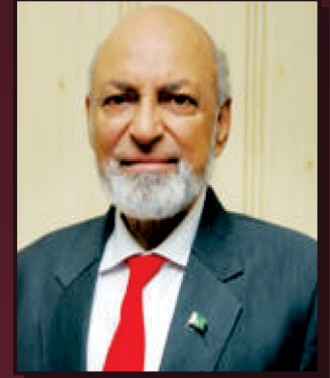


From
Karachi Since 1984 Islamabad Since 2008

ISSN-0257-8603



January, February, March 2014



Obituary:
Prof. Dr. Khawaja Amjad Saeed

Insurance Companies of Pakistan

 EXCEEDING Over Rs. One Billion Gross Premium Written in 2013

GENERAL INSURANCE COMPANIES:

- ✦ EFU General Insurance Co. Ltd.
- ✦ Adamjee Insurance Co. Ltd.
- ✦ Jubilee General Insurance Co. Ltd.
- ✦ IGI Insurance Co. Ltd.
- ✦ Security General Insurance Co. Ltd.
- ✦ United Insurance Co. Ltd.
- ✦ Askari General Insurance Co. Ltd.
- ✦ Atlas Insurance Co. Ltd.
- ✦ New Hampshire Ins. Co. Ltd. (Pakistan Branch)
- ✦ Alfalah Insurance Co. Ltd.
- ✦ Premier Insurance Co. Ltd.
- ✦ East West Insurance Co. Ltd.
- ✦ Pak-Qatar General Takaful Ltd.

LIFE INSURANCE COMPANIES:

- ✦ EFU Life Assurance Co. Ltd.
- ✦ Jubilee Life Insurance Co. Ltd.
- ✦ Pak Qatar Family Takaful Ltd.
- ✦ Adamjee Life Assurance Co. Ltd.

HEALTH INSURANCE COMPANIES:

- ✦ Allianz EFU Health Insurance Ltd.

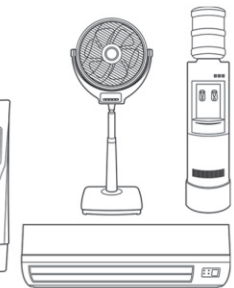
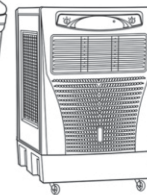
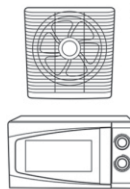
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- ▶ SECP - Third Party Administrator
- ▶ Profile & Event
- ▶ In-House Surveys by Insurers' Paid Employees
- ▶ Theft and Burglary Coverage
- ▶ Claim Leakages in Health Insurance
- ▶ Uberrimae Fides - Utmost Good Faith
- ▶ Home Insurance Benefits for Individuals
- ▶ Student's Corner
- ▶ Legal Section



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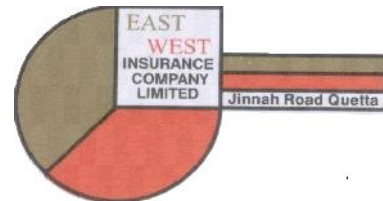


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We are pleased to announce that East West Insurance Company Limited has surpassed its Gross Direct Premium earning more than Rupees One Billion as at December 31st, 2013. This target was set by the Board of Directors in their meeting held in March, 2013 and by the grace of Almighty Allah and through untiring efforts of marketing team, Alhamdulillah we succeed in achieving desired objectives.

The management congratulates all officers and workers of the company for their support and look forward for their continued devotion in delivering their respective responsibilities for the betterment of the company.



EAST WEST INSURANCE COMPANY LIMITED

410-414, EFU House,
M.A. Jinnah Road, Karachi.

Tel: (021) 32313304-11

Fax: (021) 32310851

Email: info@eastwestinsurance.com.pk

ewins@brain.net.pk

Web: www.eastwestinsurance.com.pk

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Karachi Office:

No.63, Noor Chamber, Robson Road,
Karachi - Pakistan.

Tel: +92-21-32217184

Islamabad Office:

M. Tahir Amaan (+92-334-8689168)

Office Manager

Office No.5, First Floor, Insaf Plaza,
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Rated 'A'
(Outlook: 'Stable')

Enroute to Success

We sincerely thank all our patrons and valued policyholders for their trust and unflinching confidence reposed in us. We, at Reliance Insurance renew our commitment in giving the very best to our valued customers and pledge to continue our mission to protecting and securing the interests and assets of our policyholders.



