



# **i**BROKER

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Insurance Brokers Association of India

## Going in to bat for you.....

As we approach the last quarter of the Financial year, it's useful to consider how we are progressing as an association. Since the creation of IBAI about 19 years ago, much has changed in the professional environment of insurance brokers.

### Coming to speak of change, what a year 2020 has been. We are resilient, aren't we?

We have truly changed. To start with, I welcome on behalf of all of you, the newly elected directors from all 4 regions and the newly appointed office bearers.

I know 2020 has been difficult for everyone including us, but I think our Industry was far better insulated compared to other industries where there were massive destruction and hampered growth. The recent figures for the first nine month of FY 2020-2021 shows a marginal rise in general insurance and small drop in life insurance premium, but I am sure we will bounce back in the last quarter to close on a positive note.

Adversity always brings out the best from all of us, and we have adapted to the new normal by honing our skills in the past 9 months. I am sure everyone must have developed the necessary infrastructure to deal with such situations which can catch us unaware. We need to have a **Business Continuity Plan (BCP)** in place for such serious disruptions in terms of alternate office infrastructure, **Work From Home (WFH)** options, and last but not the least technology which can help continue our businesses.

After taking over as President in September 2020, my key focus has been to get all the broker members together and have a cohesive atmosphere where everyone can participate in the market and create their own niche instead of undercutting each other.

I would expect all the brokers to meet more often, through **Regional Chapters**, so they get to collaborate, share good practices and develop a bonding, whereby the key focus remains healthy competition, through knowledge and service.

Furthermore, we have started inviting comments and suggestions on all the draft reports published by IRDAI from all the members whereby making a robust representation on the topics covering Policy Holders Interest. I am also happy to inform that the Regulator has been appreciating our honest feedbacks and allowing us to participate in various meetings involving members from the broking fraternity.

Recently broker members were invited on the Committee for discussion on professional indemnity policy for intermediaries, cyber liability, retail engineering products, and I am sure we will continue to participate in a similar way as and when invited.

We being the only representative of customers in the entire insurance ecosystem, our role and responsibility is very crucial in development of the insurance market. I am sure the next Capex Cycle will kickstart and all of us will get an opportunity to participate in the growth.

It gives me immense pleasure to restart our brokers quarterly magazine which will be henceforth known as "**iBroker**". I look forward for an active contribution from all the members in terms of articles based on your individual expertise as this benefit the whole fraternity.

Wishing you all a Very Happy and Prosperous New Year, and may this year bring in more prosperity and growth for everyone.


***"Coming together is the beginning. Keeping together is progress. Working together is success."***  
- Henry Ford

**CA Sumit Bohra**  
President - IBAI



# Risk Forecast 2021

## Need for a Vision for the Decade



2021 (January 1<sup>st</sup>) has opened wide not only a new year, but a new decade. Purpose in achieving world class objectives need throwing out mere rituals that mark a new year to be upgraded into a strong resolve that can carry us across a decade that promises to be the golden period of insurance. Insurance industry has to carry a country that is rearing to ride into the forefront of technology and development, that has the greatest promise whether in area of a vibrant population, a rising middle class, and is in the forefront of envious new age industries such as digital and pharma industries. Insurance is one such new age industry. Insurers have to capture this moment and not just run but rocket into the word seeking solutions for risk and protection.

### Hard Work Done – Smart Work Now Required

The regulated insurance industry is new in India – the IRDAI and almost all organised intermediaries are in the country only for about 20 years or less. Great progress has taken place. However, thought leaders are beginning to wonder as to whether the country and the customer really benefitted from all this. There are regular features stating that even today around 50% of the motor vehicles are not insured. Similarly, in the penetration in health insurance, crop insurance etc. which are supported by governments, universal coverage is yet a distant dream. If we come to property insurance, the country is seeing more frequent storms and flood, but yet the majority of the houses and small businesses are without insurance.

### Create a Bright Scenario for the Future

There can be no future for development without a commitment to insurance. However, insurance is a credence industry. This means that insurance professionals and the industry must day in and out

create trust and confidence in the customer and the market. This means great ability to balance the interests of the customer and the insurer. Who can do this better than an insurance Broker? Brokers cannot do this without a solid internal conviction that the world cannot do without insurance. Risk is the reason for this and Brokers must embrace the great promise of risk and its necessity in a world where risk taking is the key for success.

Remarkable risks taken in the days of maritime adventure created a great wave for insurance and this momentum continues now not in just in the physical world, but also in new and till recently unheard-of risks. Allianz Risk Barometer 2020 says that Cyber incidents rank as the top peril in 2020. Perils have clearly moved to the digital and the liability area.

A company's top management will worry more about a proper D&O cover than about fire insurance. All this places the Insurance Broker at the head of the insurance economy, because they represent the customer who has to be served across

a widening and deepening need for insurance protection.

