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Dispute Arising while Claiming Fire Insurance

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***Abstract*: Fire policies cover owners of commercial or industrial property against material damage caused by fire and extra perils. Fire policies cover a wide range of insured properties from small rural sheds to billion dollar high rise buildings. Losses against these policies are dominated by large individual fire losses and other large losses caused by natural peril and manmade events that generate a large number of simultaneous claims.**

***Keywords*: Fire, Policy Holder, Insurance Company.**

1. Introduction

As per the Insurance Act 1938, under Section 2 (6A), Fire Insurance is defined as "the business of effecting, otherwise than independently to some other class of 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." A fire insurance is a contract under which the insurer in return for a consideration (premium) agrees to indemnify the insured for financial loss which the latter may suffer due to destruction of or damage to property or goods, caused by fire, during a specific interval o time. The contract specifies the maximum amount agreed to by the parties at the time of the contract, which the insurer can claim in case of loss occurred to him. The insurer is liable to make payment not exceeding the maximum amount fixed under the policy. The word "fire" here does not mean the fire used for domestic and household activities. It refers to fire which is not caused intentionally and has no bound, and it is production of ignition, light and smoke by combustion.The phrase 'loss or damage by fire' also includes the loss or damage by efforts to extinguish fire.

2. Emergence of Fire Insurance Policy

On 2nd September 1666, a great fire break out in London which caused mass destruction in city burning 13,000 houses and lasted for 5 days. This led to emergence of Fire Insurance Policy so as to compensate people for the losses suffered by them and so they can start their life again after such a mishap. The first Fire Insurance Company was established in 1681, Insurance Office for Houses to insure 5000 brick and frame houses. Later on may more Insurance Companies were established such as Hand-in Hand, Sun Fire Office, Westminster and the Royal Exchange in 1720.

3. Characteristics of Fire Insurance

- It is a contract of indemnity. The assured can, in the event of loss, recover the actual amount of loss from the insurer. This is subject to the maximum amount for which the subject-matter is insured.
- It is a contract of Uberrimae Fidei (Utmost Good Faith). The assured and the insurer have to disclose everything which is in their knowledge and which will affect the contract of insurance.
- The assured must have insurable interest in the subject-matter both at the time of insurance and at the time of loss. The insurable interest must be capable of valuation in terms of money.
- The risk covered by a fire insurance contract is the loss resulting from fire or some cause which is the proximate cause of the loss.
- It is subject to the principles of subrogation and contribution.
- It is a contract from year to year. It comes to an end after the expiry of the year. It can, however, be renewed if the assured pays the premium during the days of grace.

4. Subject Matter of Fire Insurance

The subject matter may be of any kind of movable and immovable property having pecuniary value. The property intended to be insured must be properly described.
The following items are included in fire insurance:

- Buildings
- Plant & Machinery, Equipment's and Accessories
- Furniture and electrical fittings
- Goods as in raw materials, semi-finished and finished goods stored in warehouse &open
- Pipelines present inside as well as outside the building
- Contents in dwellings, shops, hotels, etc.

5. Scope of Fire Insurance

According of section 2 of the insurance act 1938, the scope of fire insurance includes,

a) Fire insurance business is different from other insurance business operation and covers the risks

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caused by fire.

b) In addition to the risk cause by the fire, it also includes other reasons and occurrences, which can be customarily be included among risk insured under fire insurance contracts.

6. Hazard in Fire Insurance

Fire loss is the result of two types of hazard:

- *Physical hazards:* It refers to the inherent risk of the fire in the property which may be on account of the situation, inflammable nature, constructions artificial lighting and heating, lack of the fire extinguishing is a appliances, etc. Fire insurance, provider's protections to the property against the occurrence of fire, an unavoidable physical hazard.
- *Moral hazard:* The term Moral Hazard refers to the willful and malicious setting on fire of on the property by the owners or somebody else. Moral hazard may be in anyone of the following forms:
- *In cendiarism*: It refers to the deliberate destruction of one's own property by fire. Some insured indulge in such activities to realize the insured amount from the insurer.
- Arson: It refers to setting on fire the property of the insured by the some other persons. Some persons may set fire to property of others with a view to getting a reward for information about the break out of the fire or assisting in extinguishing it.
- *Passive dishonesty*: It refers to the willful neglect to the by the insured to take proper action for extinguishing fire and his carelessness during the occurrence of fire.