JCR-VIS upgrades IFS rating of
Reliance Insurance Company Limited to **'A'**



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Company	Paid up Capital (Rs. In Million)	Face Value Rs.	Highest Rate Rs.	Lowest Rate Rs.	Turnover of Shares	Announcement During the Quarter
Adamjee Ins. Co. Ltd.	3,500	10.00	108.99	36.36	76,210,000	Bonus Issue = 182.93%
American Life Ins. Co. Ltd.	500	10.00	36.30	25.61	55,000	
Asia Ins. Co. Ltd	300	10.00	-	-	-	
Askari General Ins. Co. Ltd.	388	10.00	22.30	18.10	189,000	
Atlas Ins. Co. Ltd	638	10.00	65.10	50.00	392,500	
Beema Pakistan Co. Ltd.	417	10.00	-	-	-	
Business & Industrial Ins. Co.	86	10.00	-	-	-	
Century Ins. Co. Ltd.	457	10.00	17.50	13.76	1,250,500	
Crescent Star Ins. Co. Ltd	121	10.00	8.39	5.30	645,500	
Cyan Insurance Co. Ltd	586	10.00	80.40	59.01	908,000	
EFU General Ins. Co. Ltd	1,250	10.00	97.25	76.00	1,743,500	
East West Ins. Co. Ltd.	365	10.00	-	-	-	Dividend = 10%
East West Life Assurance Co. Ltd.	594	10.00	6.75	4.05	147,500	
EFU Life Assurance Ltd.	1,000	10.00	83.00	65.50	1,963,500	
Habib Ins. Co. Ltd.	495	5.00	15.70	13.20	799,500	
Hallmark Ins.	5	10.00	-	-	-	
IGI Ins. Ltd	1,115	10.00	170.00	125.29	5,293,400	
Jubilee Life Ins. Co. Ltd	627	10.00	165.00	137.00	292,500	
Jubilee General Ins. Co. Ltd	1,186	10.00	72.50	67.00	111,000	
Pakistan General Ins. Co. Ltd	375	10.00	13.40	10.80	97,000	
Pakistan Guarantee Ins. Co. Ltd	25	10.00	-	-	-	
Pakistan ReIns. Co. Ltd	3,000	10.00	29.95	23.30	16,402,000	
PICIC Ins. Co. Ltd	350	10.00	9.62	6.30	125,500	
Platinum Ins. Co. Ltd.	120	10.00	-	-	-	
Premier Ins. Co. Ltd.	303	5.00	7.65	6.50	276,000	
Progressive Ins. Co. Ltd	85	10.00	-	-	-	
Reliance Ins. Co. Ltd	367	10.00	8.75	7.07	148,000	
Shaheen Ins. Co. Ltd	300	10.00	7.95	4.40	595,500	Right Issue = 50% At Par Value
Silver Star Ins. Co. Ltd	306	10.00	8.00	4.40	695,500	
Standard Ins. Co. Ltd	8	10.00	-	-	-	
TPL Direct Ins. Co. Ltd	460	10.00	11.70	8.50	323,500	
United Ins. Co. Ltd	702	10.00	18.80	10.50	938,000	
Universal Ins. Co. Ltd	300	10.00	6.29	2.97	1,035,500	

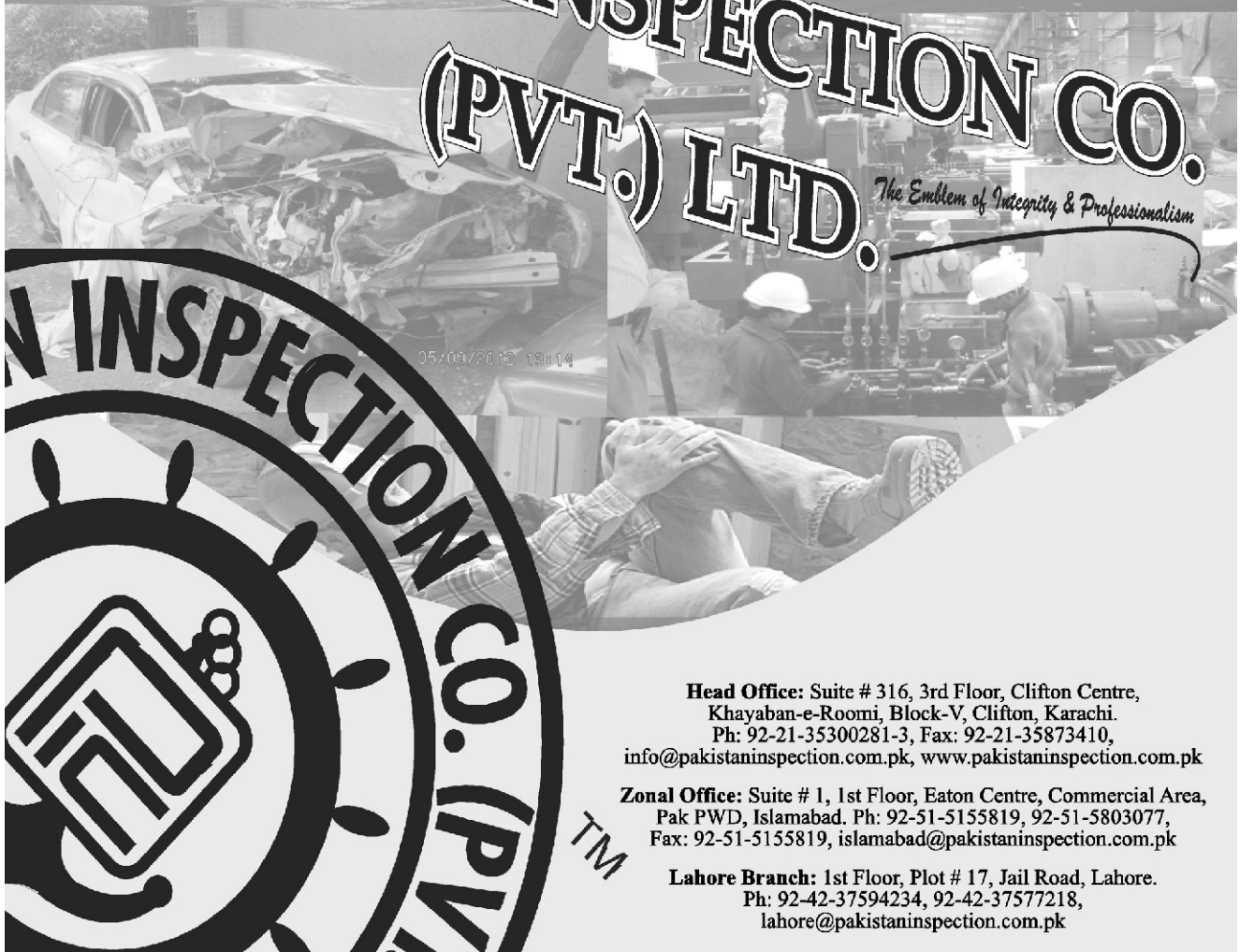
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Over Rs. One Billion Premium