## Customer is the Key

IRDAI Act 1999 has the preamble *"To provide for the establishment of an Authority to protect the interests of holders of insurance policies"*. Insurance Brokers were created by this call of the Act to protect and serve insurance customers. Till this conviction goes deep into the psyche of every Broker, the customer will see every broker as an agent, without any differentiation. Brokers have to create the empowered insurance customer, as one truly protected against the risks they face.

All historical baggage that is entrenched in the industry must be overthrown, such as that unless fire insurance is taken no other cover will be sold and so on. An insurance customer has to be shown the real risk they face, and the solution that can be tailored to protect against the risk. Every standard product can be shaped by the Broker which can be endorsed by any of the insurers in the market, and after ensuring that there is compliance of due process – proposal form, correct policy wording etc. to ensure that the protection given is contractually safe.

The broker does not rest there, but continues the oversight of the customer throughout the policy period and then to new cycle of renewal etc. where the risk solutions of the customer need to be even more engaged with better solutions.

## Customer is the Weaker Party – It is the Broker Who has to Provide the Strength

Anyone reading court judgements will be seeing that courts are pronouncing the customer as the weaker party. There are many reasons for this – the insurer drafts the policy, the wording may be standard, but warranties etc. need not be. Insurer prices the product, appoints the surveyor and so on. The second reason is that insurance is not easy to understand. It is complicated because risk is complicated and hence there are many limitations in the policy that are very difficult for a customer to appreciate, but the Broker can.

Reshaping Traditional Practices to Best in Class Practices is need.

- ◆ Differentiate – Demonstrate that the Broker is different by moving from selling to real risk managing and attracting customers by knowledge (solution) reputation and trust. Building trust brings lifelong loyalty from customers.
- ◆ Superficial selling is to be replaced by R&D, risk analysis practices and creating real and visible superiority in the solution provided to the customer. If all Brokers begin an R&D approach to look at products, practices and risk issues, the IBAI itself can benefit and the Indian Broker community can take the lead not only in India but across the world as the IT and Pharma Industry has shown the world.
- ◆ Educating India about Risk, Insurance and Protection. Brokers can do this best. Fan out to the uninsured and underinsured, to future insured population getting educated in colleges and schools, to new uninsured segments such as governments, municipalities, the unorganised sectors and so on.
- ◆ Everyday do something to ease the pain of the customer. Look around and it can be seen that insurance customers are confused, underserved and unhappy. Do something tangible every day about this.

Meeting the challenges of leapfrogging to universal insurance to empower the economy and the average citizen is the challenge for the 2020s. The IRDAI and others talk of the 'missing middle'. A Lloyd's publication in 2018 stated that Bangladesh, India, Vietnam, Philippines, Indonesia, Egypt and Nigeria each has an insurance penetration rate of less than 1%. In India the percentage for years was a flat .70% of GDP. That is, the industry was running to stay in the same place - the penetration was at standstill. Brokers can cut the gordian knot and lead the industry. Do not forget to take the customer along with us.



## Importance of Cyber Security and Great Potential is Foreseen for increasing Your Cyber Insurance Portfolio



- Mr. Sundaram Varadan (SV), Secretary IBAI poses probing questions to Mr. S.K. Sethi (SKS), Director of RIA Insurance brokers and the Author of Book " 1 Cyber Attack Can Ruin You Forever "

**SV :** Why did you decide to author a book on Cyber attacks and not on Cyber Insurance ?

**SKS :** In our experience as an Insurance Brokerage Firm and from our peer firms, there are a large number of clients who are initially interested in buying Cyber Insurance policies. However, the interest vanishes after the first 2-3 meetings and often reaches a dead end largely because the IT Head is able to convince the CEO and Management Team that their IT systems are secure and they are unlikely to ever be at the receiving end of a Cyber Attack.

I focused this book on Cyber Attacks to highlight the hundreds of case studies in India and abroad to generate awareness amongst non IT specialists about the growing number of Cyber Attacks and how Ransomware is demanded. A client will only consider an insurance to cover a risk that they believe is truly a Risk and my book helps highlight this growing risk.

You will be surprised to know that this company has high security data of our country as it exclusively works only for Defence Forces, Para Military Forces & Intelligence agencies . The loss incurred is estimated to be Rs 50 Crores .

