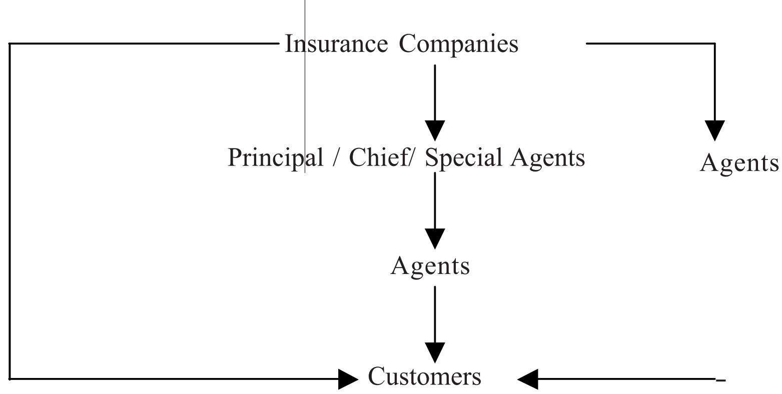
Door to Door Sales: Under this system, the sale is made directly to the customer through the salesman who is visiting at residence of the customer prospects.

For e.g.; Eureka Forbes Products – Water filter, Vacuum Cleaner, Tupperware, Avon Cosmetic.

Network Marketing: This concept of marketing started few years back under which the manufacturer is selling the product to an individual and forms a chain to provide more benefit to the customers. For e.g. **Amway**

If we look at the distribution channel of an Insurance Company, it may be different because the insurance is a intangible product. The distribution channels before nationalization were as follows:

Before Nationalization



The distribution channel of insurance sector is regulated by the Insurance Act 1938.

Principle Agent/ Chief/ Special Agents:

These Agents were appointed under Section 42A, 42B and 42C of the Insurance Act 1938. But the appointment of these agents was stopped w.e.f. 1/4/1950 therefore the explanation of these provisions is not given.

After Nationalization

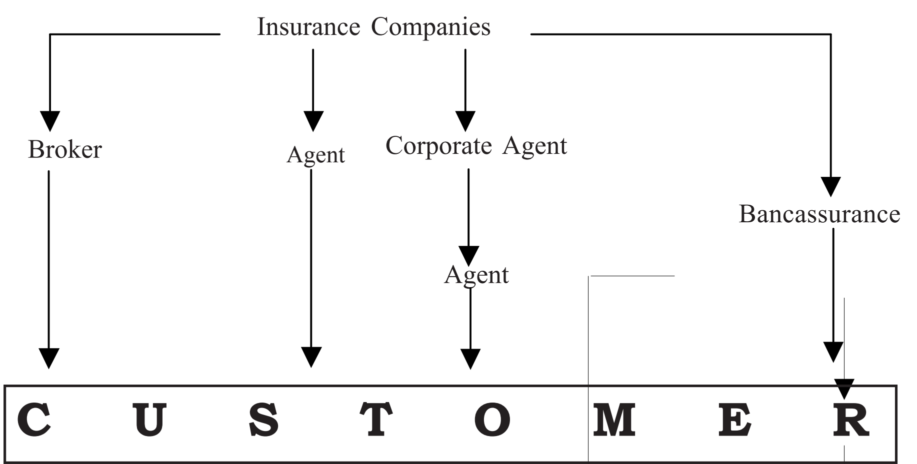
Insurance Companies

Agent

Customers

The Insurance product is being sold either through an agent or directly by the company.

After Privatization of 2000



The Indian Insurance Sector is exposed to various criticisms like :—

- **Relating to service level**
- **Speed of claim settlement**
- **Efficiency**
- **Value for money**
- **Standards of technical competency in staff**

In fact the customer expectations are

Tangible :—

- **Choice**
- **Better cost**
- **Better products**
- **Better administration**

Notes

Infact the customer expectation are Intangible:—

- **They want to be treated like individuals**
- **They want attention of their problems**
- **They want to be understood**
- **They expect an ethical approach to business**

In fact the customer wants to be recognized as being a valuable and integral part of Insurance business. Insurance companies need innovation and expertise to respond.

The Indian Insurance sector has a vast potential considering the country's large population, a growing and affluent middle class, large household saving and increased trade volume. Therefore Insurance Companies will have to identify the thrust areas i.e. individual or business issues must be involved in marketing services i.e. trained manpower and designing the marketing strategy in the changing scenario that understand the customer needs, identification of features the consumer is looking for in the insurance service and the price the customer is willing to pay for the service. To protect the interest of customers IRDA has set regulations to appoint various distribution channels and in the following paragraphs the regulations related to Agents/Corporate Agent/ Insurance broker are explained:

2.5.1 Agent:

An agent can work for any one life insurance and one general insurance company and the appointment of an agent will be as per regulation prescribed by IRDA as explained below:

Issue of License:

IRDA or an officer authorized by it in this behalf will issue a license. These Regulations specify:

– Authorizes designated persons, being officers of Insurers to issue such license for three years

– The license may be to act as an

  - Agent for the "Life Insurer" or
  - Agent for the "General Insurer" or
  - Agent as a "Composite Insurance Agent" means Agent for life insurance as well as general insurance.

- Fee for the license (Rs. 250/-)
- The manner of making an application etc.

Qualification

A person must:—

1. Be at least 18 years of age.
2. Have passed 12th standard or equivalent examination if he is to be appointed in a place with population of 5,000 and more or 10th standard otherwise.
3. Have undergone practical training in an approved Institute, in life or general insurance as the case may be for 50 hrs. (on renewal for 25 hours) spread over 3 to 4 weeks for either of the licenses, and 75 hours spread over 6 to 8 weeks for composite license There are relaxations in the hours of Training for some Professionals, like CA's, MBA, Associates/Fellows.
4. Have passed the examination conducted by Insurance Institute of India or any other examination body recognized by the authority. He will have to qualify 2 hrs. written test by obtaining 50 marks out of 100 marks.
5. The fees for each license is prescribed as Rs. 250/-. If the application for renewal is late but made before expiry of the license than Rs. 100/- will be charged extra. In case license has expired already then application for renewal will normally be turned down but if hardship is proved then license may be renewed.

Disqualification

A person would be debarred from obtaining a license if he is found to be:—

1. A minor.
2. Of unsound mind declared by court of competent jurisdiction.
3. Guilty of criminal breach of trust, misappropriation, cheating, forgery or abetment or attempt to commit any such offence.

Code of Conduct

(1) Every person holding a license, shall adhere to the code of conduct as specified like identify himself and the

Notes

insurance company of whom he is an insurance agent, Disclose his license to the prospect on demand, disseminate the requisite information in respect of insurance products offered for sale by his insurer, disclose the scales of commission in respect of the insurance product offered for sale, if asked by the prospect, indicate the premium to be charged by the insurer for the insurance product offered for sale, about proposal form etc

(2) No insurance agent shall, like solicit or procure insurance business without holding a valid license; induce the prospect to omit any material information in the proposal form; induce the prospect to submit wrong information in the proposal form or documents submitted to the insurer for acceptance of the proposal; behave in a discourteous manner with the prospect; interfere with any proposal introduced by any other insurance agent; offer different rates, advantages, terms and conditions other than those offered by his insurer; etc.

Cancellation of License

The designated person may cancel a license of an insurance agent, if the insurance agent suffers, at any time during the currency of the license, from any of the disqualification as stated above and recover from him the license and the identity card issued earlier. Even on non performance of minimum business expectation by the Insurer the agency can be terminated.

2.5.2 Corporate Agent:

The provisions of appointment of an agent are applicable for the Corporate Agent subject to the additional provisions as explained below:

1. Corporate Agent can be only firm or company.

2. Insurer may decide on case to case basis for having share capital of Rs 15 lakhs.

3. A person known as Principal Officer should be qualified as Associate of Insurance Institute of India Mumbai (AIII) and if a corporate in existence then with in 3 years from the date of renewal the principal office should acquire the said qualifications.

INTEXT QUESTIONS 2.2

1. Minimum qualification to be insurance Agent.
2. How much Share capital is required to become a Corporate Agent?

2.5.3 Brokers

An insurance broker is a new distribution channel introduced in 2002 by IRDA. The insurance broker is professional & expert organization who deals with all insurance companies and area of operation is on all India bases.

The Brokers are categorized under three types:—

(a) Direct broker; It means the broker can deal in life and general insurance business.

(b) Reinsurance broker; It means the broker can deal with reinsurance business.

(c) Composite broker; It means the broker can deal with reinsurance and life & general insurance business.

Requirements of Capital:—

Any applicant seeking to become an insurance broker should satisfy the following conditions:

a) It shall have a minimum amount of capital as mentioned below:

Category	Minimum amount (Rupees)
Direct broker	fifty lakhs
Reinsurance broker	two hundred lakhs
Composite broker	two hundred and fifty lakhs

b) The capital in the case of a company limited by shares and a cooperative society shall be in the form of equity shares.

c) The capital in the case of other applicants shall be brought in cash.

d) The applicant shall exclusively carry on the business of an insurance broker as licensed under these regulations.

e) No part of the capital of an applicant shall be held by a non-Indian interest beyond 26% at any time.

f) Principal Officer: In any insurance broking firm a person called Principal Officer will be responsible for insurance

Notes

business and day to day function of the broking firm. To become the principal officer he should fulfill the following criteria:

- The Principal officer should have minimum qualification of graduation or as prescribed by IRDA
- The principal officer of the applicant has received at least one hundred hours/fifty hours of theoretical and practical training from an institution recognised by the Authority from time to time.
- Has passed an examination, at the end of the period of training conducted by the National Insurance Academy, Pune or any other examining body recognised by the Authority.