*Insurance Companies of Pakistan **EXCEEDING**
Over Rs. ONE Billion Gross Premium Written in 2013*

		Gross Premium
		Rs. In Billion*
GENERAL INSURANCE		
1	EFU General Insurance Co. Ltd.	13.88
2	Adamjee Insurance Co. Ltd.	10.07
3	Jubilee General Insurance Co. Ltd.	6.57
4	IGI Insurance Co. Ltd.	2.04
5	Security General Insurance Co. Ltd.	1.87
6	United Insurance Co. Ltd.	1.78
7	Askari General Insurance Co. Ltd.	1.61
8	Atlas Insurance Co. Ltd.	1.40
9	New Hampshire Insurance Co. Ltd. (Pakistan Branch)	1.39
10	Alfalah Insurance Co. Ltd.	1.21
11	Premier Insurance Co. Ltd.	1.20
12	East West Insurance Co. Ltd.	1.12
13	Pak-Qatar General Takaful Ltd.	1.03
LIFE INSURANCE		
1	EFU Life Assurance Co. Ltd.	14.10
2	Jubilee Life Insurance Co. Ltd.	11.32
3	Pak Qatar Family Takaful Ltd.	4.40
4	Adamjee Life Assurance Co. Ltd.	N.A
HEALTH INSURANCE		
1	Allianz EFU Health Insurance Ltd.	1.30

* Figures as available now, before finalization of exact figures for balance sheet.



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News

SECP notify Rules for Micro Insurance/ Takaful Business:

The Securities and Exchange Commission of Pakistan has notified SECP (Micro Insurance) Rules 2014. These rules will also regulate the micro –Takaful business of Pakistan. According to the notified rules the sum insured has been limited to 25 times of the minimum monthly wage prescribed by the Federal Government for single life micro insurance and personal accident micro-insurance. The sum insured will not exceed 40 times of the minimum monthly wage prescribed by the Government in case of Joint Life micro-insurance while Health micro-insurance offered by life insurance will not have the sum insured exceeding five times of the minimum monthly wages as prescribed for individual health micro-insurance and 15 times if the minimum monthly wages for family micro-insurance health. The rules of SECP have limited the sum insured for non-life micro-insurance equal to 12 times of the minimum monthly wages prescribed by the Government for tools, belonging treatment and other assets, 40 times of the minimum monthly wages prescribed by the Government for livestock and crop micro-insurance and 25 times of the minimum monthly wages for personal accident micro-insurance. Code of consumer protection applicable to all business of micro insurance/takaful has also been issued by the SECP. The code of conduct has also been issued for micro insurance agents applicable on all micro-insurance/takaful agents.



The insurer/operator will provide to micro-insurance/takaful policy holders with complete, accurate and understandable information as regards the products offered to policy holders.

Micro-insurance related complaints first should be handled by the insurer. Immediately acting on the complaint the insurer will ensure that the complaints will be addressed within five working days from the filing of a complaint along with completion of all required documentation and a resolution will be made within 25 working days. In case of complaint is not resolved by the insurer, the case may be referred to an alternative dispute resolution service approved by the commission from time to time.

If the complaint is not resolved by the alternative dispute resolution service the matter may be referred to Insurance OMBUDSMAN by the insured. However the complaint may also be referred to small disputes resolution committee by the insured. The rules further state about conduct of the persons who will deal with the insured to maintain decency and decorum while visiting to collect premium and avoid any misdemeanor that would indicate any kind of threat or violence.

The rules mention about establishing an internal dispute resolution mechanism by the every insurer undertaking micro-insurance service for every insurance conducting micro-insurance/takaful business. Providing required regulatory returns under its current reporting will be mandatory.

News



Insurance Industry Reform Committee:

In May 2012 a committee was constituted by the securities and exchange commission of Pakistan and was assigned the task to prepare a roadmap to further the growth and development of the insurance industry of Pakistan. The committee took the important and huge task and after extensive research and serious deliberation the committee finally submitted its report to SECP. The useful work of the committee has been documented in the Insurance Industry Reform committee Report. This report was formally launched in Feb 2014 at Karachi.

Spanning over 100 page counting twelve sections it comprehensively deals with economy of Pakistan, finance and insurance sector foreign investment role of SECP, regulatory landscape of insurance in Pakistan, insurance and takaful rules finding of their committee on regulatory reform, market development, operational challenges and Education awareness and image building. Operational challenges for life and non-life insurance. Prevailing tax issues and suggestion for amendment in tax laws. Technology Development proposed amendments in the insurance laws and the some of this areas this comprehensive report has made a detailed reference.

LLOYD'S

Lloyd's of London:

The world oldest insurance market Lloyd's has recorded biggest annual profit in four years. The main reason of upsurge in profit is decline in natural catastrophe claims. Pre Tax profit increased to £ 3.2 billion in 2013 from £ 2.8 billion last year.





SECP issues Third Party Administrator for Health Insurance Regulations

The SECP has issued the Third Party Administrator (TPA) for Health Insurance Regulations, 2014, to develop the health insurance market in Pakistan. The TPA regulations provide a legal framework to address the registration, eligibility requirements, code of conduct and operational model for TPAs, fit and proper criteria for the senior management, and the written agreement between a TPA and an insurer.