**SV :** Can you give some examples ?

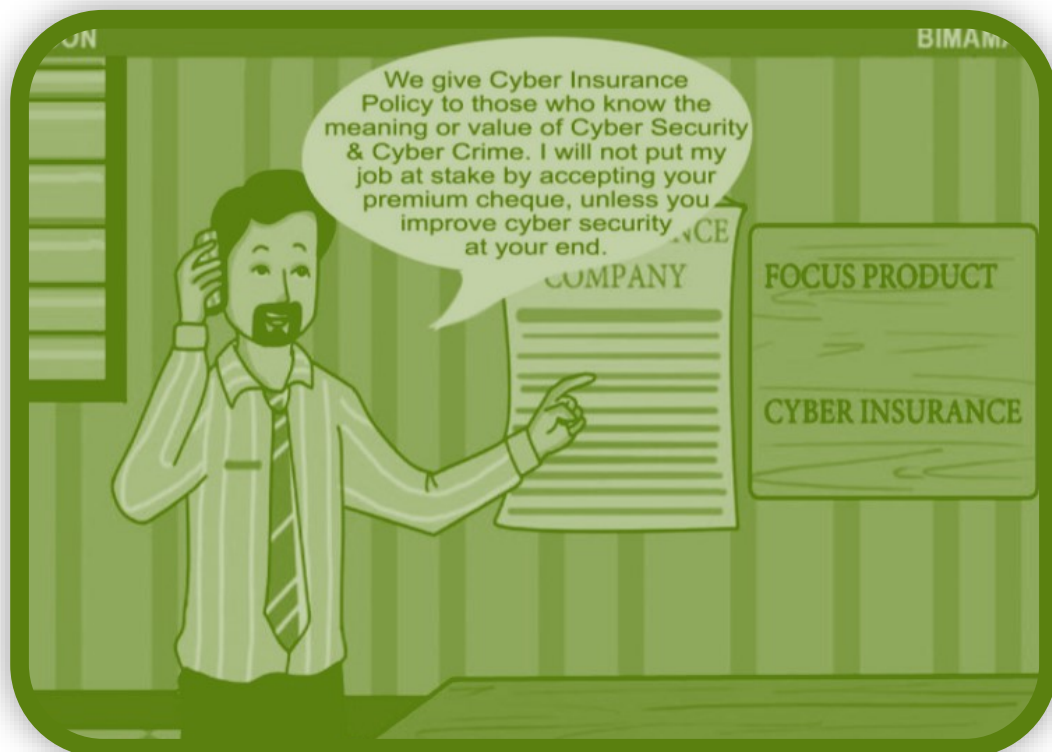
**SKS:** Recently, the site/systems of ELCOM Innovations, Noida were hacked and the company lost important data pertaining to their valuable clients.

Tecnimont SpA, an Italian company operating in India has lost Rs 130 crores as the Chinese attacker could convince the CFO that instructions are from CEO to transfer the money. The CFO considered the instructions to be genuine and transferred the money to China. By the time the company realized what had happened, the money had already been moved from the receiving bank account to an untraceable secret location. Rs. 130 crores is a huge amount to lose !

Risks are huge and CEOs should realize the frequency, size and volume of such attacks (covered under various case studies in this book) so that they can tighten Cyber Security in their organizations with a view to avoid losses – both monetary as well as reputation. CEO's of Yahoo, Target & Equifax lost their jobs in USA ,when their respective company sites were hacked .

**SV:** Does it mean that there is a very big market for Cyber Insurance policies? Can you give is an idea about the market size?

**SKS:** The potential is huge but the current market size is very small! Some sources estimate the current market to be 350 Corporate Cyber Insurance policies sold during the year with a premium in the range of RS. 250 crores. In the last six months during the Pandemic, we have seen the number of enquiries increase significantly as a large number of people are working from home and number of cyber attacks have increased by many times.



**SV :** What can be the learning to reader of this book ?

**SKS :** Reading this book allows the reader to develop a good understanding across a breadth of cyber security topics including: Cyber Attacks, Cyber Security, Cyber Hackers, Concept of White Hat hackers, Cyber Consultants, Cyber Audit and need to keep good PR relations with Cyber Cell of local police. Only if you have taken due care of these aspects that you can expect to get good workable quote from 10 Insurance Companies (who are selling this product).

**SV :** If there are 10 Insurance companies then why one should bother for so many things. Insurer will jump over the RFQ received for a client from any Insurance Broker Firm?

**SKS :** As mentioned earlier very few policies are being sold in the country as Insurers are very particular and conscious when underwriting this risk. The risk falls in high probability category so the Insurance companies are cautious and with deductibles typically as high as Rs. 25-50 lakhs, clients often drop the proposal based on costs.

**SV :** Every book has some chapter, which is the one which you can call as the Premium Chapter, with an important learning ?

**SKS:** In my opinion, the Chapter titled "**Sethi Concept On IT Budgeting**" is the Premium Chapter. It serves as a holistic guide for the reader to go in for balanced IT Budget by making suitable investments in Hardware, latest licenced and updated software, Cyber Security ( Anti-virus ), hiring trained and motivated IT personnel and then retaining them, hiring of capable Cyber Consultants, periodic Cyber Audit of the IT infrastructure of the organization, participation in Trade shows and conferences so that Cyber Security personnel of the organization remain

updated with latest hacking attempts and last but not the least – buying a good, properly worded Cyber Insurance Policy. Insurance Brokerage Firms can assist with the last piece to ensure that the policy is worded appropriately.