Validity of licence:— A licence once issued shall be valid for a period of three years from the date of its issue, unless the same is suspended or cancelled by IRDA.

Fees:—

Category	**Amount**
Direct Broker	Rs 20,000/- at the time of license and every year 0.5% of brokerage earned minimum Rs 25,000/- & maximum Rs 1,00,000/-
Reinsurance Broker	Rs 40,000/- at the time of license and every year 0.5% of brokerage earned minimum Rs 75,000/- & maximum Rs 3,00,000/-
Composite Broker	Rs 50,000/- at the time of licenses and every year 0.5% of brokerage earned minimum Rs 1,25,000/- & maximum Rs 5,00,000/-

Professional indemnity insurance :— Every insurance broker shall take out and maintain and continue to maintain a professional indemnity insurance cover throughout the validity of the period of the licence. The amount of indemnity should be three times of the brokerage earned during last year or Rs 50.00 lakhs which ever is higher.

2.6 SUMMARY

Though the insurance sector is liberalized in the year 2000 but

Notes

keeping in view of the nature of product i.e intangible IRDA has full control over the insurance companies/ product approval/Distribution Channels. To start insurance business in India one has to get registered with IRDA and invest minimum Rs 100 crores for life Insurance/general insurance and Rs 200 crores for reinsurance business. Life insurance business cannot be merged with general insurance business therefore two different companies have to be formed for starting both insurance businesses. Apart from the capital requirements a lengthy procedure is to be followed to get a license to start the insurance business. After registration an insurance company needs a product to sell in the market. Again the product should be approved by IRDA and the procedure is simple "file & use", which means the product features are to be submitted in the prescribed form and market after 15 days if no objection is raised by IRDA.

Being intangible product the trained manpower is required to sell the insurance product. These products can be sold through Agents, Corporate Agents or Broker who are licensed by IRDA. These individuals/Directors will have minimum qualifications and undergo training of 100 hours in IRDA approved institutes and pass the examination conducted by Insurance Institute of India/National Insurance Academy. It is not permitted to sell the insurance product by the persons not qualified as mentioned above. The difference among the different distributions channels is that the Agents and Corporate Agents can sell the product of one insurance company while an insurance broker can sell the product of all the insurance companies. An insurance broker can work on all India basis while an Agent/Corporate Agent can work in particular city and attached with one particular office of the insurer.

2.7 TERMINAL QUESTIONS

(a) Explain the procedure to obtain a license of an insurance Broker.

(b) Discuss the code of conduct of an agent.

(c) Distinguish between an Agent and an Insurance Broker.

2.8 OBJECTIVE TYPE QUESTIONS

Choose the correct option

1. Who can sell the insurance product other than Insurer ?

   a. Any person

   b. A person who is licensed by IRDA

   c. A person who is authorized by Insurer.

   d. A person who is authorized by Govt.

2. Choose the correct option

   Statement A: The share capital of any Insurance company is Rs 100 crores.

   Statement B: The Share capital of Direct Broker is Rs 100 lakhs.

   a. Statement A b. Statement B c. Both d. None

3. Choose the correct option

   Statement A: To become an Insurance Agent in rural area minimum qualification is 12^{th} passed.

   Statement B: To become an Insurance Broker in rural area minimum qualification is 10^{th} passed.

   a. Statement A b. Statement B c. Both d. None

4. Choose the correct option

   Statement A: Insurer can sell any product.

   Statement B: Insurer can sell any product with the approval of IRDA.

   a. Statement A b. Statement B c. Both d. None

5. Choose the correct option

   Statement A: A Principal Officer is must for all distribution channel of insurance product.

   Statement B: A Principal Officer is required only for Insurers.

   a. Statement A b. Statement B c. Both d. None

2.9 ANSWERS TO INTEXT QUESTIONS

2.1

1. Rs 10 crores at the time of registration and 0.25% of premium received or Rs 5 crores which ever is less at the time of renewal of registration.
2. Rs 100 crores.

2.2

1. Have passed 12^{th} standard or equivalent examination and 10^{th} standard to become Insurance Agent in Rural area.
2. Rs 15 lakhs.

2.10 ANSWERS TO OBJECTIVE TYPE QUESTIONS

2.8

1. b
2. a
3. d
4. b
5. none

3

INVESTMENTS, ACCOUNTS & MISC PROVISIONS

3.0 INTRODUCTION

After selling the insurance products either directly by insurer or through insurance inter-mediatory the insurer gets the amount by way of premium which every Insurance company will invest its funds (collection of premium) as per "THE INSURANCE REGULATORY AND DEVELOPMENT AUTHORITY (INVESTMENT AMENDMENT) REGULATIONS, 2001. The different investment pattern has been defined for life, general, and re-insurer in the said regulations and the same is explained in the following paragraphs.

In addition to the investment the insurer has to maintain the accounts properly as the insurer is to pay the amount at the time of claim in case of general insurance and on maturity or death of the insured the amount is to be paid to the insured or their nominee as the case may be. The procedure of accounting the premium and their investment is prescribed in the regulation defined by IRDA in INSURANCE REGULATORY & DEVELOPMENT AUTHORITY (PREPARATION OF FINANCIAL STATEMENTS & AUDITOR'S REPORT OF INSURANCE COMPANIES) REGULATIONS 2000.

3.1 OBJECTIVES

At the end of this chapter you will know:—

- How the premium amount is invested by Insurer
- How the accounts are being maintained by Insurer

- Investment in Rural and social sector.
- Penalty for non compliance of provision of the Act.

3.2 INVESTMENTS

3.2.1 Life Insurance Company:

The life insurance company business has been divided in two parts as follows:—

- **Life Insurance Business**
- **Pension & General Annuity Business**
- **Unit Linked Insurance Business**

The investment pattern of controlled funds of **Life Insurance Business** is as follows:

Investment in Govt. securities	Not less than 25%
Investment in Govt. security or approved securities	Not less than 50% including above security
Infrastructure and Social Sector	Not less than 15%
Investments in approved investments and other than approved investments	Not exceeding 35% and not exceeding 15% in other than approved investments

The investment pattern of **Pension and General Annuity Business**:

Investment in Govt. securities	Not less than 20%
Investment in Govt. security or approved securities	Not less than 40% including above security
Investments in approved investments and as per exposure norms	Not exceeding 60%

Unit Linked Life Insurance Business:

Every insurer shall invest and at all times keep invested his segregated fund of unit linked life Insurance business as per pattern of investment offered to and approved by the policyholders. Unit Linked policies may only be offered where the units are linked to categories of assets which are both marketable and easily realizable. However the total investment in other than approved category of investments shall at no time exceed 25% of the fund.

3.2.2 General Insurance Company

The investment pattern of total assets general insurance company is as follows:

Investment in Govt. securities	Not less than 20%
Investment in State Govt security and other guaranteed securities	Not less than 30% including above security
Housing and Loans to State Government for Housing and Fire Fighting equipment, being not less than, (Subscription to/ purchase of Bonds/ debentures issued by HUDCO, National Housing Bank or House building institutions duly accredited by National Housing Banks, for house building activities, duly guaranteed by Government or carrying current rating of not less than 'AA' by independent, reputed and recognized rating agencies would also qualify for compliance of this regulation.)	Not exceeding 5%
Infrastructure and Social Sector	Not less than 10%
Investments in approved investments and non approved investments	Not exceeding 55% and not more than 25% in non approved investments

3.2.3 Reinsurance Business

Every reinsurer carrying on reinsurance business in India shall invest and at all times keep invested his total assets in the same manner as set out above, until such time separate regulations in this behalf are made by the Authority.

Approved Securities & Investments:

The meaning of approved securities and investments has been defined under section 27(A) and 27 (B) of Insurance Act 1938. The list is lengthy but the main is aim that the insurance company should invest the funds which are very safe & sound as the fund is public money and the insurer is to pay back the sum insured in case of maturity or if claim arises.

Infrastructure

Infrastructure facility means

(i) A road, highway, bridge, airport, port, Railways including BOLT, road transport system, a water supply project, irrigation project, industrial parks, water treatment system, solid waste management system, sanitation and sewerage system;

(ii) Generation or distribution or transmission of power;

(iii) Telecommunication;

(iv) Project for housing;

(v) Any other public facility of a similar nature as may be notified by the Authority in this behalf in the Official Gazaette;

Obligation of Rural and Social Sector:—

Rural Sector:—

(i) Five percent in the first financial year;

(i) Seven percent in the second financial year;

(ii) Ten percent in the third financial year;

(iii) Twelve percent in the fourth financial year;

(iv) Fifteen percent in the fifth financial year;

Social Sector:—

(i) Five thousand lives in the first financial year;

(ii) Seven thousand five hundred lives in the second financial year;

(ii) Ten thousand lives in the third financial year;

(iii) Fifteen thousand lives in the fourth financial year;

(iv) Twenty thousand lives in the fifth financial year;

3.3 PROCEDURE OF INVESTMENTS

- Every insurer shall constitute an Investment Committee which shall consist of a minimum two non-executive directors of the Insurer, the Principal Officer, Chiefs of Finance and Investment division, and wherever appointed actuary is employed, the Appointed Actuary.

- The decision taken by the Investment Committee shall be properly recorded and be open to inspection by the officers of the Authority.
- Every insurer shall draw up annually an Investment Policy and place the same before its Board of Directors for its approval.
- The investment policy as approved by the Board will be implemented by the investment committee, which shall keep the Board informed periodically about is activities.
- The Board shall review its investment policy and its implementation on an half-yearly basis or at such short intervals to protect the policyholder's interest.
- The details of the Investment Policy or its review as periodically decided by the Board shall be submitted to the Authority within 30 days of its decision thereto. The Authority may call for further information from time to time from the insurer as it deems necessary and in the interest of policyholders issue such directions to the insurers as it thinks fit.