The regulations have addressed consumer protection as well as market development aspects. The consumer protection aspects have been addressed through various requirements. For example, these regulations require that the compensation structure of TPA cannot be linked with the claim loss ratio. Similarly, introduction of a code of conduct for TPAs will ensure that TPAs will be functioning within the role envisioned in the new regulatory framework.

The market development aspects have been addressed through requiring an online health benefit system and not imposing a regulatory cap on the compensation of TPAs. The newly introduced regulations also clarify the role of TPA as an administrative service provider and not a risk carrier.

The health insurance market in Pakistan is in its infancy as compared with other subsectors within the insurance industry. The total health insurance premium stands at around Rs.3.6 billion, which is 2.5% of the total insurance premium in 2012. Insurance companies in Pakistan are experiencing higher management expenses due to lack of necessary infrastructure and required business volume.

The TPAs are considered a cost-effective solution for the insurance companies enabling them to offer innovative health insurance products with significantly improved service. A TPA is an entity that processes medical insurance claims for insurance companies and self-funded pools, and can also be regarded as a form of 'outsourcing' for insurance companies for farming out certain tasks and administration activities which are not part of their core competencies. While the insured is benefited by quicker and better service, insurers benefit by reduction in their administrative costs, fraudulent claims and ultimately bringing down the claim ratio.

The concept of the TPA has been introduced around the world in the insurance industry for the benefit of both the policyholders and the insurer. For example, the Insurance Regulatory and Development Authority (IRDA), the Indian insurance regulatory, had issued such regulations in 2001. In the US, the National Association of Insurance Commissioners (NAIC) adopted the Model Law for TPAs in 1977.



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Export Office

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Fax :+ 971(0) 65262130
Contact Person : Mr. Naccm Akhtar

Mr. Ayaz Hussain M. Gad

Deputy Managing Director / Chief Operating Officer



Mr. Ayaz Hussain M. Gad has joined East West Insurance Company Limited as Deputy Managing Director/Chief Operating Officer. Before joining EWI Mr. Gad has served Pakistan Reinsurance Company Limited for over three decades from where he retired as Executive Director in February last.

Mr. Gad brings with him vast experience of insurance and reinsurance beside administrative and marketing experience during his prolonged stay with PRCL. He had the opportunity of receiving dedicated training through International/National courses organized by Insurance Industry in Europe, Far-East, Middle-East and Pakistan.

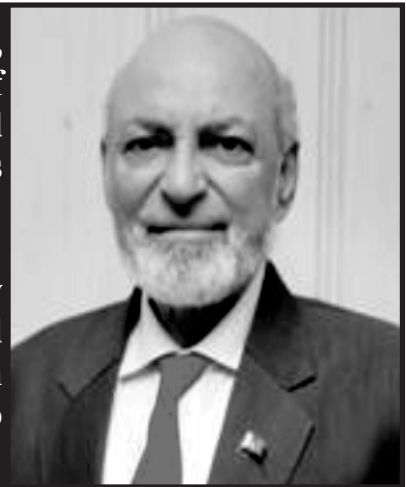
During his tenure with PRCL, he actively participated in organizing training programs and seminars/workshops through Karachi Insurance Institute where he was elected as Chairman during 2012-13. Beside many other achievements, Mr. Gad has been awarded with Shaheed Benazir Bhutto Recognition Award from Sindh Educational Welfare Association (SEWA).



Mr. A. Razak Ahmed, MD & CEO congratulating Mr. Tahseen Ahmed Khan E.V.P., Gulberg Branch, Lahore, on securing 1st position in 2013, on the occasion of Cake cutting ceremony. Mr. Haroon A. Shakoor C.A & C.S and Syed Rizwan Akhtar E.V.P (Operation) can also be seen in the picture.

Prof. Dr. Khawaja Amjad Saeed a loveable soul, gently firm, a versatile scholar, dedicated and committed to the cause of spreading knowledge, an icon for his countless students and innumerable young people, doyen for his contemporaries quietly left this world to meet his Lord. He died in Lahore.

Prof. Dr. Khawaja Amjad Saeed was very highly knowledgeable, widely traveled, greatly respected, showed his mettle not only in Pakistan but across the world. He left an indelible mark to remember him for many many years to come.



***Professor Emeritus, Founder Principal, Hailey College of Banking & Finance, University of the Punjab, Lahore Pakistan, member Governing Council, International Federation of Accountants (IFAC) (1997-2000), President, South Asian Federation of Accountants (SAFA) (1997), President, Institute of Cost and Management Accountants of Pakistan (1997-2000), President, Association of Management Development Institutions of South Asia (AMDISA) (1993-96), Pro Vice-Chancellor University of the Punjab, Lahore (1994-1996), Founder Director, Institute of Business Administration (IBA), University of the Punjab, Lahore (1973-1996) and Senior Faculty Member, Hailey College of Commerce, University of the Punjab, Lahore (1965-73). Earlier he had eight years corporate life experience (1958-65).**

ACADEMIC & PROFESSIONAL PROFILE

Prof. Dr. Khawaja Amjad Saeed was a versatile scholar. He held two Master Degree in Commerce (M.Com) from the University of the Punjab (1959) and in Business Administration (MBA) from the American University of Beirut with Charter from the State of New York, USA (1970). He was a Fellow Member of all the six Professional Institutes of Pakistan, i.e. the Institute of Chartered Accountants of Pakistan (FCA 1966), the Institute of Cost and Management Accountants of Pakistan (FCMA 1971), the Institute of Corporate Secretaries and Managers (1990). Besides holding a Bachelor Degree in Law (LL.B) from the University of the Punjab (1976), he was holder of Diplomas in "Industrial Accountancy" from the British Tutorial Institute, London (1964), in "Project Analysis: Industry and infrastructure" from the United Nations Asian Institute of Economic Development and Planning, Bangkok (1971) and certificate holder in Teaching of Project Analysis from the Economic Development Institute of the World Bank, Washington D.C (1979). He obtained Ph.D. in Business Administration from a University in Los Angeles California, USA (1981) and contributed doctoral dissertation on "Survey and Analysis of Financial Disclosure in Corporate Sector for Public use: A Case Study from Pakistan".