**SV :** What is your suggestion to improve or increase the market for Cyber Insurance?

**SKS:** Increasing the awareness across different stakeholders about the size, frequency, Ransomware demanded is the most essential. This includes all types of Corporates, Banks, Credit Card Companies, Government Bodies, Educational institutions, Health Care Providers. My suggestion to Brokers firms is to give clients a copy of this book in the very first meeting and that'll help overcome the biggest barrier about use-case for the policy by 75%. The chances of having 7 or 9 meetings going waste (without selling the policy ) will be avoided. In my experience, reading real-world examples and case studies as outlined in this book is more influential than well-made presentations by Insurance companies ,where a lot of information (e.g. client names, sum assured, premium paid, claims submitted & paid) is not shared under the shield of confidentiality.

Follow the Kotler marketing technique – a client should be made aware of the risk, let him/her be ready for considering options, provide quotes as the broker, have discussions along with Insurer team-members, finalize the proposal and make good money as a broker in the form of brokerage. As a broker – go to a client with the belief of helping them cover their risk by providing cost effective solution and that'll make for a good long-term partnership, not with the goal of just selling a Cyber Insurance Policy to a client who doesn't even understand the risk in its entirety.

## "1 Cyber Attack Can Ruin You Forever"

by S.K.Sethi, The Author, Trainer & Opinion Marker



This is the much awaited book fully supported with case studies to bring to you the concepts of Cyber Attack, Cyber Crime, Cyber Security, Cyber Consultants, Cyber Audit, Latest Relevant Laws in EU and in India, to buy or not to buy Cyber Insurance.

407 pages, hard bound book with diagrams, cartoons, photographs will be preparing you to avoid the mistakes which resulted in the CEO's of Yahoo, Target and Equifax being asked to leave their positions in their organizations in USA.

Sethi Concept of IT Budget will guide you in having balanced IT Budget with investment under different heads and prepare you to face the Ransomware attack.

Rs. 999 ~~Rs. 599~~

Book Now

(Pre-Publication offer till 31st January 2021)

## Health Insurance & Wellness



As defined by WHO health is a, "a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity. In today's scenario we have lot of hurdles in the way to achieve this ideal health and attain an optimal wellness which in turn can reduce disease incidence.

Currently, overall insurance penetration in India is around 3.7 percent. The penetration of health insurance across India stood at around 35 percent as of financial year 2018.

The healthcare sector is shrouded with glaring challenges like high out of pocket expenses, unfavourable doctor to patient ratio, besides a highly burdened and fragmented medical infrastructure facilities. In India, there is 1 doctor for approx. every 1460 people, which is way behind WHO recommended figure of 1:1000. Also, lack of trained manpower & unmanageable patient load in rural areas makes healthcare delivery challenging.

Thus, the clear shift is on the private health sector for seeking high quality medical intervention which again is suffering with spiralling costs which makes it unaffordable for a major chunk of the population. Medical inflation is so high that it has the potential to disrupt & derail one's life. India has recorded the highest out of pocket expenditure on healthcare, as compared to other developing countries.

Globally, there is a disease shift towards the non-communicable or the lifestyle disorders. We are in a phase of high morbidity & low mortality. According to data published in NCBI, in 2017, India witnessed 61.8 per cent deaths due to non-communicable diseases.

It is imperative to understand the importance of an early detection of these disorders which can be accomplished only by suitably incorporating wellness with health. It is a very pragmatic approach for insurers to work towards a prevention based strategy rather than having a sick portfolio associated with high claim ratios.

Our regulator has also come up with guidelines on wellness which has clearly emphasised the shift from "illness to wellness". This sector is expected to reach US\$ 372 billion in 2022 from US\$ 110 billion in 2016 as per an IBEF report. On one hand these efforts will incentivise people for inculcating a healthier lifestyle while on the other hand would lower the chances of hospitalization due to lifestyle-related diseases .Thus, it would be a win-win situation for all the stakeholders.



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## Regulator role in Health Insurance & wellness.

Health Insurance Regulations, 2016 were rolled out which provided a framework for Insurers to devise mechanisms or incentives to reward young prospective policyholders for early entry into Health Insurance, continued renewals, favourable claims experience and for adoption of preventive and wellness habits.

However it was reiterated that though no discounts on any third party service or merchandise can be offered but discounts in premium or discounts in diagnostic or pharmaceuticals or consultation services in network provider are permitted. Insurers can offer discounted vouchers on outpatient consultations or treatments, health check-up diagnostics or on pharmacies. These guidelines need Insurers to disclose upfront such mechanism or incentives in the prospectus and the policy document as per the norms specified.

IRDA issued Draft Guidelines on Wellness and Preventive Benefits in November 2019. Under these regulations apart from discounts on health check-up, pharmacies & outpatient consultations, redeemable vouchers to obtain protein supplements and other consumable health boosters supplements could also be offered. Policyholder can also be provided redeemable vouchers for membership in yoga centres or gymnasiums for participating in fitness activities.