INTEXT QUESTIONS 3.1

---

1. List the investment pattern of life insurer.
2. List the Obligations of Rural & Social Sector.

3.4 ACCOUNTS

Under Section 4 of the Insurance Act 1938, the IRDA has framed the rules & regulations known as **Insurance Regulatory & Development Authority (Preparation of Financial Statements & Auditor's Report of Insurance Companies) Regulations 2000.**

Life Insurance and General Insurance Business shall prepare the financial statements :—

a) Balance Sheet.

b) Revenue Account [Policyholders' Account], life insurance.

c) Revenue Account [Fire, Marine and Miscellaneous], General Insurance.

Notes

d) Receipts and Payments Account [Cash Flow statement] and,

e) Profit and Loss Account [Shareholders' Account].

The abovementioned shall be prepared as per the Accounting Standards prescribed by Institute of Chartered Accountants of India.

3.5 MISCELLANEOUS PROVISION

3.5.1 Insurance Business in Rural or Social Sector:—

Every insurer shall undertake such percentages of life Insurance business and general Insurance business in the rural or social sector, as stated above.

3.5.2 Obligations of Insurer in Respect of Rural or Unorganized Sector / Backward Classes

Every insurer shall discharge the obligations specified - persons residing in the rural sector, workers in the unorganized or informal sector or for economically vulnerable or backward classes of the society and other categories of persons as stated above.

3.5.3 Assignment and Transfer of Insurance Policies (38)

A transfer or assignment of a policy of life Insurance, whether with or without consideration, may be made only by an endorsement upon the policy itself or by a separate instrument, signed in either case by the transferor or by the assignor or his duly authorized agent and attested by at least one witness, specifically setting forth the fact of transfer or assignment.

The transfer or assignment shall be complete and effectual upon the execution of such endorsement or instrument duly attested but except where the transfer or assignment is in favor of the insurer shall not be operative as against an insurer and shall not confer upon the transferee or assignee, or his legal representative, any right to sue for the amount of such policy or the moneys secured thereby until a notice in writing of the transfer or assignment and either the said endorsement or instrument itself or a copy thereof certified to be correct by both transferor and transferee or their duly authorized agents have been delivered to the insurer.

3.5.4 Nomination by Policyholder (39)

1. The holder of a policy of life Insurance on his own life, may, when affecting the policy or at any time before the policy matures for payment, nominate the person or persons to whom the money secured by the policy shall be paid in the event of his death.

2. Any such nomination in order to be effectual shall, unless it is incorporated in the text of the policy itself, be made by an endorsement on the policy communicated to the insurer and registered by him in the records relating to the policy and any such nomination may at any time before the policy matures for payment be cancelled or changed by an endorsement or a further endorsement or a will, as the case may be, but unless notice in writing of any such cancellation or change has been delivered to the insurer, the insurer shall not be liable for any payment under the policy made bona fide by him to a nominee mentioned in the text of the policy or registered in records of the insurer.

3. The insurer shall furnish to the policyholder a written acknowledgement of having registered a nomination or a cancellation or change thereof, and may charge a fee not exceeding one rupee for registering such cancellation or change.

4. A transfer or assignment of a policy made in accordance with section 38 shall automatically cancel a nomination.

5. Where the policy matures for payment during the lifetime of the person whose life is insured or where the nominee or, if there are more than one nominees, all the nominees die before the policy matures for payment, the amount secured by the policy shall be payable to the policyholder or his heirs or legal representatives or the holder of succession certificate, as the case may be.

6. Where the nominee or if there are more than one nominees, a nominee or nominees survive the person whose life is insured, the amount secured by the policy shall be payable to such survivor or survivors.

3.5.5 Limitation of Expenses of Management in Life Insurance Business – (Section 40B)

Every insurer transacting life Insurance business in India shall furnish to the Authority statements in the prescribed form duly certified by an actuary on the basis of premium currently used by him in regard to new business in respect of mortality, rate of interest, expenses & bonus loading.

No insurer shall spend as expenses of management exceeding the prescribed limits in any calendar year.

The expenses of management include commission payments of all kinds and any amount of expenses capitalized. In case of an insurer having his principal place of business outside India, a proper share of head office expenses which shall not be less than such percentage as may be prescribed of the total premiums (less reinsurances) received during that year in respect of life Insurance business transacted by him in India. But it does not include in the case of an insurer having his principal place of business in India any share of head office expenses in respect of life Insurance business transacted by him outside India.

If in any year the expenses of management exceeds the prescribed limits then it will be contravention of the provision if the excess amount so spent is within such limits as may be fixed in respect of the year by the Authority after consultation with the executive committee of life Insurance council by which the actual expenses incurred may exceed the expenses permissible.

Every statement shall be signed by the chairman and two directors of the company, the principal officer and auditor's certification and duly certifying that all expenses of management in respect of life Insurance business transacted by the insurer in India have been debited in the revenue account as expenses.

If the insurer is carrying on any other class of Insurance business in addition to life Insurance business an auditor's certificate certifying that all charges incurred in respect of his life Insurance business and in respect of his business other than life Insurance business have been fully debited in the respective revenue accounts.

3.5.6 Limitation of Expenses of Management in General Insurance Business (40C)

No insurer shall in respect of any class of general Insurance business transacted by him in India spend in any calendar year as expenses of management including commission or remuneration for procuring limits and in prescribing any such limits regard shall be had to the size & age of the insurer. If an insurer has spent as such expenses in any year an amount in excess of the amount permissible and the same shall not be contravention of the provision of this section, if the excess amount is within the limit as may be fixed in respect of the year by the Authority after consultation with Executive Committee of the General Insurance council which the actual expenses incurred may exceed the expenses permissible.

Every insurer shall incorporate in the revenue account a certificate signed by the Chairman and two directors & by the principal officer and an auditor certifying that all expenses of management have been fully debited in the revenue account as expenses.

3.5.7 Prohibition of Rebates (41)

No person shall allow rebate on any Insurance policy (life as well as general) to induce any person to take the Insurance policy. The rebate may be allowed in accordance with the published prospectuses or tables of the insurer. If any Insurance agent takes the Insurance policy for himself then it will not be considered as rebate of commission.

3.5.8 Penalty to be Imposed for Non-compliance of the Various Important Provisions of the Act.

Section 102. If any person, who is required under this Act, or rules or regulations made there under:—

(a) To furnish any document, statement, account, return or report to the Authority, fails to furnish the same.

(b) To comply with the directions, fails to comply with such directions.

(c) To maintain solvency margin, fails to maintain such solvency margin.

(d) To comply with the directions on the insurance treaties, fails to comply with such directions on the insurance treaties, he shall be liable to a penalty not exceeding five lakh rupees for each such failure and punishable with fine.

Section 103:— If a person makes a statement, or furnishes any document, statement, account, return or report which is false and which he either knows or believes to be false or does not believe to be true:—

(a) He shall be liable to a penalty not exceeding five lakh rupees for each such failure.

(b) He shall be punishable with imprisonment which may extend to three years or with fine for each such failure.

3.5.9 Penalty for False Statement in Document of Investment

Section 104:— If a person fails to comply with the provisions of section 27(investment) or section 27A (investment of Life Insurer) or section 27B (investment of General Insurer) or section 27C (prohibition of investment) or section 27D (Manner of investment), he shall be liable to penalty not exceeding five lakh rupees for each such failure.

3.5.10 Wrongfully Obtaining or Withholding Property.

Section 105:— If any director, managing director, manager or other officer or employees of an insurer wrongfully obtains possession of any property or wrongfully applies to any purpose of the Act, he shall be liable to a penalty not exceeding two lakh rupees for each such failure.

3.5.11 Offences by Companies

Section 105A

(1) Where any offence under this Act has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company as well as the company shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

(2) Where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

3.5.11 Penalty for Failure to Comply with Section 32B (Insurance Business in Rural or Social sector).

Section 105B:— If an insurer fails to comply with the provisions of section 32B, he shall be liable to a penalty not exceeding five lakh rupees for each such failure and shall be punishable with imprisonment which may extend to three years or with fine for each such failure.

3.5.12 Penalty for Failure to Comply with Section 32C (Obligation of Insurer in respect of rural or unorganized sector):—

105C:— If an insurer fails to comply with the provisions of section 32C, he shall be liable to a penalty not exceeding twenty-five lakh rupees for each such failure and in the case of subsequent and continuing failure, the registration granted to such insurer under section 3 shall be cancelled by the Authority.

3.5.13 No Risk to be Assumed Unless Premium is Received in Advance Section 64VB:—

No insurer shall assume the risk in India unless & until the premium payable is received by him in advance.

In case the premium is tendered by postal money orders or cheques sent by post the risk may be assumed on the date on which the money order is booked or the cheques is posted as the case may be.

Where an Insurance agent collects a premium on a policy of Insurance on behalf of an insurer, he shall deposit with or dispatch by post to the insurer within 24 hours of the collection excluding bank & postal delays.

The agent is not to deduct his commission from the premium amount.

Declaration of Interim Bonus (112)

The insurer who is carrying a business of life Insurance shall be at liberty to declare an interim bonus or bonus to policyholders whose policies mature for payment by reason of death or otherwise.

Surrender Value 113

If any life Insurance policy in which the premium have been paid in full for atleast three consecutive years will acquire guaranteed surrender value. The bonus will also be in addition to the guaranteed surrender value.

