



Newsletter June - 2016

Salasar Services Insurance Brokers Pvt. Ltd.

DIRECTORS' & OFFICERS' COVER GAINING POPULARITY

With the authorities tightening the screws on directors and senior corporate bosses after Laffaire VijayMallya and the Panama papers revelations, there has been a scramble by companies to get large Directors and officer Liability (D&O) insurance policies.

Corporate are opting for covers as large as RS. 500 crore, says Mahesh Chainani, Senior VP at Howden India Insurance brokers, which specialises in D&O policies.

Premiums in this segment have crashed almost 60per cent in the last five years due to rising competition among insurance, Chainani adds.

However, a key exclusion in the D&O policy is loss arising from dishonesty, fraudulent conduct and self-admission (of wrongdoing), but the policy will cover all innocent employees, say insurers.

KG KrishnamoorthyRoa, MD & CEO, Future Generali says, Initially, D & O polices were taken only by listed companies. However, in the last two years, there has been a demand for such policies by non-listed companies such as SEMs and start-ups as well."

Insurers also say that with increasing litigation and widening corporate exposure, the coverage sought has widened beyond the basic policy.



IRDA GIVES A NOD TO 16 FDI PROPOSALS WORTH RS. 14,592 CR.

IRDAI has approved as many as 16 proposals amounting to Rs 14,591.9 crore as foreign investment. "Post notification of the insurance Laws (Amendment) Act, 2015, IRDAI has approved 16 proposals amounting to Rs 14,591.9 crore as foreign investment in the insurance sector," Minister of State for Finance Jayant Sinha said in a writing reply in the Rajya Sabha.

The government had notified the Indian Insurance Companies (Foreign Investment) Rules, 2015, to facilitate foreign investment in the insurance sector. To bring clarity on Indian owned and controlled, the Insurance Regulatory and Development Authority of India has issued guidelines on the same.

18% POPULATION OF URBAN AREA COVERED UNDER HEALTH INSURANCE: GOVERNMENT

As per the latest data there are only 18 per cent of people in urban areas of the country are covered under any kind of health insurance scheme, the government has said.

"As per latest data report of National Sample Survey Office(NSSO) on Health and Morbidity known as 'Social Consumption on Health' conducted during NSS 71st round (January – June 2014) percentage of persons having covered under any health insurance scheme is 14.1 per cent in rural areas and 18.1 per cent in urban areas," Health Minister J P Nadda said in written reply in the Lok Sabha.

He Said that according to information received from Insurance Regulatory and Development Authority of India, 28.80 crore people were covered under health insurance policies provided by the public sector and private sector during 2014-15 (including government sponsored schemes like RSBY) which is 24 percent of India's total population.



HEALTH INSURANCE PREMIUM CAN BE DONE INSTALMENT

Customers will be allowed part payment of health insurance premium, the sector regulator has said, in a move aimed at helping more people to avail the benefits of medical security cover.

At present, customer have to make a single annual payment for any health insurance scheme unlike life insurance products which allow equated monthly instalments (EMIs).

However, for health insurance products, customers will only be allowed part payments and not EMIs, sources said. The facility is also likely to be extended to customers paying premium for their cars.

The Insurance Regulatory and Development Authority of India, however said insurance companies will have to apply for approval of schemes allowing the customer to pay premium in parts.

“The companies will have to file for the products with us and we will look into it,” IRDAI chairman TS Vijayan told.



COVERAGE'S OF DEFECT DESIGN UNDER CAR/EAR

Under CAR policy, the design defect is not covered. Due to design defect, the loss/damaged may be to the property itself or property having the support of defect property. To cover such risks clauses DE2, DE3, DE4 and DE5 are available as an "add on covers" and defined as under:

DE1 is a total exclusion of all loss or damage.

DE2 excludes property that is defective and property which relies for its support on property which is defective, but gives cover for other insured property which is free of defect.

DE3 excludes property which is defective, but gives cover for other property which is free of defect and is damaged by defective property.

DE4 is similar to DE3 but restricts the exclusion to any 'component part or individual item' which is defective. Note - DE4 was generally intended for machinery erection risks where an individual component could be identified in a machine as defective.

DE5 provides full cover for both defective and non-defective property provided there is actual damage (even if only to the defective part). Cover is not given for the existence of defects. The costs of redesigning are excluded.

Example - A steel frame building with roof completed, cladding partially completed and dwarf brick wall completed. The nuts and bolts used in construction of the steel framework proved to be inadequate, and the whole structure collapsed, damaging everything.

The various defect exclusions would limit indemnity as follows -

- ✦ DE1 - all damage would be excluded
- ✦ DE2 - all damaged items excluded except for the dwarf brick wall
- ✦ DE3 - steel framework excluded; roof, cladding and dwarf brick wall paid for
- ✦ DE4 - only the nuts and bolts excluded
- ✦ DE5 - all damage paid for but improvement costs excluded.



CREDIT INSURANCE

Credit Insurance offers one of efficient and cost effective ways of managing credit risk for any enterprise. The credit risk can exist on trade receivables internationally or even on account of domestic sales. Most trade whether domestic or exports are carried out on credit terms and one of the major risks that the enterprise may face is the overdue payments or protracted default against sales invoiced.