## Latest Regulatory trends in Health Insurance and Wellness

Recently IRDAI, under its regulatory sandbox approach has given approval to certain Health Insurance products. The concept of these pilot products were introduced in Health Regulations 2016 to encourage innovation in designing of health products to cover the unaddressed risks.

One of the product approved under this category is friend assurance which covers not only families but groups of friends doing common activities like cycling, gymming & the likes. This product offers discount in renewal premium in case there is no claim in the group. Also, it has a floater sum assured which can be used by any member of the group.

Wearables Devices & fitness trackers have also been given approval. These devices will collect data with more precision & accuracy, are non-invasive and can raise an early alarm.

APP based plans to monitor Diabetes Mellitus & Dyslipidaemia have also received a go-ahead from IRDA. These programs will monitor the sugar,



cholesterol and the exercise levels. Maintenance of their requisite levels would fetch reward points which can be redeemed to avail discounts while purchasing health insurance policy.

## Conclusion

The provision of wellness and preventive features as part of Health Insurance Policies will promote adoption of a healthier lifestyle, reduction in claim ratios & will also further health Insurance penetration in India. In today's scenario of escalating healthcare costs and sharp rise in lifestyle illnesses, the clear focus needs to be on promotion of preventive & wellness aspects in health insurance. The future looks promising as several changes have come up in our regulatory framework which will further this process in the right way. The Government of India is planning to increase public health spending to 2.5 per cent of the country's GDP by 2025. Also, rising manpower, the growing pool of doctors & Government's favourable policies will further promote growth. With the use of increasing use of digital technology & a tech savvy population, there is a big window of opportunity for the Indian Insurers to further devise ways & boost wellness.





# Supreme Court Examines What is Personal Accident Insurance

The Supreme Court of India in the case *Smt. Alka Shukla Vs. Life Insurance Corporation of India* (2019) explained the salient features of a PA Policy. A life insurance policy can have double accident benefits. In such a policy, the stipulation is, as in general insurance policies, that the accident claim is payable if the insured sustains any bodily injury resulting solely and directly from an accident caused by "outward, violent and visible means", and that such injury "solely and directly and independently of other causes" results in death.

## Facts of the Case

On 03.03.2012, the insured while riding his motorcycle, experienced pain in the chest and shoulder, suffered a heart attack and fell down from the motorcycle. He was attended to by a general physician and then referred to a specialist who diagnosed the mishap as having been caused by "a sudden fall from the bike". The doctor noted that the patient was experiencing pain in the left side of the chest and in the shoulder and there was a myocardial infarction. He referred the patient to a specialist medical centre but on his way to the hospital, the patient collapsed and was found dead at arrival at the hospital. The report of the physician there stated that death had occurred due to an acute myocardial infarction.

## Claim before the Courts

Based on this, the insurer repudiated the claim under the accident benefit component of the policy on the ground that the death of the insured had occurred due to a heart attack and not due to an accident. The spouse of the insured filed a case before the District Forum which allowed the complaint. At the SCDRC (State Forum) the appeal of the insurer was rejected. The insurer appealed before the NCDRC which reversed the judgments of the District Forum and SCDRC. Assailing the decision of the NCDRC, the spouse of the insured appealed before the Supreme Court. The issues before the SC Court were:

- i) whether the assured's death was due to a bodily injury resulting from an accident caused by outward, violent and visible means; and
- ii) whether the injury was proximately caused by the accident. The SC felt that only when both the questions are answered in the affirmative that the insured would be entitled to claim under the policy.

## SC Examines What is Covered

The SC found that the personal accident portion of the policy showed that a claim for accident benefit is payable only if the following conditions are satisfied:

- i) the assured sustained bodily injuries resulting solely and directly from an accident;
- ii) the accident was caused by "outward, violent and visible means"; and
- iii) that such injury "solely and directly and independently of other causes" results in the death of the assured. These conditions are cumulative. The terms "bodily injury" and "outward, violent and visible means" have not been defined in the policy.

The expression 'accident' was explained in *MacGillivray on Insurance Law*: "In the context of an accidental insurance policy the word is usually contained in phrases such as "injury by accident", "accidental injury", "injury caused by or resulting from an accident" or "injury caused by accidental means" and in each of these phrases it has the connotation of an unexpected occurrence outside the normal course of events."

## Meaning of the Terms: Bodily Injury, Violent, Visible

*Colinvaux's Law of Insurance* explains the expression 'bodily injury' : "It is usual for the policy to require an accident to manifest itself as "bodily injury" to the assured. The most obvious form of bodily injury is external trauma causing physical injury, but the phrase is not limited to injury to the exterior of the body: the term "bodily injury", when used in a personal accident policy, is not limited to lesions, abrasions or broken bones. Nor is it essential that there should be an external mark of injury on the assured's body...". The word 'violent' according to *Black Law's Dictionary* means: "

1. Of, relating to, or characterised by strong physical force <violent blows to legs>.
2. Resulting from extreme or intense force <violent death>.
3. Vehemently or passionately threatening <violent words>."