INTEXT QUESTIONS 3.2

1. List the Accounting Statements to be prepared by any general insurer.
2. Meaning of 64 VB.

3.5 SUMMARY

In this chapter we have explained various important activities of an insurance company whether it is doing the business of life or general or re-insurer. The utilization of premium amount received by insurance companies are very important as this amount belongs to the public (policyholders) to whom the amount is to be paid back as and when claim arises or on maturity. Therefore the insurer will invest such funds to earn maximum return with safety as per the norms prescribed by IRDA so that the public funds are not misused and lost by the insurer so that the insurer does not have any funds to pay the claim or maturity amount.

Similarly the accounts of any insurer are being maintained as the guidelines framed by IRDA related to preparation of financial statements of any insurer. It is to ensure that the public gets true and fair picture of workings of any insurer.

3.6 TERMINAL QUESTION

1. Mention the investment pattern of Life Insurance Company.

2. Distinguish between assignment and nomination.
3. List the provisions of rural and social sector.

3.7 OBJECTIVE TYPE QUESTIONS

1. One of the following Accounting Statements does not form part of Specified Financial Statements comprising under regulation called IRDA (Preparation of Financial Statements and Auditors Report of Insurance Companies) Regulations 2000. Identity that statement.

   (a) Balance Sheet.

   (b) Revenue Accounts.

   (c) Profit and Loss Account.

   (d) Fund-Flow Statement.

2. Choose the Correct Option

   Statement A: Life insurer will invest not less than 25% in Central Government Securities.

   Statement B: Life insurer will invest not less than 50% in Central & State Government Securities.

   a. Statement A   b. Statement B   c. Both   d. None

3. Choose the Correct Option

   Statement A: General insurer will invest not less than 20% in Central Government Securities.

   Statement B: General insurer will invest not less than 30% in Central & State Government Securities.

   a. Statement A   b. Statement B   c. Both   d. None

4. Choose the Correct Option

   Statement A: It is not obligatory for Life insurer to invest in rural sector.

   Statement B: It is obligatory for General Insurer to invest in rural sector.

   a. Statement A   b. Statement B   c. Both   d. None

5. Choose the Correct Option

   Statement A: Nomination is must in all Life insurance products.

Statement B: Nomination is not compulsory in all Life insurance products.

a. Statement A b. Statement B c. Both d. None

6. Choose the Correct Option.

Statement A: It is a legal requirement to pay the premium in advance in Life insurance only.

Statement B: It is a legal requirement to pay the premium in advance in general Insurance only.

a. Statement A b. Statement B c. Both d. None

7. The life insurance premium should be paid for minimum _____ years.

a. 3 b. 4 c. 5 d. 1

8. Choose the Correct Option

Statement A: IRDA can put limit on the management expenses of the Life insurer only.

Statement B: IRDA can put limit on the management expenses of the General insurer only.

a. Statement A b. Statement B c. Both d. None

9. Choose the Correct Option

Statement A: IRDA can impose fine on insurer if obligation of Rural and Social sector is not fulfilled.

Statement B: IRDA can impose fine on insurer for non compliance of submission of documents.

a. Statement A b. Statement B c. Both d. None

10. Infrastructure facility means

(a) A road, highway, bridge, airport, port, Railways including BOLT, road transport system, a water supply project, irrigation project, industrial parks, water treatment system, solid waste management system, sanitation and sewerage system.

(b) Generation or distribution or transmission of power.

(c) Telecommunication.

(d) All above

3.8 ANSWERS TO INTEXT QUESTIONS

3.1

1. Life Insurance and General Insurance Business shall prepare the financial statements
   a) Balance Sheet.
   b) Revenue Account [Policyholders' Account], life insurance.
   c) Revenue Account [Fire, Marine and Miscellaneous], General insurance.
   d) Receipts and Payments Account [Cash Flow statement] and
   e) Profit and Loss Account [Shareholders' Account].

2. No insurer shall assume the risk in India unless & until the premium payable is received by him in advance.

   In case the premium is tendered by postal money orders or cheques sent by post the risk may be assumed on the date on which the money order is booked or the cheques is posted as the case may be.

   Where an Insurance agent collects a premium on a policy of Insurance on behalf of an insurer, he shall deposit with or dispatch by post to the insurer within 24 hours of the collection excluding bank & postal delays.

   The agent is not to deduct his commission from the premium amount.

3.2

1. Fire, Marine and Miscellaneous accounts.
2. The premium received by the insurance company in advance and the risk will start once the premium received by the insurance company.

3.9 ANSWER TO OBJECTIVE TYPE QUESTIONS

1. d	2. c	3. c	4. b
5. a	6. d	7. a	8. d
9. c	10. d		

4

RIGHTS & REMEDIES AVAILABLE TO CONSUMERS

4.0 INTRODUCTION

Man is a social & rational animal. He has throughout his evolution tried to improve upon everything, he has laid his hands upon, anything which he has thought & about everything which he has invented or discovered. This special faculty which has been blessed on man & which inspires a person to channelize all his energies to reach a destination of perfection in life is the power to think. One cannot survive alone. Interaction is must. There is interaction between two individuals, between families, between societies, between nations and so on & so forth. Education, trade and commerce, all are focuses of human interaction. But the indispensable interaction between the entities, if one may think of minutely keeping in view the commercialization of every sphere of life is the interaction between the seller & the buyer, the giver & the recipient, the skilled ones & the beneficiaries, the trader & the consumer. In fact, every body is a consumer because one may sell something but at the same time has to buy also. Insurance activity is also one of the intangible products i.e which can not be seen or touched. In fact it is only a promise on piece of paper which no consumer/buyer reads unless & until any dispute arises in fulfilling the promises by the insurers. The government/IRDA has protected the interest of the consumers/policyholders through various laws which have been explained in this chapter.

4.1 OBJECTIVES

After this chapter you will be able to know various remedies for the Policyholders under the following acts

- Protection of Policyholders Interest.
- Consumer Protection Act 1986.
- Insurance Ombudsman.

4.2 PROTECTION OF POLICYHOLDERS' INTERESTS

Under the provisions of Protection of Policyholder's Interest the procedure is defined for the insurance companies to be followed at the time of issue of policies and the documents required at the time of claim and how the disputes are to be resolved.

4.2.1 Procedure before the sale of product:—

A prospectus of any insurance product shall clearly state the scope of benefits, the extent of insurance cover and in an explicit manner explain the warranties, exceptions and conditions of the insurance cover and, in case of life insurance, whether the product is participating (with-profits) or non-participating (without-profits). The allowable rider or riders on the product shall be clearly spelt out with regard to their scope of benefits, and in no case, the premium relatable to all the riders put together shall exceed 30% of the premium of the main product.

4.2.2 Proposal for insurance:—

Except in cases of a marine insurance cover, where current market practices do not insist on a written proposal form, in all cases, a proposal for grant of a cover, either for life business or for general business, must be evidenced by a written document. It is the duty of an insurer to furnish to the insured free of charge, within 30 days of the acceptance of a proposal, a copy of the proposal form.

The proposal forms and documents used in the grant of cover may, depending upon the circumstances of each case, be made available in languages recognised under the Constitution of India.

4.2.3 Grievance redressal procedure

Every insurer shall have in place proper procedures and effective mechanism to address complaints and grievances of policyholders efficiently and with speed and the same along-with the information in respect of Insurance Ombudsman shall be communicated to the policyholder along-with the policy document and as may be found necessary.

4.2.4 Claims procedure in respect of a life insurance policy

A life insurance policy shall state the primary documents which are normally required to be submitted by a claimant in support of a claim.

A life insurance company, upon receiving a claim, shall process the claim without delay. Any queries or requirement of additional documents, to the extent possible, shall be raised all at once and not in a piece-meal manner, within a period of 15 days of the receipt of the claim.

A claim under a life policy shall be paid or be disputed giving all the relevant reasons, within 30 days from the date of receipt of all relevant papers and clarifications required. However, where the circumstances of a claim warrant an investigation in the opinion of the insurance company, it shall initiate and complete such investigation at the earliest. Where in the opinion of the insurance company the circumstances of a claim warrant an investigation, it shall initiate and complete such investigation at the earliest, in any case not later than 6 months from the time of lodging the claim.

If a claim is ready for payment but the payment cannot be made due to any reasons of a proper identification of the payee, the life insurer shall hold the amount for the benefit of the payee and such an amount shall earn interest at the rate applicable to a savings bank account with a scheduled bank (effective from 30 days following the submission of all papers and information).

Where there is a delay on the part of the insurer in processing a claim for a reason other than the above, the life insurance company shall pay interest on the claim amount at a rate which is 2% above the bank rate prevalent at the beginning of the financial year in which the claim is reviewed by it.

4.2.5 Claim procedure in respect of a general insurance policy

An insured or the claimant shall give notice to the insurer of any loss arising under contract of insurance at the earliest or within such extended time as may be allowed by the insurer. On receipt of such a communication, a general insurer shall respond immediately and give clear indication to the insured on the procedures that he should follow. In cases where a surveyor has to be appointed for assessing a loss claim, it shall be so done within 72 hours of the receipt of intimation from the insured.

Where the insured is unable to furnish all the particulars required by the surveyor or where the surveyor does not receive the full cooperation of the insured, the insurer or the surveyor as the case may be, shall inform in writing the insured about the delay that may result in the assessment of the claim. The surveyor shall be subjected to the code of conduct laid down by the Authority while assessing the loss, and shall communicate his findings to the insurer within 30 days of his appointment with a copy of the report being furnished to the insured, if he so desires. Where, in special circumstances of the case, either due to its special and complicated nature, the surveyor shall under intimation to the insured, seek an extension from the insurer for submission of his report. In no case shall a surveyor take more than six months from the date of his appointment to furnish his report.