AWARDS

He was honored with various gold medals and awards at home and abroad. Pakistan Education forum honored him with National Education Award – 2003 on his Best Research Publications in 2002-2003. Besides having eight years of filed experience in corporate finance, audit, accounting, taxation, and business management, he had 47 years of full time teaching experience at the master's level in commerce, business administration and economic and had also extensively taught in professional examination courses such as Chartered Accountants, Cost and Management Accountants and Bankers. Several Management Development Programs was conducted by him at home and abroad. The interface of work and contributions had extended to over one hundred countries of the world.

INTERNATIONAL INTERFACE

He represented Pakistan on the Finance and the Management Accounting Committee of the International

Federation of Accountants (IFAC) (1988-90) and also presented various papers at national, regional and International levels, IFAC, New York honored him twice with Appreciation Scrolls for his services to Accounting on World Wide Basis. *He had* participated in several Conference of Confederation of Asian and Pacific Accountants (CAPA) and South Asian Federation of Accountants (SAFA). He was president of SAFA for 1997 and Advisor for 1998. He was President of the Institute of Cost and Management Accountants of Pakistan (1997-99) and elected Members, Governing Council of IFAC New York (1997-2000). He served as Member, National Council of ICMAP (1976-2005). He had participated in several International Conference, contributed papers for the same and had also conducted several research studies including research studies for International Labour Organization (ILO), Geneva, Asian Productivity Organization (APO), Tokyo, King Abdul Aziz University, Jeddah, ICFTU, Brussels, TWARD0, Tokyo and other International bodies. During the summer of 1984, he was on visiting Faculty assignment at the University of Hawaii, USA and also visited twelve top Business Schools of USA. During 1984, he delivered twelve talks in Management Development Programs in major cities of India under the auspices of the Institute of Cost and Works Accountants of India. He had presented several papers in International Conference held in USA, Japan, South Korea, Mexico, Nepal, Saudi Arabia, Thailand, Iran, Australia, Bangladesh, Bhutan, China, France, England, Switzerland, UAE, Malaysia, Sri Lanka, Indonesia, India, Argentina, South Africa, Tunisia, New Zealand, Germany, Austria and Several other countries. He served as Consultancy to Colombo Plan Secretariat, Sri Lanka in 1996 for developing Strategic Plan for 1996-2000. Before his death he was serving as short term consultant of World Bank. He had vast consulting experience in corporate sector in Pakistan.

PUBLICATIONS

He had authored 32 books in the areas of Income Tax, Auditing, Management, Economy of Pakistan, Corporate Financial Report, Corporate, Mercantile & Industrial Laws, Financial Institutions, Accounting and Higher Accountancy, Strategic Management Information Technology for Business Executive and related aspects. He had widely traveled to all continents of the world and had contributed over 1,000 articles in various journals of national and international repute. Some of his articles have been abstracted by the Commerce Clearing House Inc., New York, USA. Besides having authored several cases, he had also edited four books on Management Cases (32 Cases), Regional Management Cases (29 Cases), Marketing Cases (30 Cases) and Management Cases: An International Editing. He had edited two books on Management Cases and Marketing Cases which have been published by Excel Books, New Delhi. Various Chapters of books published in USA, Japan India, Singapore, Switzerland and many other countries. He also contributed articles for Insurance Journal. He was working as Management Consultant and teaching in Business Schools at home and abroad. He served as Dean Executive Program in Punjab College of Business Administration, Constituent College of University of Central Punjab, Lahore (1999-2003). He served as Adjunct Professor at the Graduate School of Management, Swinburne University of Technology, Australia (1999-2003) and in India as visiting Professor in Institute of Management Technology ranked 10th in India. He served as Adjunct Emeritus Professor of Management in Birla Institute of Management Technology, Greater Nodia, UP, India. He was also serving as Professor Emeritus of Apex Group of Management Institutions, Pune, India. He was serving as members on several advisory boards at home and abroad.

HRM / HRD CONTRIBUTIONS

He served as Professor and Founder Director of the Institute of Business Administration (IBA), University of the Punjab, and Lahore for 23 years. Earlier, he taught various courses at honors and masters levels in Hailey College of Commerce. 3rd Constituent College of the University of the Punjab, Lahore for 7 years. He served as Director, Planning and Development in the above University for 20 years. He also served as Dean Faculty of Arts for 4 years and as Pro Vice- Chancellor for one and half years. He Served as President of the Association of Management Development Institutions of South Asia (AMDISA) (1993-96). He is the founder President of the Institute of Marketing Management, the Institute of Taxation Management and the Institute of Chartered Secretaries and Managers in Pakistan. He is ranked one of top seven scholars who made significant contributions in HRM/HRD in Pakistan.