The word 'visible' according to Black Law's Dictionary means something which is:

1. Perceptible to the eye; discernible by sight.
2. Clear, distinct, and conspicuous."

Colinvaux's Law of Insurance discusses the effect and the impact of the terms "violent, external and visible":  
 ""Violent" - The notion of violence... is not limited to the situation where another person does violence to the assured, and it has been said that the word is used simply as the antithesis of "without any violence at all".  
 "Violent means" include any external, impersonal cause, such as drowning, or the inhalation of gas. Thus, 'violent' does not necessarily imply actual violence, as where the assured is bitten by a dog... The element of violence will obviously be present where the injury is inflicted by a third party or by some natural phenomenon, since there could otherwise be no effect upon the body of the assured."

""External". It is the means of causing the injury which must be external, rather than the injury itself. Thus, a rupture or other internal injury is quite capable of falling within the ambit of a personal accident policy. Given this distinction, it appears that the word "external" in these policies merely serves to reiterate the general principle that the injury must not be attributable to natural causes. It will therefore be obvious that a given type of injury may fall within or without the policy according to the event which caused it, and it is this cause, which must always be examined."

""Visible". It is probable that this word adds nothing to the policy coverage, since every external cause must also be visible. It appears to be included merely for purposes of emphasis."

### **What Courts in Other Countries Have Decided?**

Courts in other countries such as the UK, US, Canada and Singapore are divided on the issue whether a distinction should be maintained between 'accidental means' and 'accidental result' while deciding accidental

insurance claims. The distinction was laid out in *Clidero v Scottish Accident Insurance Co* (1892), where the Scottish Court of Session unanimously held that the injury suffered by the insured to his colon on slipping while putting on his stocking, which then led to his death was not caused by "violent, accidental, external and visible means" because the insured's conduct in putting on his stockings was intentional and voluntary and there was no other external factor that affected the insured's movement which resulted in the injury. This above distinction was applied by the US Supreme Court in *Landress v Phoenix Mutual Life Insurance*, where the insured while playing golf suffered a sunstroke and died. The complainant sought recovery of the amounts stipulated in one policy, to be paid if death resulted "directly and independently of all other causes from bodily injuries effected through external, violent and accidental means, and not directly or indirectly, wholly or partly from disease or physical or mental infirmity," and, in the other policy, if death resulted "from bodily injuries effected directly and independently of all other causes through external, violent and accidental means." The majority, while denying the insurance claim, laid down a strict test which differentiated between 'accidental means' and an 'accidental result'. The case related to death from voluntary exposure to the sun's rays under normal conditions, and whether this was accidental in the common or popular sense of the term, and therefore be held to be within the liability clauses of the policies. It was felt that the result of the exposure 'was something unforeseen, unexpected, extraordinary, an unlooked-for mishap, and so an accident. The insurance is not against an accidental result. The stipulated payments are to be made only if the bodily injury, though unforeseen, is effected by means which are external and accidental. The external means is stated to be the rays of the sun, to which the insured voluntarily exposed himself. Petitioner's pleadings do not suggest that there was anything in the sun's rays, the weather, or other circumstances external to the insured's own body and operating to produce the unanticipated injury, which was unknown or unforeseen by the insured."

The Canadian Supreme Court, in *American International Assurance Life Company Ltd and American Life Insurance Company v Dorothy Martin* (2003) took an opposite view and moved away from the distinction laid out in *Landress* (above). Here the insured in the course of treating a peptic ulcer, developed an addiction to opiate medications and died due to high levels of Demerol in his body. The insurers challenged the claim on the ground that the death was not through "accidental means" and that self-injection of Demerol was a deliberate act making the death a



foreseeable consequence. The court said: "The first question to be considered is whether deaths caused by accidental means form a subclass of accidental deaths. To put the question another way, is the category of deaths caused by accidental means narrower than that of accidental deaths? The insurers argued that... a death is only caused by accidental means when both the death and the actions that are among its immediate causes are accidental.... This view seems to me, however, to be problematic. Almost all accidents have some deliberate actions among their immediate causes. To insist that these actions, too, must be accidental would result in the insured rarely, if ever, obtaining coverage. Consequently, this cannot be the meaning of the phrase "accidental means" in the policy. Insurance policies must be interpreted in a way that gives effect to the reasonable expectations of the parties. A policy that seldom applied to what reasonable people would consider an accidental death would violate this principle.... We cannot usefully separate off the "means" from the rest of the causal chain and ask whether they were deliberate.