If an insurer, on the receipt of a survey report, finds that it is incomplete in any respect, he shall require the surveyor under intimation to the insured, to furnish an additional report on certain specific issues as may be required by the insurer. Such a request may be made by the insurer within 15 days of the receipt of the original survey report.

The surveyor on receipt of this communication shall furnish an additional report within three weeks of the date of receipt of communication from the insurer.

On receipt of the survey report or the additional survey report, as the case may be, an insurer shall within a period of 30 days offer a settlement of the claim to the insured. If the insurer, for any reasons to be recorded in writing and communicated to the insured, decides to reject a claim under the policy, it shall do so within a period of 30 days from the receipt of the survey report or the additional survey report, as the case may be.

Upon acceptance of an offer of settlement by the insured, the payment of the amount due shall be made within 7 days from the date of acceptance of the offer by the insured. In the cases of delay in the payment, the insurer shall be liable to pay interest at a rate which is 2% above the bank rate prevalent at the beginning of the financial year in which the claim is received by it.

General

Any breach of the obligations cast on an insurer or insurance agent or insurance intermediary in terms of these regulations may enable the Authority to initiate action against each or all of them, jointly or severally, under the Act and/or the Insurance Regulatory and Development Authority Act, 1999.

INTEXT QUESTIONS 4.1

---

1. What penalties are imposed on Insurer on delaying the payment of claim?
2. Mention the procedure to be followed by Insurer to sell their product.

4.3 CONSUMER PROTECTION ACT 1986

As every one is a consumer therefore, the legislative has enacted the Consumer Protection Act 1986, which was made more powerful by the Consumer Protection (Amendment) Act 1993 to arm each & every consumer or consumer associations with rights to seek speedy & cheap remedies in such manner which is proving to be very popular & effective as well, leaving behind a trail of rulings & findings where under so many of us have benefited.

The statute has been enacted to provide for better protection of the interests of consumers and for that purpose to make provisions for the establishment of consumer councils and other authorities for the settlement of consumer's disputes and for matters connected therewith.

Let us discuss the various provisions of the Act in brief to explain the basics of Consumer Protection Act 1986.

4.3.1 General

1. This is Act applies to all the goods and services.
2. It covers private, public and cooperative sectors.

4.3.2 Rights of the consumers

The Act seeks to promote and protect the rights of the consumers such as: -

(i) The right to be protected against marketing of goods which are hazardous to life and property.

(ii) The right to be informed about the quality, quantity, potency, purity, standard and price of goods to protect the consumer against unfair trade practices.

(iii) The right to be heard and assured that consumer's interests will receive due consideration at appropriate forums.

(iv) The right to seek redressal against unfair trade practices or unscrupulous exploitation of consumers.

(v) The right to consumer education.

4.3.3 Who is a consumer for the purpose of services?

a) One who hires any services for a consideration, which has been paid or promised or partly paid or partly promised or under any system of deferred payments.

b) It includes any beneficiary of such service other than the one who actually hires the service for consideration and such services are availed with the approval of such person.

4.3.4 What constitutes a defect or deficiency?

A defect or deficiency is a

- Fault.
- Imperfection.
- Shortcoming.
- Inadequacy.
- Quality.
- Nature.

Notes

- manner of performance which is required to be.
- maintained by or under any law.
- in pursuance of a contract.
- undertaking in relation to that service.

4.3.5 The main objective of the Act is:—

- To provide simple, speedy and inexpensive redressal to the consumer's grievances.
- To provide this, a **three-tier quasi-judicial** machinery at the national, state and district level has been envisaged under the Act.
- National Consumer Disputes Redressal Commission (National Commission).
- State Consumer Disputes Redressal Commission (State Commission).
- District Consumer Disputes Redressal Forum (District Forum).

4.3.6 Who can file a complaint?

1. Consumer.
2. Any voluntary organisation representing consumers registered under Companies Act/Societies Act.
3. Central Government.
4. State Government or Union Territory.

A group of consumers having common dispute.

4.3.7 Where to file a complaint?

1. If the cost of goods or services and compensation asked for does not exceed Rs.20 lakhs then the complaint can be filed in the District Forum which has been notified by the government for the District **where the cause of action has arisen or where party resides.**
2. If the cost of goods or services and compensation asked for is more than Rs. 20 lakhs but less than 1 Crore, the complaint can be filed before State Commission.

3. If the cost of goods or services and compensation asked for exceeds Rs. 1 Crore, the complaint can be filed before the National Commission.

4.3.8 Appeals:

If a person is not satisfied with the decision of the district forum, he can file an appeal with the state commission and in case of not being satisfied with the decision of state commission; appeal can be filed before the national commission. Appeals against the decision of the national commission can be filed in the Supreme Court.

4.3.9 Relief available to consumers:

Depending on the nature of relief sought for by the consumer and facts, the redressal forum may give order for one or more of the following relief:-

1. Removal of defects from the goods.
2. Replacement of goods.
3. Refund of consideration paid.
4. Award of compensation for the loss or injury suffered.

4.3.10 Limitations:

Complaint is to be filed within 2 years from the date on which cause of action has arisen. Time-barred complaints shall not be entertained by Forums.

INTEXT QUESTIONS 4.2

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1. Whether an individual can file complaint in the Consumer Courts on account of repudiation of the claim?

2. Where to file a complaint if the disputable amount is more than Rs 20 lakhs?

4.4 OMBUDSMAN SCHEME

Introduction to the Scheme:—

(i) Central Government framed rules known as Redressal of Public Grievances Rule 1998, in exercise of the powers vested in it under section 114(1) of Insurance Act, 1938.

Notes

(ii) These rules are in respect of the Ombudsman Scheme to resolve all complaints relating to claims against insurers.

(iii) Complaints are to be resolved in cost effective, efficient and impartial manner.

(iv) The Scheme has been notified in the Gazette of India on 11.11.98.

4.4.1 The Ombudsman may receive and consider complaints of individuals relating to:

(i) Any partial or total repudiation of claim by an insurer.

(ii) Any dispute in regard to premium paid or payable in terms of the policy.

(iii) Any dispute in regard to the legal construction of the policies in so far as such disputes relate to the claims.

(iv) Delay in settlement of claims.

(v) Non-issue of an insurance document to customers after receipt of premium.

(vi) The Ombudsman shall act as counselor and mediator in matters which are within his terms of reference and, if requested to do so in writing by mutual agreement by the insured person and insurance company.

(vii) The Ombudsman's decision whether the complaint is fit and proper for being considered by it or not shall be final.

4.4.2 When can a complaint be made to the Ombudsman?

(i) If the insurer has rejected a written representation of the complainant.

(ii) The complainant had not received any reply within one month after the insurer received his representation.

(iii) The complainant is not satisfied with the reply given to him by the insurer.

(iv) The complaint is made not later than 1 year after the insurer had rejected the representation or sent his final reply on the representation of the Complainant.

(v) The complaint is not on the same subject matter, for which any proceedings "before any court, or Consumer Forum, or arbitrator" is pending or were so earlier.

4.4.3 Recommendations:

When a complaint is settled through mediation of the Ombudsman.

(i) He makes a 'recommendation' which he considers fair in the circumstances of the case.

(ii) Copies of the 'recommendation' shall be sent to the complainant and the insurance company.

(iii) Such 'recommendation' shall be made not later than one month from the date of the receipt of the complaint.

(iv) If a complainant accepts the recommendations of the Ombudsman, he will communicate his acceptance within 15 days of receipt of the recommendation.

(v) Acceptance letter to the Ombudsman should clearly state that the settlement reached is acceptable to him in totality in full and final settlement of his claim.

(vi) Thereafter, the Ombudsman will send a copy of the recommendation along with complainant's acceptance letter to the insurance company.

(vii) The insurer shall comply with the terms and conditions of the recommendation immediately but not later than 15 days of the receipt of such recommendations.

(viii) Finally, the insurer shall inform the Ombudsman about its compliance.

4.4.4 Awards

Where complaint is not settled through mediation of the Ombudsman

(i) He shall pass an Award.

(ii) Which he considers fair in the facts of the case.

(iii) Award shall be in writing.

(iv) It shall state the amount awarded to the complainant.

(v) Ombudsman shall not award any compensation in excess of the loss suffered by the complainant or 20 lakh, whichever is less.

(vi) Award shall be passed within a period of three months from the date of receipt of the complaint.

Notes

(vii) Copies of the award shall be sent to the insurer and the complainant.

(viii) Complainant shall furnish to the insurer within one month, a letter of acceptance that award is in full and final settlement of his claim.

(ix) Insurer shall comply with the award within 15 days from the receipt of the acceptance letter and intimate compliance to the Ombudsman.

4.4.5 Consequences of non-acceptance of award:

If the complainant does not intimate acceptance within one month from the date of receipt of the award, the insurance company may not implement the award.

4.4.6 Ex-gratia payment

If the Ombudsman deems fit, he may award an Ex-gratia payment.

The decision of the ombudsman is binding on the insurers, but the consumer if he feels aggrieved by the decision can approach the civil courts for relief.

INTEXT QUESTIONS 4.3

1. What are the consequences of non acceptance of award?
2. When the Scheme of Ombudsman was implemented?

4.5 SUMMARY

As and when any business activity increases the disputed do arise and to resolve the disputes at the earliest the Govt has framed the Consumer protection Act 1936, and IRDA has issued regulations to protect the interest of Policyholders. Any dispute related to insurance activity can be resolved though Insurance ombudsman or filing a complaint at IRDA. If a person is not satisfied with the decision of any of such legal organization then the policyholder can file an appeal in the Courts.