As far as exports are concerned, majority of trade from India is carried on open account sales, primarily non-recourse in nature. The balance is on Letters of Credit of various kinds and/or other forms of recourse to credit. These forms of recourse have their own rigidities and costs making the entire process of securing credit terms tedious, time consuming besides having a price attached.

Credit Insurance offers a cover for open account sales or even an alternative to other forms of recourse on credit terms. In its raw form, it covers the insured against default of payment by customers. There are of course terms and conditions to the insurance and exchange of information before the cover is actually granted and service provided in case of a default.

Sales of companies to its buyers "on credit" can be divided into the following broad categories:

- ✦ Exports Sales
- ✦ Domestic Sales

While domestic credit may be more controllable in nature since the transaction takes place near the point of sale, it is the exports risk which is of prime concern to a seller and has many ramifications mainly Trans border for them.

Export Credit :

The risks associated with Export Sale can be classified in following two categories:

Commercial Risk : these can be in the nature of:

1. Protracted default or delayed payments by debtors
2. Insolvency of the buyer
3. Non acceptance of goods by the buyer
4. Trade disputes

Credit insurance covers the risk at item 1 and 2 above, while other risks are not of insurable nature.

Political Risk: can be any activity- political or economic difficulty preventing or delaying payment of a transaction and can be in the nature of:

1. Natural disasters
2. Cancellation of import license of the buyer
3. Protracted default on state owned entities
4. Measures taken by host country to prevent payment of transaction

These risks are subject matter of insurance and can be considered for risk evaluation and coverage.

Credit Insurance :

Credit insurance provides insurance against:

- ✦ Trade Receivablesorts Sales
- ✦ Business-to-Business Transactions
- ✦ Short Term Credit Risk
- ✦ Portfolio

The benefits of credit insurance are in the form of:

- ✦ Risk Mitigation
- ✦ Enables development of new markets against protection provided
- ✦ Expert advice since buyers are analysed for credit worthiness
- ✦ Allows conversion of other recourse terms like L/C to open account sales thus allowing seller better leverage in pricing
- ✦ Enhances financing since the policies can be assigned
- ✦ Efficient collection of debts
- ✦ Complements credit management of the seller

Same advantages can be culled out for domestic sale of the seller. However the process is more tedious and in the absence of sufficient information on buyers, insurers are cautious in accepting covers.



Case Study - 1

TRANSFER OF CAR OWNERSHIP

THE CASE OF NEW INDIA ASSURANCE VS. ASHOK KUMAR, NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION, MARCH 19.

Ashok Kumar purchased a second hand car in November, 2006, which was insured by New India Assurance by the previous owner. Kumar did not inform the insurance company about the registration transfer or get the insurance policy transferred to his name. When Kumar filed a claim on the car being stolen in March, 2007, his claim was rejected on the grounds that the claim was not in his name. Kumar filed a lawsuit and the Delhi District Commission and the State Commission ruled in his favour. New India Assurance filed an appeal with National Consumer Disputes Redressal Commission, which ruled in its favour stating the IRDA regulation according to which the insurance company must be informed about the vehicle transfer within 14 days, if not, the insurance company is not liable to reimburse the claim.

The case was very straightforward as IRDA regulations are clear-cut about disclosures, especially with respect of transfer of the property being insured. So, [it is important to read through the policy offer document clearly to understand the rules for the transfer of policies and the insurance company must be informed about any major changes.](#)



Case Study - 2

ACCIDENT IS ACCIDENT AND IS PAYABLE UNDER GROUP ACCIDENT POLICY (MADRAS HC ORDERS ORIENTAL INSURANCE TO PAY COMPENSATION TO INJURED WORKER)

In 2005 a worker named D. Sivasankar got his hand injured badly while shifting a granite stone at his work. He was administered 17 stitches at a private hospital and later shifted to a government hospital. He claimed that he had suffered a permanent disability of 15% and lost 17% of his earning capacity therefore he should be paid suitable compensation.

The employer said the injuries to Sivasankar were trivial and he had not reported with documents proving loss in his employment opportunities. Further, he was covered by a group insurance policy of Oriental Insurance. Sivasankar filed an insurance claim, but the insurer Oriental Insurance Company rejected it. The Sivasankar filed a complaint before the commissioner for workmen's compensation seeking a compensation of 1.5 lakh. The Deputy Commissioner of labour partially allowed the claim and ordered Oriental Insurance to pay Rs. 53,394 to the claimant within a month.

Then the insurer moved the Madras High Court, saying, since it was a group personal accident policy, it did not cover a claim under the Workmen's Compensation Act. Unless the policy specifically covered a claim under the Workmen's Compensation act, no direction could be issued for making the payment, it said. The viewpoint of the Counsel for Sivasankar was that the insurance policy was valid at the time of injury, there was no illegality in the order. Justice R Mahadevan said an insurer could be directed to pay compensation even if it was not covered under the provisions of the Workmen's Compensation Act. As Sivasankar was injured during employment, he was correct in approaching the commissioner.

In a recent verdict, the Madras High Court has ordered public sector insurer Oriental Insurance Company Limited to pay compensation to a worker injured on duty.

“The concept of insurance is to indemnify the insured against the claims” the court added.

