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ABSTRACT

INSURANCE LAW IN INDIA

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Insurance is form of contract or an arrangement where one party agrees in return for a consideration to pay an agreed amount of money to another party to make good the loss, damage or injury to something of value in which the insured has an interest. Being a contract of indemnity, it is based on the principle of utmost good faith.

The business of insurance extends to protection of the economic value of assets. The owner of an asset attaches a value to the property since it gives them some benefit in the form of income or the loss of which could cause irreparable loss to the owner.

The idea of insurance took birth thousands of years ago. Insurance practices in earlier days used to be based on the concept of 'pooling of risks'. A common fund was created, often at the Village Panchayat or equivalent levels into which small contributions from many people was pooled and the amount so collected be used to compensate for the loss suffered by the unfortunate few out of those who contributed. The contribution to be made by each person is determined on the assumption that while it may not be possible to tell beforehand which person will suffer, it will be possible to tell, on the basis of past experiences, how many persons on an average may suffer losses.

There is an element of uncertainty in life as well as business. Human beings are exposed to various risks such as risk of contracting illnesses, risk of dying through accident or normal death etc. Similarly, a business is also exposed to risks such as destruction of assets by fire and other natural causes, risk of damage to goods during transportation of goods, etc. Therefore insurance evolved as a Risk transfer mechanism to person/entities who have the capacity to undertake the risk. The IRD Act has established the Insurance Regulatory and Development Authority ("IRDA" or "Authority") as a statutory regulator to regulate and promote the insurance industry in India and to protect the interests of holders of insurance policies. The IRD Act also carried out a series of amendments to the Act of 1938 and conferred the powers of the Controller of Insurance on the IRDA.

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The members of the IRDA are appointed by the Central Government from amongst persons of ability, integrity and standing who have knowledge or experience in life insurance, general insurance, actuarial science, finance, economics, law, accountancy, administration etc. The Authority consists of a chairperson, not more than five whole-time members and not more than four part-time members.

The Authority has been entrusted with the duty to regulate, promote and ensure the orderly growth of the insurance and re-insurance business in India. In furtherance of this responsibility, it has been conferred with numerous powers and functions which include prescribing regulations on the investments of funds by insurance companies, regulating maintenance of the margin of solvency, adjudication of disputes between insurers and intermediaries, supervising the functioning of the Tariff Advisory Committee, specifying the percentage of premium income of the insurer to finance schemes for promoting and regulating professional organizations and specifying the percentage of life insurance business and general insurance business to be undertaken by the insurer in the rural or social sector.

Keywords: Contract, Business, IRDA, Growth of Insurance, Insurer