Beeta

Romance with the Air

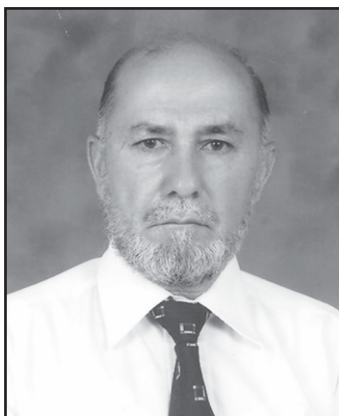
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Majid Khan Jadoon
A.C.I.I. (U.K), MD/CEO
M/s. Pakistan Inspection Co. (Pvt.) Ltd.

In-House Surveys by Insurers' Paid Employees

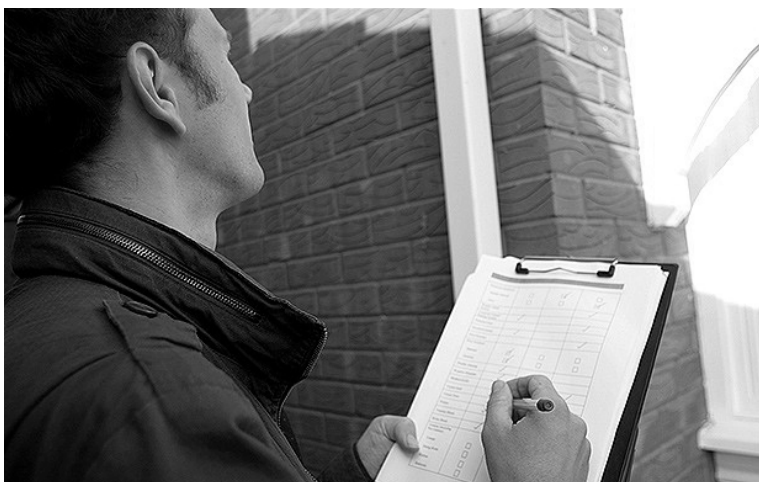
Since the near past, Insurance Business in the country is on the decline, due to the confluence of assorted elements, resulting in the Slackness of Survey-assignments to the Insurance Surveyors Companies.

Consequently, over forty (40) Insurance Surveyors Companies have winded-up their Operations in the country so far, and, contrary to the relevant Section-111 of the Insurance Ordinance-2000 as well as Insurance Rules thereunder, some Insurers have taken to getting Motor Surveys carried-out, and Loss Assessments / Adjustments conducted by their own Paid Employees, which has also accrued to the curtailment of Survey-assignments to the Insurance Surveyors Companies.

All the Insurance Surveyors Companies, operating in the country, do not posses Licences of All Classes of Insurance Surveyors and many are functioning with only one Motor Class Licence, while some have two Licences only.

Since the last some time, an impression has been created and

circulated in the Country's Insurance Market that under the Provisions of Section-111, Sub-Sections (1) & (2), (a) & (b), and Rule-24, Sub-Rule-2 of Insurance Rules, Insurers are entitled to arrange Motor Surveys and Claims Assessments / Adjustments, upto the amount of Rs.25,000/=, by their Permanently Paid Employees. Thus, many Insurance Companies have created their Own Motor Claim Cells



and are practicing to deploy their Paid-employees to conduct Motor Surveys and carry-out Assessments / Adjustments of Losses Claimed therefor.

After my study of the Provisions of Section-111, Sub-Sections-1 & 2 (a) & (b) of the Insurance Ordinance-2000, as well as Rule-24, Sub-Rule-2 of the Insurance Rules Part-II (S.R.O-

938), I have come to the Conclusion that there is the Provision for IN-HOUSE SURVEYS and LOSS ASSESSMENTS / ADJUSTMENTS of an Insurance Claim by the Paid Employees of Insurers subject, however, to the condition that the same Paid Employees of the Insurers must have the qualifications as laid-down within the same.

As far as the quantum of the Loss permitted to be assessed by the Paid Employees of the Insurers to the tune of Rs.25,000/= under Rule-24, Sub-Rule-2, in the Motor and Casualty Insurance Class Claims, the same must also be carried-out by the Insurers' Paid Employees, possessing the qualifications as laid-down in Sub-Section-1 (a) & (b) of Section-111 of the Insurance Ordinance-2000.

Similarly, IN-HOUSE SURVEYS and LOSS ASSESSMENTS / ADJUSTMENTS in other Classes of Insurance Claims, if any, by the Paid Employees of the Insurers, in my opinion, are also subject to their qualifications as prescribed in Sub-Section-1 (a) & (b) of Section-111 of the Insurance Ordinance-2000.

I am, therefore, of the opinion that the Paid-Employees of the Insurers, conducting IN-HOUSE SURVEYS and LOSS ASSESSMENTS / ADJUSTMENTS of the Insurance Claims, who do not possess the qualifications as expressly described in Sub-Section-1 (a) & (b) of Section-111 of the Insurance Ordinance, would do so UN-LAWFULLY.

Before, I pen-down my detailed opinion on the Provisions of Section-111, Sub-Section (1) & (2), (a) & (b), I would like to quote, in verbatim, the wording of the same as follows:-

QUOTE:

INSURANCE ORDINANCE-2000, SECTION-111:

“PERSONS PERMITTED TO ACT AS INSURANCE SURVEYORS:

“I: SUB-SECTION-1:-

“Subject to Sub-Section (2), it shall be UNLAWFUL for any Person to act for remuneration as a Surveyor, Loss Adjuster or Loss Assessor (by whatever title called) un-less such person is:-

- (a) An Adjuster of Aviation or Maritime Losses; or
- (b) A Person Licensed as a Surveyor under this Ordinance.

