

INSURANCE INVESTIGATION

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Insurance Regulatory & Development Authority (IRDA) has notified Regulations for licensing as also Code of Conduct and Duties and Responsibilities, of Insurance Agents, Corporate Agents, Insurance Brokers, Insurance Surveyors and Third Party Administrators.

Apart from these licensed professionals, we often come across some other independent agencies such as Insurance consultants, Insurance advisors, claim consultants and Insurance Investigators. These agencies are not governed by any statutory regulatory mechanism. The concerned parties engage them for rendering specific services. The services so hired may be on the basis of continuing agreement between the parties or by mutual understanding.

While freelance Agencies such as consultants, advisors and the like are engaged by parties on their own volition and since their activities are limited to serving their mutual interest only, it is not of much consequence for others who are directly or indirectly associated with insurance field. But the situation is different in the case of Insurance Investigator who in their assumed capacity as an Investigator attempts to elicit relevant information from various sources and in the process happens to deal with in-

jured himself or any third parties. This means he adopts and the source he opts to utilize for obtaining the information are therefore of paramount importance in so far as the total behavior of an Investigator has the potential to impact the brand image of Insurer in particular and the insurance industry in general.

Now, who is an Insurance Investigator? One will be tempted to visualize an Investigator as one who wears a long black coat, a hat, armed with a magnifying glass, a man with bushy eyebrows, fidgety eyes and aquiline nose sniffing at anything and everything and with a gait signifying an air of great importance. We do not find that serious lot in the insurance field. The ones we usually come across in the sector are lesser mortals. Most of them are individuals who are sociable and are of moderate disposition. One can understand that barring very few, they have assumed the role not by conviction or any special penchant for the particular job, but more or less by sheer accident or because of necessity to take up a vocation. Naturally, they cannot be expected to attain, unless by compulsion, the skill, tact and mannerism the job demands nor do they have set opportunities to acquire these traits.

When we try to consider the merits

and demerits of an insurance investigation, what comes to our mind at once is its great potential to do irreparable damage to the contractual relationship between the insurer and the insured. The moment an Investigator introduces himself as one appointed by Insurer to inquire into the circumstances of a loss at a time when the insured is mentally broken by unexpected happening crippling his economic activity, the latter's immediate reaction will be that of annoyance and utter prejudice caused by his disbelief that the insurer by this very action show the designs of their treacherous intentions. Thus, the first casualty is of the paramount Principle of Insurance; Principle of Utmost Good Faith. By this, I am not trying to suggest that an Investigation by private investigator is a needless exercise.

At this juncture, it is necessary to discuss some related issues such as the circumstances necessitating the services of an Investigator, role of an Investigator in the given context, authenticity of the information he presents, consequences of deficiency in his performance and remedies if any available to the aggrieved for his non-feasance or misfeasance, etc.

Why Investigation ?

Now a days it is found to be a practice with Insurers to arrange investi-

gation of losses by private investigators. A dispassionate study of circumstances in which cases have been entrusted for investigation, holds out the following facts :

1) Some information, not available from the records already on hand, that are presumed to adversely affect the fate of the case in question is reported by sources professing knowledge about the event. Generally in such situation, an Investigator is appointed to inquire into and find out the veracity or otherwise of the information received.

2) The concerned insurance official lacks confidence in taking a firm decision in regard to the case and therefore finds comfort in relying on the recommendation of a so-called independent agency. The Investigator in such a situation is acting as a facilitator for deciding authority.

3) Investigation is arranged with a malicious intention as a delaying tactic or with an ulterior motive or in a deliberate attempt to harass the insured. The Investigator entrusted with the job in this case acts like a super cop and is found patently pernicious in his designs.

SELECTION OF INVESTIGATOR

In fact, the circumstance which influences the decision to engage an investigator has a direct bearing on the selection of investigator, his subsequent attitude and general conduct. Different Investigators on the panel have diverse potential. Therefore, depending on the objective to be achieved, the Investigator is selected.

GENERAL CONDUCT OF INVESTIGATOR

An Investigator who has not been given any terms of reference, which is generally the practice, not knowing

where to start, prefers to access the same sources which a surveyor must have already approached for the purpose of inspecting and assessing the loss. Often, it has been found that the Investigator, to cut it short, gathers copies of all relevant documents from Insurance Surveyor who has surveyed the loss. In this context it is necessary to refer to Clause 13(2) (Duties and responsibilities of a surveyor and loss assessor) of Surveyors Regulations notified by IRDA, which, inter alia, states the duties of surveyor as "examining, inquiring, investigating, verifying, and checking upon the causes

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and the circumstances of the loss in question including extent of loss, nature of ownership and insurable interest". Here is then a case where the investigator faces a situation of role conflict.