4.6 TERMINAL QUESTIONS

1. What are the rights of consumer under Consumer protection Act 1986?

2. List the remedies available to the policyholders under Protection of Policyholder rights.
3. What action will be taken by Ombudsman if a policyholder is not satisfied with the decision of the Ombudsman?

4.7 OBJECTIVE TYPE QUESTIONS

1. The limit of dispute can be referred to the District Consumer Court _______(up to Rs 20 lakhs/ up to Rs 25 lakhs).
2. The limit of dispute can be referred to the State Consumer Court _______(Rs 100 lakhs/Rs 50 lakhs).
3. The limit of dispute can be referred to the District Consumer Court _______(More than Rs 100 lakhs/Rs 250 lakhs).
4. The limit of dispute can be referred to the Insurance Ombudsman ________ (Rs 20 lakhs/Rs 10 lakhs).
5. Consumer Protection Act is applicable to
   a. Goods
   b. Service
   c. Goods & Services
   d. None

4.8 ANSWRES TO INTEXT QUESTIONS

4.1

1. In the cases of delay in the payment, the insurer shall be liable to pay interest at a rate which is 2% above the bank rate prevalent at the beginning of the financial year in which the claim is reviewed by it.
2. A prospectus in which the details of the products is explained will be provided to the customers.

4.2

1. Yes an individual can file an complaint on the basis of deficiency of the service.
2. State Consumer Court.

Notes

4.3

1. If the complainant does not intimate acceptance within one month from the date of receipt of the award, the insurance company may not implement the award.
2. In Nov 1998

4.9 ANSWRES TO OBJECTIVE TYPE QUESTIONS

1. 20 lakhs
2. 100 lakhs
3. More than 100 lakhs
4. 20 Lakhs
5. C

5

PUBLIC LIABILITY INSURANCE ACT 1991, AND WORKMEN COMPENSATION ACT 1923 AND MOTOR VEHICLE ACT 1988

5.0 INTRODUCTION

In this chapter we will discuss various Acts where an employee or third party will get compensation because of no fault of his/ her. For eg. A vehicle driver hits pedestrian on road with out his fault then the owner of vehicle is responsible to payment the compensation to the nominee of the deceased. But an individual may not be financial strong to pay the compensation therefore the law was enacted to insure all the vehicles so that affected person gets the compensation from insurer. Similarly the owner of any industry may have to pay compensation to the general public because of no fault but they are affected because of the industry.

5.1 OBJECTIVES

At the end of this lesson, you will be able to

- How the compensation can be claimed from the industrialist because of general public is affected.
- How the industrialist can cover their risk through insurance.
- How the vehicle owner can protect himself to pay the compensation.

5.2 PUBLIC LIABILITY ACT 1991

5.2.1 Introduction

The workers who are handling hazardous substances and likely to fall victims of accidents. The employees used to escape their liability on the grounds of assumed risk or contributory negligence brought legislation to protect the workers for their safety in hazardous occupation. One of the ways to protect workers is through providing Insurance to them. The employer has also to share the burden in this.

Very often, the majority of the people affected are from the economically weaker sections & suffer great hardships because of delayed relief & compensation. While workers and employees of hazardous installations are protected under separate laws, members of the public are not assured of any relief except through long legal processes. Industrial units seldom have the willingness to readily compensate the victims of accidents & the only remedy now available for the victims is to go through prolonged litigation in the court of law.

It is, therefore, essential to provide for Mandatory Public Liability Insurance for installations handling hazardous substances to provide minimum relief to the victims. Such Insurance, apart from safe guarding the interests of the victims of accidents would also provide cover & enable the industry to discharge its liability to settle large claims arising out of major accidents. If the objective of providing immediate relief is to be achieved, the mandatory public liability Insurance should be on the principle of "no fault" liability as it is limited to only relief on a limited scale. However, availability of immediate relief would not prevent the victims to go to courts for claiming higher compensation.

An Act to provide for public liability insurance for the purpose of providing immediate relief to the persons effected by accident occurring while handling any hazardous substance and for matters connected therewith or incidental thereto, was introduced in 1991. The Act gives relief on the principle of "No Fault".

Where death or injury to any person (other than a workman) or damage to any property has resulted from an accident, the owner shall be liable to give following relief for such death, injury or damage.

(i) Reimbursement of medical expenses incurred upto a maximum of Rs. 12,500 in each case.

(ii) For fatal accidents the relief will be Rs. 25,000 per person in addition to reimbursement of medical expenses, if any incurred on the victim up to a maximum of Rs. 12,500.

(iii) For permanent total or permanent partial disability or other injury or sickness, the relief will be (a) reimbursement of medical expenses incurred, if any, upto a maximum of Rs. 12,500/- in each case and (b) cash relief on the basis of percentage of disablement as certified by an authorised physician. The relief for total permanent disability will be Rs. 25.000.

(iv) For loss of wages due to temporary partial disability, which reduces the earning capacity of the victim, there will be a fixed monthly relief not exceeding Rs. 1,000/-per month up to a maximum of 3 months provided the victim has been hospitalised for a period exceeding 3 days and is above 16 years of age.

(v) Upto Rs. 6,000 depending on the actual damage, for any damage to private property.

INTEXT QUESTIONS 5.1

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1. Mention the compensation payable under permanent disability.
2. Mention the medical expenses payable.

5.3 WORKMEN'S COMPENSATION ACT 1923

5.3.1 Introduction

The Workmen's Compensation Act 1923 came into force w.e.f. 1/7/1924. The object of this Act is to make provision for the payment of compensation to a workman only i.e. to the concerned employee himself in case of his surviving the injury in question and to his dependents in the case of death.

The growing complexity of industry in the country, with the increasing use of machinery & consequent danger to workmen, along with the comparative poverty of the workmen themselves renders it advisable that they should be protected from hardship out of accidents. A legislation of this kind helps to reduce the number of accidents in a manner that cannot be achieved by official inspection and to mitigate the effect of accidents by provision for suitable medical treatment, thereby making industry more attractive to labour & increasing its efficiency.

The Act provides for cheaper & quicker disposal of disputes relating to compensation through tribunals than was possible under the civil law.

Section 2 (1) & (4) of the Act defines the amount of compensation to be paid in the case of death, permanent total disablement and Permanent partial disablement due to an injury while on duty or due to disease contracted which is peculiar to that environment also called "occupational disease".

The following is the amount payable in different cases:—

(a) On death an amount equal to 50% of the monthly wages last drawn by the deceased workman multiplied by the relevant factor or Rs.80,000/- whichever is more.

(b) Where permanent total disablement occurs an amount equal to 60% of the monthly wages last drawn by the injured workman multiplied by the relevant factor or Rs.90,000/- whichever is more.

(The relevant factor mentioned in (a) & (b) above is based on the age of the employee and is given in the act. For e.g. at age 16 the factor is 228.54; at age 30 it is 207.98; at age 50 it is 153.90. For the purpose of arriving at the compensation the act has fixed the maximum monthly wages of Rs.4,000/- p.m. and in case his salary is more than Rs.4,000/- p.m. he shall be deemed to be getting a wage of Rs.4,000/- p.m. only).

(c) In case of permanent partial disablement the amount payable will be a percentage of the amount payable due to permanent total disability and the percentage is specified in the act. Some examples are:

Amputation through shoulder joint	-	90%
Loss of thumb	-	30%
Loss of four fingers of one hand	-	50%
Loss of middle finger (whole)	-	12%
Loss of Ring or little finger (whole)	-	7%

(d) In case of temporary total or partial disablement a half monthly payment of the sum equivalent to 25% of the monthly wages of the workman.

In addition to the above in case of death of an employee, a sum of Rs.2,500/- is required to be deposited by the employer with the commissioner for payment to the eldest surviving dependant of the workman towards funeral expenses.

Some examples of occupational disease are:

1. Hearing impairment caused by noise.
2. Lung cancer caused by asbestos.
3. Lung disease caused by cotton, flex, hemp etc.
4. Skin disease caused by physical, chemical or biological agents.

5.4 THE MOTOR VEHICLE ACT 1988

5.4.1 Introduction:

The first law relating to Motor Vehicles was the Indian Motor Vehicle Act 1914, which stayed in operation till the year 1939. During this long period there was a vast change in the transport scenario and the need was felt to comprehensively renew the old law as the developments rendered the working of the old Act of 1939 inconvenient and it was not in tune with the change in time and the new Act of 1988 was enacted.

The Motor Vehicle Act was amended in 1988 to make Third Party Liability Insurance compulsory thus no uninsured vehicle is allowed to play on the roads or in any public place in India. The need of this enactment was felt due to the growing number of vehicles and the increasing number of accidents causing injury and death of the people involved in the accident and not being able to get relief from the owner/ driver of the vehicle because of long protracted legal battle involved, which many victims could not afford. (Section 146)

The Act now provides that irrespective of the fact that the fault was of the driver/ owner or not (No-fault) the victim of an accident will be entitled to a payment of Rs. 50,000/- in case of death and Rs. 25,000/- in the case of grievous bodily injury.

Motor Accident Claim Tribunals (MACT) have been set up by the State Government to provide speedy redressal of Third

Party claims. Damage to property of Third party is also covered and the limit is Rs.6,000/-.(Section 140 of Motor Vehicle Act).

In addition to the above claim the affected party can claim more compensation on account of death or permanent disability under any other law of the country. (Section 141 & 142).