### SC on the Application of the Above to This Case

"In this case what needs to be determined is whether the insured suffered a heart attack as a result of the injuries sustained from the fall from the motorcycle or whether the fall was a result of the assured suffering a heart attack in the first place. The plain reading of the policy is to be accepted as our guide. So, to prove the claim, the claimant must show direct and positive proof that the accident in falling from the motorcycle caused bodily injury by external/outward, violent and visible means, and that it was the direct or proximate cause of her husband's death."

As no post mortem was done, the SC had to rely upon the medical report that indicates the exact cause of death. The medical report of the doctor who examined the insured on the date of the accident indicated that the insured suffered shoulder and chest pain and that the exact cause of death was an acute myocardial infraction. Then the insured was referred to a specialist, who also recorded that the diagnosis did not show the cause of death to be accidental. The insured was then referred to a specialist medical centre, where the OPD records noted that an ECG was taken and the insured was sweating and that he had chest pain, radiating to the left shoulder along with two episodes of vomiting. He died before he reached the hospital. There is no material on record to indicate that the insured sustained specific injuries as a result of a fall from the motorcycle or that the injuries were caused by outward, violent and visible means, which was the sole and proximate cause of his death. There is no direct nexus or causation between the assured suffering a heart attack and injuries sustained in an accident by outward, violent and visible means. In the absence of any evidence to the contrary, the medical evidence on record is itself proof that the insured died due to a heart attack and not due to an accident of falling from the motorcycle. The heart attack had a distinct effect of the insured falling off from his motorcycle.

## IRDAI towards Standard Policies in Customer Interest

IRDAI has felt the need to standardise and also update/upgrade policies that are of importance to the common man. The first focus was on Health Insurance and there has been attempts to define standards terms etc. and thereafter in 2019 by circular dated 27.09.2019 Guidelines on Standardisation of Exclusions in Health Insurance contracts was released and made compulsory for all insurer to implement the same from 01.10.2020. this circular IRDAI is very important as it reveals the mind of the IRDAI on their philosophy of Health Insurance. This was followed by circular dated 01.01.2020, the launching of a Standard Health Insurance Policy in 2020. Guidelines on Covid Standard Health Policy was issued on 26-06-2020.

### Latest Developments 2021

The standard wording made compulsory by AIFT 2001 will be replaced by the following standard products which have to be mandatorily offered by all general insurers carrying on Fire and Allied perils insurance business with effect from 1st April, 2021.

<b>Bharat Griha Raksha</b>	<b>Bharat Sookshma Udyam Suraksha</b>	<b>Bharat Laghu Udyam Suraksha</b>
<b>For Home Building and Home Contents</b>	<b>For enterprises where the total value at risk is up to Rs. 5 Crore</b>	<b>For enterprises where the total value at risk is more than Rs. 5 Crore and up to Rs. 50 crore</b>
<ul style="list-style-type: none"> <li>◆ The policy offers cover against a wide range of perils, namely Fire, Natural Catastrophes (Storm, Cyclone, Typhoon, Tempest, Hurricane, Tornado, Tsunami, Flood, Inundation, Earthquake, Subsidence, Landslide, Rockslide), Forest, Jungle and Bush fires, Impact Damage of any kind, Riot, Strike, Malicious Damages, Acts of terrorism, Bursting and overflowing of water tanks, apparatus and pipes, Leakage from automatic sprinkler installations and Theft within 7 days from the occurrence of any of the aforesaid events.</li> <li>◆ Besides offering coverage for the Home Building, the policy covers General Home Contents automatically (without any need for declaration of details) for 20% of the Sum Insured for the Building subject to a maximum of Rs.10 lakhs. One can also opt for a higher Sum Insured for general contents by declaring the details. The policy offers two optional covers, namely –               <ul style="list-style-type: none"> <li>i) insurance for Valuable Contents like jewellery and curios.</li> <li>ii) Personal Accident of the insured and spouse due to an insured peril under the policy.</li> </ul> </li> </ul> <p>The policy gives complete waiver of underinsurance. In other words, if the Sum Insured declared by a policyholder is less than what ought to have been declared for the property in question, the policyholder's claim will not be settled proportionately but up to the Sum Insured that is declared</p>	<ul style="list-style-type: none"> <li>◆ The policy provides cover for the Building/Structures, Plant and Machinery, Stock and other assets of enterprises where the total value at risk across all insurable asset classes at one location is upto Rs. 5 Crore.</li> <li>◆ This policy too offers cover against a wide range of perils, quite similar to the policy meant for Dwellings.</li> <li>◆ The policy has several in-built covers in addition to the basic coverage— Cover for alterations, additions or extensions, Cover for stocks on a floater basis, Cover for temporary removal of stocks, Cover for Specific Contents, Cover for start-up expenses (following a loss), Cover for payment of professional fees for Architects, Surveyors and Consulting Engineers, Cost for removal of debris and Costs compelled by Municipal Regulations.</li> <li>◆ The policy can be taken by micro level enterprises such as offices, hotels, industries, storage risks and so on.</li> <li>◆ The policy waives underinsurance to the extent of 15%.</li> </ul>	<ul style="list-style-type: none"> <li>◆ This policy provides cover for the Building/Structures, Plant and Machinery, Stock and other assets of enterprises where the total value of risk across all insurable asset classes at one location exceeds Rs.5 Crore but does not exceed Rs. 50 Crore at the policy commencement date.</li> <li>◆ The range of perils against which insurance is offered is similar to the policy meant for micro level enterprises. This policy too has all the in-built covers that the policy for micro level enterprises has. The policy, again, can be taken for all types of risks such as offices, hotels, industries, storage risks and so on</li> </ul>