“II: SUB-SECTION-2:-

“Nothing in this Section will prevent:-

“(a) The Performance in the course of his employment by an employee of an Insurer of activities of the nature of Insurance Surveying for that Insurer; or

“(b) The Expression in the course of his General Professional Practice of “AN EXPERT OPINION” on the Nature, Cause or Quantum of an

Insurance Loss by an Advocate, Solicitor, Accountant, Actuary or Other Professional Person “engaged in a Profession other than Surveying.”

“III: R U L E - 2 4 - (2) O F INSURANCE RULES, PART-II (S.R.O- 0938):-

“Independent Survey shall be conducted in respect of the Claim lodged for the amount exceeding Fifty Thousand Rupees except in case of Motor and Casualty Insurance where the amount of Loss or Claim is for more than “Twenty-five Thousand Rupees.”



Now, I would like to elaborate on my under-standing/interpretation of the afore-mentioned Provisions of Section-111 (1) & (2), (a) & (b) and Sub-Rule-24 (2) of the afore-mentioned Insurance Ordinance-2000/Insurance Rules-2002, as under:-

SUB SECTION-1 (a) of Section-111 of the Insurance Ordinance-2000 has expressly declared that any Person, who is NOT a Certified Adjuster of Aviation Losses or a Certified Adjuster of Maritime Losses, shall be UN-LAWFULLY conducting the

same acts of Surveying and Loss Assessments/Adjustments for Remuneration.

Obviously, the Paid Employees of the Insurers, who are NOT CERTIFIED ADJUSTERS OF AVIATION OR MARTITIME LOSSES and they are deployed to carry-out Motor Claim Surveys and Loss Assessments/Adjustments, do so for Remuneration, i.e. Salary and employment privileges, which would fall in the Class of UN-LAWFULL acts, as expressly declared in the above Sub-Section-1 (a). And, to the best of my knowledge, none of the same employees of the Insurers possess the Qualifications of Certified Aviation Loss Adjuster or Maritime Loss Adjuster, as provided for in Sub-Section-1 (a) of Section-111 of the Insurance Ordinance.

As such, I am of the opinion that alike Paid Employees of the Insurers, who are conducting Motor Insurance Claim Surveys and Loss Assessments/Adjustments, do so UN-LAWFULLY, as expressly declared in Sub-Section-1 (a) of Section-111 of the Insurance Ordinance.

SUB-SECTION-1 (b) of Section-111 of the Insurance Ordinance-2000 has expressly

declared that any Person, who has been “LICENSED AS A SURVEYOR UNDER THIS ORDINANCE” and, maybe, he is in the Paid Employment of an Insurer is also authorized to conduct Surveys and Loss Assessments/Adjustments on behalf of his Employer, i.e. the Insurer.

As far as I know, none of the employees of the Insurers, who are currently regularly being deputed to conduct Motor Claim Surveys and Loss Assessments/Adjustments possess any Motor Class Licence as an Insurance Surveyor or an A.S.O.

As such, in my opinion, all those Persons who are the Paid Employees of the Insurers and are independently conducting Motor Claim Surveys & Loss Assessments/Adjustments on behalf of their Employers are doing so UN-LAWFULLY, vis-à-vis the Provisions of Section-111 SUB-SECTION-(1)& (2) (a) & (b) of the Insurance Ordinance-2000, as well as Insurance Rules-2002, as elaborated afore.

Therefore, the Legality and Status of all those Motor Insurance Claim Surveys and Loss Assessments / Adjustments thereof, already carried-out by the afore-mentioned Paid Employees of the Insurers, may be pondered-over and evaluated in the light of the afore-mentioned Provisions of Section-111, Sub-Section-(1) & (2), (a) & (b) of the Insurance Ordinance-2000.

Besides, it will not be out of place to mention here that the Qualifications and Documents Compulsorily required from a Person applying for a Licence for any Class/Classes of Insurance Surveyor or Authorized Surveying Officer have been mentioned, in detail, within Rules-16, 17, 18, 19, 20 & 21 and Sub-Rules, as well as Clauses/Sub-Clauses of Insurance Rules-2002.

As such, after the satisfactory fulfillment of the requisite Provisions of the afore-mentioned Rules/Sub-Rules/Clauses/Sub-Clauses of the Insurance Rules-2002, a Person is issued a Licence to act as an Insurance Surveyor/A.S.O. by the SECP and then the same Person is entitled to conduct Surveys and Loss Assessments / Adjustments of Insurance Claims, as provided for in Section-111, Sub-Section-(1)&(2), (a)&(b) of the Insurance Ordinance-

2000.

As such, any Paid Employee of an Insurer, who would have been declared as a Licensed Surveyor/A.S.O. under the aforementioned Rules / Sub-Rules/Clauses/Sub-Clauses of the Insurance Rules-2002 and would also be a Paid Employee of an Insurer may conduct a Motor Claim Survey and Loss Assessment / Adjustment on behalf of his Employer.

However, to the best of my knowledge, none of the same Paid Employees of the Insurers are



Certified Adjusters of Aviation or Maritime Losses or are Licensed Surveyors/A.S.Os under the aforementioned Section-111(1) & (2) (a) & (b), as well as Rules/Sub-Rules Clauses/Sub-Clauses of the Insurance Ordinance-2000/Rules-2002, which shall render their ACTS OF SURVEYING and LOSS ASSESSMENT / ADJUSTMENT UN-LAWFUL, as prescribed therein and elaborated afore.