On the other hand, where a professional surveyor is not involved in a particular case and no terms of reference has been given, the investigator faces a situation of role ambiguity and therefore go about gathering lot of many information/documents which may or may not be relevant to the loss. The Investigator who is inexperienced in the line and without any clear direction from insurers as to what is expected of him, indulges in such futile exercise and thereby exasperates the insured causing to strain his relationship with insurer.

INVESTIGATOR'S REPORT AND ITS AUTHENTICITY

Systematic inquiry by a competent Investigator can bring out reliable information and his report in such case can be taken seriously by the appointing authorities as such report is always supported by conclusive evidences. An Insurer who acts upon a report which is fundamentally without any substance and is vague about its objectives, may have to face far-reaching and often unpleasant consequences. A prudent official should subject the Investigator's Report to meticulous screening to find out whether the Investigator has acted with personal prejudices or with any malicious intention. Investigator is at times tempted to present hypotheses without any corroborative evidence regarding the cause and extent of loss, and to throw imputations against other professionals and Insurance officials with impunity, all this with the sole purpose of pleasing the appointing officials.

LEGALITY OF REPORT

If the findings of an Investigator are supported by tangible evidences, the report can be used as a judicial evidence. If findings are based on investigator's mere presumptions the Report cannot be taken as conclusive evidence or a reliable basis for deciding on the fate of the claim.

Besides, the investigator's report being a published material as per law, may invite litigation if it contains imputations or innuendos, without any corroborative evidence against the insured or the insurance officials.

MERITS AND DEMERITS OF INVESTIGATION

In spite of the above, Insurance Investigation has the following advantages :

1) A competent agency brings out several facts that the insurers can uti-

lize to their advantage and the tangible evidences produced help the insurers in taking a fair decision in a particular case.

2) The system of investigation acts as a deterrent and helps to prevent fraud.

3) The system of investigation discourages the malevolent rumor mongers.

The practice is also saddled with the following disadvantages :

1) It often causes to strain the relationship between insured and insurer.

2) There is no guarantee for confidentiality of information collected from the insured. Therefore, insured often rightly refuses to co-operate with investigator.

3) An Investigation Report by itself cannot be an legal base for deciding on the fate of a claim. Nevertheless, the documents collected during the investigations being judicial evidences, can be relied upon for deciding on the fate of claim.

4) The system is misused by interested insurance officials either to satisfy their ego or for ulterior motive.

5) As per the Regulations, it is the duty of Insurance Surveyor wherever applicable to investigate and report about the caused and extent of loss. An Investigator's job conflicts with the statutory responsibilities cast upon the licensed professional.

6) There is no system to effectively screen the capability of insurance investigator. Therefore, a proper evaluation

of an investigator's performance is not possible.

7) As there is no control mechanism operative, the investigator's behavior is never questioned or challenged.

8) As there are no prescribed norms or qualification for appointment of Insurance Investigator, very few meritorious persons are found in the field.

In order to cleanse this sector of unworthy, unscrupulous elements and to bring about real purposeful professionalism, the authorities should mull over the idea of introducing an appropriate regulatory mechanism so that the activities of these professionals may be subject to monitoring and control. □

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not require extensive administrative infrastructure. Indian market with its burgeoning middle class and increasing consumer credit culture is definitely ready for this product line.

THE TARGET MARKET SEGMENTS WOULD BE

- The employed middle class
- The rural middle class
- Small traders and independent business owners
- Lower /middle income customers
- Loanees of micro lending agencies

STEPS TO GROW THE MARKET SHARE OF CREDITOR INSURANCE

- Design good products and price them reasonably
- Generate trust in the mind of the consumer about this line of business
- Increase the general awareness

about the product and the advantages to the loanees and creditor institutions.

- Generate awareness among lending institutions to sell creditor insurance with loans.

CONCLUSION

The creditor insurance product is interesting for the insurers, lenders and the loanees. The product is useful and relevant, if priced and positioned well. In the Indian context unemployment insurance may be difficult to manage for some more time to come. The regulator has a role to play in seeing that the product is designed keeping the customers interests in mind. The customer's interests have to be taken care of and should not be sacrificed at the altar of the insurers and lenders profits. Customer awareness has to be increased so that the customer does not blindly buy the product. The buying decision should be made after he fully understands the implications of the benefits and ex-

clusions.

In a society of low earners this product, if priced appropriately has considerable social relevance since the death or disablement of the breadwinner takes many an Indian family into penury and eternal indebtedness.

REFERENCES

Insurance Institute of India, Insurance Business Environment, Mumbai

Insurance Information Institute Fact Book, 2000, III, New York, 2000.

Boora, S.S., "Insurance Sector: Plunging into Uncertainty," Paper Presented in National Conference on Nov. 5, 2001, Rohtak

Meder, R.C., Changes in the Global Insurance Market, ICFAI Reader, May 2001

Paresh Parasnis, "Distribution of Life Insurance-An Industry in Transition", Chartered Secretary, Aug. 2001. □