### Special Features

Home Building and Home Contents shall be insured on **Reinstatement/Replacement value basis**, as applicable. Insurance on market value basis either for building or contents is not permitted. Each insurer shall necessarily capture the carpet area of the Home Building and define the cost of construction per unit carpet area at the policy commencement date to arrive at the Sum Insured of the Building. The Sum Insured for Reinstatement/Replacement value, as applicable, can be higher than the defined cost of construction at the policy commencement multiplied by carpet area but NOT lower.

**Insurers are permitted to file innovative add-ons to Bharat Griha Raksha**

## Knowledge Snippet

### Understanding Insurance

1. **Is snow storm covered in the Standard Fire & Special Peril Policy?**
  - a) Yes
  - b) No.
  - c) Yes. Because it is not excluded.
  - d) It is covered if the contra proferentem principle is applied.
  
2. **The rule of interpretation of a policy as per courts is, which of the following?**
  - a) Coverage clause will be interpreted narrowly as also the exclusion clauses.
  - b) Coverage clause will be interpreted widely as also the exclusion clauses.
  - c) Coverage clause will be interpreted widely and exclusion clauses narrowly.
  - d) Coverage clauses will be interpreted narrowly and exclusion clauses widely.
  
3. **In a Personal Accident Policy, the terms “external violent visible” mean the following:**
  - a) There has to be external trauma and nothing else.
  - b) It has to be external and violent seen externally on the body of the injured insured.
  - c) It has not only to be external, violent but also clearly visible.
  - d) External is causing injury must be external, not the injury itself; violence is only an antithesis of “without any violence at all”; and visible means almost nothing as all external must also be visible.
  
4. **Is there a difference between burglary policy and Jewellers Policy?**
  - a) There is no difference between the two policies - both require theft following upon an actual forcible and violent entry of or exit from the premises by the person or persons committing such theft.
  - b) Burglary policy can be given to all establishments and hence Jewellers Policy is unnecessary.
  - c) In burglary policy there is no variation of condition of coverage or warranty as to business hours and after office hours. The same applies to Jewellers Policy.
  - d) In Jewellers Policy the difference in cover lies in an exclusion - Loss or damage to Property insured whilst in window display at night or whilst kept out of Safe after business hours.

### .....Answers.....

- Q.1.**  
A) Yes. In the case *Sh. Senthil Andavar Industries vs. Tamil Nadu Industrial Investment*, decided on 07.08.2006 and it is equivalent citations: 2 (2007) CPJ 67 NC, the NCDRC held in para 20 of the judgment that the term 'Storm' and 'Hurricane' have been defined in Concise Oxford Dictionary Revised 10th Edition as under: - "Storm' means - A violent disturbance of the atmosphere with strong winds and usually rain, thunder, lightning or snow." See also SCDRC Dehradun case: *Food Court: The Company Garden ... vs Universal Sompoo General ...* on 31 May, 2017
- Q.2**  
c (three of the above) see *SC Canara Bank vs. United India Insurance Co. Ltd.* (2020): Para 21. The principles relating to interpretation of insurance are well settled and not in dispute. At the same time, provisions of the policy must be read and interpreted in such a manner so as to give effect to the reasonable expectations of all the parties including the insured and the beneficiaries. It is also well settled that coverage provisions should be interpreted broadly and if there is any ambiguity, the same should be resolved in favour of the insured. On the other hand, the exclusion clauses must be read narrowly. The policy and its components must be read as a whole and given a meaning which furthers the expectations of the parties and also the business realities.
- Q.3**  
.d) : See case decided by The Supreme Court of India in the case *Smt. Alka Shukla Vs. Life Insurance Corporation of India* (2019) summary of which is given in the newsletter.
- Q.4.**  
.d) *SC - United India Insurance Co. Ltd vs M/S. Orient Treasures Pvt. Ltd* (2016) Para 36: Perusal of note appended to clause 5 quoted above would go to show that the appellant (insurer) had made it clear in the proposal form itself to the respondent that "stock which is kept out of the safe after business hours at night" is not covered under the policy. This clearly meant that "stock kept out of safe during business hours", if stolen, was insured and given coverage under the policy but if it was kept out of safe after business hours at night, then it was not covered under the policy and therefore, the appellant was not liable to indemnify the loss sustained by the respondent of any such stolen articles.

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