Motor Vehicle Act also provides for the creation of a "Solatium Fund" to cater to the victims of Hit and Run cases. The fund is created by the contribution from Insurance companies, state and central Government and the victims of Hit & Run cases are entitled to receive Rs.25,000/- in case of death and Rs.12,500/- in the case of grievous bodily injury. (Section 161)

Section 147 defines the requirement of an Insurance policy and the limits of its liability. It also makes the issue of certificate of Insurance compulsory, as well as the limitation of a cover note.

Section 163A makes special provisions for payment of compensation on a structured formula basis by the insured or the insurer as the case may be. The structure formula is based on the age of the deceased or injured person, his earning capacity and his/her dependents.

INTEXT QUESTIONS 5.2

1. What is relevant factor under WC Act 1923?
2. Why is MACT set up?

5.5 SUMMARY

To protect an individual on account of any accidents because of no fault then he is entitled for the compensation under Public liability Act or Motor Vehicle Act and if he/she happens to be an employee in any industry then he/she is entitled for the compensation under Workman's Compensation Act. Under these Acts the amount or formula is defined so that every individual is compensated properly or sufficiently, not arbitrarily. In-spite of these acts there are many disputes in respect of compensation as the affected parties demand more compensation because of his/her earning capacity and age etc. In Indian Courts most of the cases are related for Motor Vehicle Act. To settle these cases speedily the Govt has set up Tribunal i.e. Motor Accidents Claim Tribunal(MACT) in each State.

5.6 TERMINAL QUESTIONS

1. Mention the compensation amount payable under Public Liability Act 1991.
2. Write short note on Workman's Compensation Act 1923 or Motor Vehicle Act 1988.

5.7 OBJECTIVE TYPE QUESTIONS

1. Death Benefit under Public Liability Act 1991

   a. Rs 25,000/- b. Rs 50,000/-

   c. Rs 1,00,000/- d. Rs 12,500/-

2. Public Liability Act 1991 is applicable to ________(All Industries/ hazardous industries).
3. No benefit is available in case of bodily injury under Public Liability Act 1991. (wrong/correct)
4. Workmen's Compensation Act is applicable to _________. (manufacturing/ service industry)
5. If a workman dies due to accident, the minimum Compensation is payable under Workman's Compensation Act is _______ (Rs 80,000/-/ Rs 90,000/-).
6. **Under Motor Vehicle Act, 1988 Third Party claims can be adjudicated by:**

   a. Insurable Ombudsman b. Motor Accident Claims Tribunal

   c. Lok Adalat d. Lok Nyayalaya

7. **Compensation for death U/S 140 of the Motor Vehicle Act is:**

   a. Rs.25,000 b. Rs.12,500

   c. Rs.50,000 d. Unlimited

8. **Third Party death liability in Private Car is unlimited. The liability in case of Motor Vehicle is:**

   a. Rs.5 lakh b. Rs.1 lakh

   c. Unlimited d. None of the above

9. **Compulsory insurance of motor vehicle is provided for the first time under:**

Notes

a. Motor Vehicle Act, 1988.
b. Motor Vehicle Act, 1939.
c. Insurance Act, 1938.
d. Road Transport Authority Act

10. **The compensation for death U/S 161 of the Motor Vehicle Act is:**

a. Rs.50,000 b. Rs.25,000
c. Motor vehicle act Rs.12,500 d. Unlimited

5.8 ANSWERS TO INTEXT QUESTIONS

5.1

1. Rs 25000/-
2. Rs 12500/-

5.2

1. Age of the employee at the time of accident.
2. For speedy redressal of the settlement of claim.

5.9 ANSWERS TO OBJECTIVE TYPE QUESTIONS

1. a	2. hazardous industry
3. wrong	4. Manufacturing
5. Rs 80000/-	6. b
7. c	8. c
9. a	10. b

6

LAWS RELATED TO MARINE INSURANCE AND INCOME TAX PROVISIONS RELATED TO INSURANCE

6.0 INTRODUCTION

The Marine Insurance Act, 1963 codifies the law relating to Marine Insurance. With a few exceptions this Act closely follows the UK Marine Insurance Act, 1906. Under his Act various definitions of principles of insurance and terminology have been defined which we have explained in the other module under Chapter "Marine Insurance". Kindly read those clauses & terminology carefully. In addition to the Marine Insurance Act, 1963 the following laws governs the practice of marine Insurance contracts. A good working knowledge of these laws is necessary for underwriters to pursue rights of recovery from carriers or bailees under subrogation proceedings.

6.1 OBJECTIVES

At the end of this lesson, you will be able to:

- Know the related laws to marine insurance.
- How the Transporter is responsible for the loss of goods during transit.
- Income tax provisions related to Life Insurer, General Insurer, Business organization and Individuals.

6.2 MARINE INSURANCE ACT, 1963

6.2.1 The Carriage of Goods by Sea Act, 1925

This Act defines the minimum rights, liabilities and immunities of a ship-owner in respect of loss or damage to cargo carried. Broadly, speaking, the Act deals with three aspects of a ship owner's liabilities towards cargo owners. They are:

a) The circumstances when the ship owner is deemed to be liable for loss or damage to cargo.

b) The circumstances when the shipowner is exempted from liability, i.e. when loss or damage is caused by events outside his control, e.g. perils of the seas.

c) The limits of liability of a **ship owner** for loss of or damage to cargo calculated in monetary terms per package or unit of cargo.

6.2.2 The Merchant Shipping Act, 1958

This Act also provides for protection to shipowners. The liability of a shipowner can be limited to certain maximum sums for certain losses, provided the incident giving rise to such claims has arisen without the actual fault or privity of the shipowner whether the claim relates to loss of life, personal injury, or damage to property on land or water. The Act also confers an obligation on the shipowner to send his ship to sea in a seaworthy and safe condition.

6.2.3 The Bill of Lading Act, 1855

This Act defines the character of the Bill of lading as an evidence of the contract of carriage of goods between the shipowner and the shipper, as an acknowledgement of the receipt of the goods on board the vessel and, as a document of title. The bill of lading is one of the documents required in connection with settlement of Marine Cargo claims.

6.3 THE INDIAN PORTS (MAJOR PORTS) ACT, 1963

This Act defines the liability of Port Trust Authorities for loss of or damage to goods whilst in their custody and prescribes time limits for filing monetary claim on, or suit against, the Post Trust Authorities.

6.3.1 The Carriage by Air Act, 1972

This Act gives effect to the provisions of the Warsaw Convention, 1929 and the Hague Protocol, 1955 relating to international carriage of passengers and goods by air. The Act defines the liability of the air carriers for death of or injury to passengers and for loss of or damage to registered luggage and cargo. The

Act also prescribes the maximum limits of liability for death, injury, damage etc. and also prescribes the time limits within which claims have to be filed on the air carrier. The provisions of the Act also apply, with some changes, to domestic carriage, that is carriage within India.

6.3.2 Multi- Modal Transportation Act, 1993

The Act provides for registration of multi-modal transport operators who are engaged in transportation of goods under more than one mode of transport i.e. rail, road and sea. The Act prescribes limits of liability of the operator, contents of documents issued by them, notice of loss etc.

6.4 THE CARRIERS ACT 1865

With the growth of industries movement of goods and property became an integral part of the society. The carriers role for the movement of goods became very important. In the beginning individual carriers came into existence and later many companies were formed. Tramways and Indian Railway Companies were formed under the enactments and their role as common carriers was of prime importance. While operating as common carriers loss or damage to the goods and property being carried were occasioned by the negligence or criminal acts of themselves, their servants or agents. It became necessary to make common carriers liable for the loss or damage so caused. To enable common carriers to limit their liability for loss of, or damage to, property delivered to them to be carried and also to declare their liability for loss of, or damage to, such property occasioned by the negligence or criminal acts of themselves, their servants or agents a Bill was introduced in the legislature.

This Act defines the right & liabilities of truck owners or operators who carry goods for public hire in respect of loss or damage to goods carried by them. The act also prescribes the time limit within which notice of loss or damage must be filed with the road carries.

Under the Act the Common Carrier includes any association or body of persons, whether incorporated or not, other than the Govt. carrying on business of transporting property from one place to another by land or inland navigation for all persons & for some consideration or reward.

Notes

The person does not include a Govt., Postal Deptt., the Indian Airlines etc. It includes an association or a body of persons which may be a co-operative society, a partnership firm or any other public or private company.

Under section 3 of the Act

"Carriers are not to be liable for loss of certain goods as given in the schedule above one hundred rupees in value.

Schedule

Gold and silver coin, Gold and silver in a manufactured or un-manufactured state, Precious stones and pearls. Jewellery, Time-pieces of any description, Bills and Hundis,

Currency notes of the Central Government, or notes of any Bank, or securities for payment of money, English or Foreign. Stamps and stamped paper, Maps, prints and works of art etc etc.

INTEXT QUESTIONS 6.1

1. What is represented by the Bill of lading?
2. What is multi modal transportation?

6.5 INDIAN INCOME TAX ACT 1961

6.5.1 Terminology

To understand the Income Tax Act one has to understood the various terms which are used frequently.

Income: Any earning by way of salary, profit or loss or rental income or interest income or profit or loss on sale of any capital assets or lottery, prizes is considered as income under Income Tax Act.

Assessee: An assessee is a person whose income is being assessed. For e.g., Mr. 'A' is a govt. employee or in job; his salary is an income, therefore - Mr. A will be considered as assessee.

Financial Year: The financial year is of 12 months starting from 1st April & ending to 31st March of the succeeding year.

Previous Year: The financial year in which the income is earned is known as the previous year.

Assessment Year: It is the succeeding year of the previous year and the year in which the income is assessed.

For e.g., Mr. A is in service and earning Rs.10,000 p.m. from 1/1/1999.