7. Kinds of Fire Insurance Policy

- *Valued Policy*: As the name suggests, the value of the insured property is pre-determined at the inception of the policy. In case of loss suffered by the insured, a fixed compensation amount is paid by the insurer irrespective of the actual amount of financial loss suffered by the insured. The claim amount may be less or greater than the market value of the property and will not include renovations made in the property.
- *Valuable Policy*: It is reserve of the above policy. Here, the value of the insured property is determined at the time of loss and claim is paid depending on the market value of the property at the time of damage.
- *Specific Policy*: In this policy, a specific policy coverage amount is mentioned which is not the market value of the property and is for a specific period of time for a particular property. The compensation paid will not exceed the policy coverage value.
- *Average Policy:* It is that policy in which the Insured doesn't take insurance policy which covers the total value of the property. The loss is shared by both the insured and the Insurance Company in pre decided proportion. For example, Rama took an Insurance policy of ` 7, 00,000 for her house which value is `1, 4 00,000. In case of a fire, her house is 50 percent damaged, and then she will receive compensation of `3, 50,000 from the Insurance Company which is 50 percent of her Insurance coverage value.
- *Floating Policy*: In this type, a single policy covers two or more properties present at different locations for an insured. A single premium is paid by the insured, providing him convenience against buying multiple policies.
- *Adjustable Policy*: There may be change in the value of stocks; hence it becomes difficult for the insured to determine what coverage amount of insurance policy should be purchased. In this case Adjustable policy is taken where insurance amount and premium is calculated on the existing value of the stock initially and the latter is adjusted depending on the change in value of the stock which is regularly provided by the insured. The premium changes on a pro rata basis.
- *Declaration Policy*: Unlike above, the Insured takes insurance policy for the maximum value of the stock and regularly (particular date of the month) declares to the Insurance Company the change in value of the stock. The insured pays 75 percent of the premium before in advance and remaining depends on the premium so calculated after one year on average of the value declared by the insured in that year.
- *Excess Policy:* This policy is for those people, who stock value keeps on fluctuating. In this scenario, insured purchases two policies- First loss policy for the minimum stock value and Excess Policy for the excess value of the stock. The minimum value for the stock is calculated on the past experience and excess value of the stock is informed by the insured to the insurer every month. The premium is not high in this case.
- *Reinstatement Policy*: Here, the Insurance Company replaces or reinstates the insured property in case of damage of fire instead of providing monetary compensation.
- *Comprehensive Policy*: It is that one which Insured gets coverage from not only loss by the fire but also from theft, war, riot, strike and etc. The premium charged for such a policy is very high but it provides security to insured against many risks.
- *Consequential loss Policy*: It covers the consequential loss as well loss by fire, suffered by the insured. As discussed in comprehensive scope, consequential loss is loss suffered by the insured in terms of loss in profit, salary, inflation incidental to the occurrence of the fire.

8. Disputes arise in Claiming of Fire Insurance

Claims regarding fire, whether against an insurer or by an uninsured owner against a third party which caused the fire, often give rise to protracted disputes. Fire losses are severe in nature and large amount of money are needed to reinstate property and make good the loss. Sometimes the fire will destroy much of evidence as to what caused it, even it is difficult to locate where the fire started. Evidence are critical to determine whether an insured was in breach of the policy may be obliterated. Often there is rise of disputes whether the damage to the subject matter must be rebuilt or can be repaired. Some of the disputes rises due to the followings:

1) Delay

In these issue the insurer often delay, frequently for lengthy periods, a decision on whether to accept an insurance claim or not. This arise due to when the insurer unable to determine how the fire started. So, the insurer take around 12 months to decide whether to pay a fire claim. If the claim is accepted, the insurer may still delay in determination of the payable amount to be paid or alternatively may offer a low amount.

2) Denial of Liability

In these issue the insurance company refuses to pay any damage to the accident perspective. Insurer Denies Liability on the Basis of Non-Disclosure & Misrepresentation

The insurer denies it is liable because it says an insured person did not make full disclosure or misrepresentation of the facts to the insurer before it issued the policy. The insurer will claim that it would not have issued the policy had it been fully correctly appraised of the facts. It is difficult for an insurer to escape liability for a claim if the insured innocently rather than intentionally misrepresented or failed to disclose facts to the insurer. To escape liability the insurer need to prove with evidence to show whether it would not have issued policy or would have inserted a term in the policy which excluded its liability for the claim had it known the true facts.

3) Denial of Liability – Failure to Take Due Care or Failure to Take All Reasonable Precautions. In this matter an insurer will attempt to deny liability on the basis that an insured failed to comply with a condition in the policy that the insured take “all reasonable precautions”, or exercise “due care” or “due diligence” to avoid a loss.

4) Denial of Liability – Breach by Committing Unlawful Acts

In commercial or industrial fire claims, an insurer may attempt to deny liability by claiming that the insured has breached a clause requiring him or her to comply with all laws, regulation or statutory obligations.

5) Disputes as to Loss

Under this policy does the insurer must pay an insured the amount of the loss incurred, which is not determined by the ‘market value’ of the lost property. The insurance policy providers, provide that the loss is to be assessed by the “replacement value” of the items or “new for old” if it cannot be repaired.

9. Conclusion

Fire insurance is nothing but a contract between the fire insurance company and the insurer, whereas the insurer will compensate the losses occurred at the insured property due to fire. To make fire insurance claim it should establish the actual fire or ignition and should prove that the fire is accidental, otherwise few disputes may arise due to improper explanation regarding the cause of fire.

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