Financial Year: 1/4/98 to 31/3/99

Previous Years are: 1/4/98 to 31/3/99; 1/4/99 to 31/3/2000 & 1/4/00 to 31/3/2001

Assessment Year: (1/4/99 to 31/3/2000) will assess the income earned during the previous year 1/4/98 to 31/3/99.

Assessment year (1/4/00 to 31/3/2001) will assess the income earned during the previous year 1/4/99 to 31/3/2000.

6.5.2 Income Heads

Under section 14 of the Income Tax Act all incomes for the purpose of charge of Income Tax & Computation of total income have been classified under the following five heads of Income.

1)	Salaries	Section 15-17
2)	Income from House Property	Section 22 to 27
3)	Profits & gains of Business & Profession	Section 28 to 44
4)	Capital gains	Section 45 to 55
5)	Income from other sources	Section 56 to 59

Income, which falls within one head cannot be assigned to or taxed under another head. Further, income computed under each distinct head is not separately chargeable to tax. Income tax is only one tax levied on the aggregate of income classified and chargeable under the different heads.

The brief explanation of these heads are as under: -

1. Salary

Salary received and due during the previous year is chargeable to tax. However, if any salary has been included in the total income for any previous year on the basis of receipt it shall not be included again on the total income when it becomes due. Similarly, when any salary due (arrear) is not included in the total income it shall be included in the total income when it is received. The advance salary is included in the total income but not a loan taken by an employee from the employer.

Notes

Salary due means what is legally due or where a legally enforceable right has vested in the employee against the employer.

2. Income From House Property

The buildings include residential buildings let out for business or profession or for storage or warehouse or auditoriums for entertainment programmes. Cinema Halls, building let out for office, dance halls, music halls etc. But it does not include temporary hutments in the vacant land & any rental income there from will be assessed under the head "Income from other Sources". The location of building is immaterial. It may be located in India or abroad. If a company is incorporated with the object of promoting & developing a building for market place, the income of the company is not assessable under the head "Income from Business & Profession" but it is assessable under the head "Income from House Property". In case, the business carried on by the assessee has been stopped & the business premises have been based out the rental income is assessable as income from property.

3. Profit & Gains of Business or Profession Business [Sec.2(13)]

Business includes any trade, commerce or manufacture or any adventure or concern in the nature of trade, commerce or manufacture. For practical purposes, business means the purchase and sale or manufacture of a commodity with a view to make profit. Business includes banking, transport business or any other adventure. In this connection it is not necessary that there should be a series of transactions in a business and that it should be carried on permanently. Neither repetition nor continuity of similar transactions is necessary. Profit of an isolated transaction is also taxable under this head provided that it is a venture in the nature of business or trade. A transaction may be a single one and in that sense isolated but it must comprise some activity in the nature of operations, which are ordinarily followed in respect of trade. In this connection intention of purchase is very important. One may purchase an article for one's own use and without any intention to sell it and the mere fact that he subsequently sells it at a profit will not make the transaction of purchase and sale an adventure in the nature of trade. If, however, at the date of the purchase and sale an adventure in the nature of trade. If, however, at the date of the purchase the object of the purchase was not to bring the article in his own use but to sell it at a profit, there can hardly be any doubt that in that case the transaction would be a venture in nature of trade. Where a persons purchased, land and resold as building sites after plotting out within two years of purchase, it was held that the transaction was in the nature of trade and assessable as business income.

Profession includes vocation [Sec.2(36)]

Profession means those activities for earning livelihood which require intellectual skill or manual skill, e.g., the work of a lawyer, doctor, auditor, engineer and so on, are in the nature of profession. Vocation means activities which are performed in order to earn livelihood, e.g., brokerage, Insurance agency, music, dancing, etc. As the rules for the assessment of business, profession or vocation are the same, there is no importance of making any distinction between them from the income tax point of view.

4. Income from Capital Gains

Any profits & gains arising from the transfer of a capital assets effected in the previous year shall be chargeable to income tax under the head "Capital Gains" and shall be deemed to be the income of the previous year in which the transfer took place.

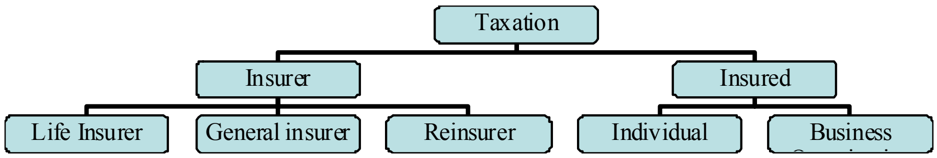
5. Income from other resources

This is a residuary head of income and all such income profits & gains which are not chargeable to income tax under any of the first four heads.

6.5.3 Taxation Provisions for Insurers, Insured

Like every commercial contract, there are two or more persons are involved in the insurance contracts. The persons involved in these contracts are called Insurer (The seller) and the Insured (Buyer). As the obligations are of these persons are different, therefore the provisions of income tax are also different which are explained as under:—

The Tax provisions in the Insurance sector can be discussed under the following heads:



1. Insurer

a) Life Insurer:

As per the Insurance Act 1938 amended up to date in India, only companies registered under Indian Companies Act 1956 can start the Insurance business. As the companies are also conducting the commercial transaction business therefore these should also be considered at par with the other commercial organization under the head "Income from Business and Profession" but Income Tax Act considers Life insurer differently because the income generated by them is from contribution made by the general public for the risk coverage and saving. If the same is taxed at the rate applicable then it is taxed on the saving of an individual.

Hence section 44 (A) of the Act deals the taxation provisions related to life insurer and explained as under:

If the person who carries on or at any time in the previous year carried on life insurance business the profit & gains of such person from that business shall be computed separately from his profit and gains from any other business and further adjusted the surplus or deficit by the Actuarial valuation.

The Actuarial valuation means the liability of the life insurance company to be paid to the policyholders either on death or on maturity including bonus.

For eg: If a Life Insurance Company has earned Rs. 10 crores from life insurance and other activities then the profit say Rs. 3 crores from other activities and actuarial liability say Rs. 5 crores then the income form business will be as follows:—

	Rs. in crores
Total Income of Life Insurance Company	10.00
Less income form other activities	3.00
Income of life insurance business	7.00
Less Actuarial valuation	5.00
Taxable income of Life insurance company	2.00

The life insurance company will pay tax @ 12.5% on Rs. 2.00 crores under section 115B of Income Tax Act and normal rate (30% as on date) on income from other activities

b) General Insurer and Reinsurer:

in the case of these organizations the profit and gains are computed as in the case of other organization except that the reserve for unexpired risks may be allowed. Reserve for unexpired risks means provision of claims has been made on the general insurance polices who has not expired but claim may arise in future or the next financial year. The normal income tax rate will be applicable to these two insurers.

2. Insured

a) Individual:—

The following benefits are available to an individual who invest his income in insurance:—

i) Payment of life insurance premium: The payment of premium up to Rs 1.00 lakhs can be reduced from the taxable income of an individual. Premium may be life insurance or Annuity plan.

ii) Payment of Health insurance; The payment of premium on health insurance can be reduced from the taxable income of an individual up to Rs 15000/- (Rs 20000/- if any family member is senior citizen).

b) Business Organization:—

Any business organization incurring any expenditure by way of insurance premium is allowed as expenditure. In other words the income will be reduced by the expenses incurred on insurance for Plant & Machinery, Building, stock etc. Even if the insurance premium is paid for welfare of the employees are allowable expenditure.

INTEXT QUESTIONS 6.2

1. Define Income under Income Tax Act 1961.
2. Define Previous year under Income Tax 1961.

6.6 SUMMARY

As material is insured under marine insurance and the goods

Notes

are sent through various modes of transportation like rail/road/sea/air and transporter is acting as a bailee and he is supposed to transport the goods in safe and sound condition. In case of loss he can not be made liable for the total loss and his liability will be limited under various acts.

In Income Tax Act the special consideration has been given to both life insurer and insured to popularize insurance. The income of life insurer is taxed at lower rate but the income of general insurer or Reinsurer at normal rate. The premium paid by the insured also gets the benefits by reducing his income as a result his tax liability also reduces.

6.7 TERMINAL QUESTIONS

1) How actuarial valuation is related with income tax treatment for insurer?
2) List the deduction allowed to business entity and an individual.
3) Discus the Carrier Act.
4) Write short note on
   a. The Carriage of Goods by Sea Act, 1925.
   b. The Merchant Shipping Act, 1958.
   c. Various Income heads under IT Act.

6.8 OBJECTIVE TYPE QUESTIONS

1. Under Indian Income Tax Act 1961 the Income can classified under ______heads(5/6).
2. Previous year and financial year can be same. (Correct/incorrect).
3. Income Tax Rate for life insurance business is ________ ________(12.5%/ 30%).
4. The maximum limit for health insurance premium is __________ (Rs. 15,000/-, Rs. 25,000/-).
5. Income Tax Rate for General insurance business is _______________(12.5%/ 30%).

6.9 ANSWERS TO INTEXT QUESTIONS

6.9.1

1. Bill of lading as an evidence of the contract of carriage of goods between the shipowner and the shipper, as an acknowledgement of the receipt of the goods on board the vessel and, as a document of title.

2. Multi-modal transportation means transportation of goods under more than one mode of transport i.e. rail, road and sea.

6.9.2

1. Any earning by way of salary, profit or loss or rental income or interest income or profit or loss on sale of any capital assets or lottery, prizes is considered as income under Income Tax Act.

2. The financial year in which the income is earned is known as the previous year.

6.10 ANSWERS TO OBJECTIVE TYPE QUESTIONS

1. 5
2. Correct
3. 12.5%
4. Rs 15,000/-
5. 30%