SUB-SECTION-2 (a):-

As per the Provisions of SUB-

SECTION-2 (a), i.e. “during the course of his employment, nothing shall prevent the Paid Employee of an Insurer from carrying-out the Activities of the NATURE OF INSURANCE SURVEYING for that Insurer”; I am of the opinion that the words “ACTIVITIES OF THE NATURE OF INSURANCE SURVEYING” would imply that Insurers can deploy their Paid Employees to physically examine the Sub-matter of the Insurance Claim and report to them whether or not:-

(a) The Claim preferred on the Insurers would fall within the definition of the Covered Peril, an Accident, Theft or Snatching of the Subject-matter of Insurance Claim, as provided for within the Contract of Insurance, or the same would pertain to Other Causes, e.g. Non-Insured Perils, Mechanical Break-down, Normal Wear & Tear, Accident under the Influence of Drugs or Alcohol, or whilst being utilized for Un-lawful activities, or Organized Racing or Other Criminal Activities or Smuggling of Goods, or Illegal Transfer of the Insurance Policy after selling-out of the Insured Property / Vehicle etc. etc.

Thus, in my opinion, the same Paid Employees of the Insurers can report to their employers on the NATURE of the Insurance Claim but, yet again, this Sub-Section does not authorize them to independently assess/adjust the Loss, unless possessing the qualifications of an Aviation Loss Adjuster or Maritime Loss Adjuster, OR the same Person is a Licensed Surveyor, as provided for in Sub-Section-1 (a) & (b) of Section-111 of the Insurance Ordinance-2000, as well as in the pertinent Rules/Sub-Rules/Clauses/Sub-Clauses of the Insurance-Rules-2002, as has been elaborated afore.

SUB-SECTION-2 (b):-

SUB-SECTION-2 (b) of SECTION-111 of the Insurance Ordinance has, however, expressly permitted an Advocate, Solicitor, Accountant, Actuary or Other Professional Person, “OUT-SIDE THE PROFESSION OF SURVEYING”, to “express an Expert Opinion” on the Nature, Proximate Cause and Quantum of an Insurance Loss. But this Sub-Section-2 (b) also expressly implies that the aforementioned Professionals ought not to be the Paid Employees of the Insurers and, otherwise, they must also be engaged in Professions other than Surveying, i.e. they must not be, full time, engaged in the Profession of Insurance Surveying and Loss Assessment/Adjustment.

CONCLUSION:

The bottom-line of my Conclusion, vis-à-vis the afore-mentioned elaboration about the purported entitlement of the Insurers to carry-out IN-HOUSE INSURANCE SURVEYS and LOSS ASSESSMENTS/ADJUSTMENTS of Insurance Claims under the Provisions of Section-111, Sub-Section-(1) & (2) (a) & (b) by their Non-Certified/Non-Licensed Paid Employees, would pertain to the falling of the same under the UNLAWFUL ACTS of the Persons engaged in the Surveying and Loss Assessments/Adjustments, activities, who are the REGULARLY PAID

EMPLOYEES of the Insurers.

FURTHER SUGGESTION:

Further, it will not be out of place to mention here that in our country, S U R V E Y S a n d L O S S Assessments/Adjustments of Insurance Claims are, invariably, assigned to the Surveyors Companies by the Insurers and the Insureds have no role in their appointment, whatsoever.

Naturally, the Insureds may have very limited or no knowledge of the assorted Clauses, Terms, Conditions and Warranties of the Insurance Policy and their interpretations. Thus, in case of difference of opinions in-between the Insureds and the Surveyors, the former is entitled to refer the matter to the SECP, who would nominate independent Surveyors for the Re-Survey of the Claim as provided for in Rule-24(1) of the Insurance Rules, Part-II (S.R.0.938).

At times, the case is referred to the Insurance Ombudsman's Office and/or to the Courts of Law which would involve extra costs and time.

In the U.K., which is the mother country of the Insurance Profession, Insuring-public and Intities have the privilege of hiring the services of Loss Assessors, who represent the Insureds with the Loss Adjusters deputed by the Insurers.

Thus, matters are justifiably settled in-between the Loss Assessors and Loss Adjusters, respectively representing both the Parties to the Insurance Contract, in the most efficient manner, because both are experts of the Profession and thus differences are amicably settled between the Insureds and the Insurers.

I am, therefore, of the opinion that there is an essential need of Amendment in the Insurance Ordinance/Rules, whereby the Insureds may also have the option of d e p u t i n g t h e i r Surveyors/Assessors/Adjusters at their Own Cost and Risk which will serve:-

a) The Technical, Legal and Fair interpretation of Various Clauses, Terms, Conditions and Warranties of the Contract of Insurance between the Insureds and the Insurers, leading to refining of the Insurance Policy Provisions and serve the best interests of all concerned.

b) Avoid the wastage of Time and Cost of the Insurers, as well as of the Insureds, in pursuing the case with the Competent Authorities and/or in various Courts of Law.

c) Provide enhanced Survey-assignments for the fraternity of Insurance Surveyors Companies and consequently increasing employment opportunities in the country.





Rana Naveed ur Rehman
MBA (HRM), Cert CII (UK)
Manager (Health)
East West Insurance Co. Ltd

Claim Leakages in Health Insurance

Health Insurance is a rapidly growing product in the insurance market. Due to the nature and effectiveness of this product, it has gained a lot of attraction by the customers. Once a person has utilized the benefit of health insurance and completely understood its theme, if he is a greedy person, he then thinks that how can this benefit be availed for the sake of earning money. Due to this misuse of the health insurance facility, sometimes insurance companies have to bear heavy losses. This misuse of health insurance facility is known as Claim Leakage. There are various ways which people adopt to increase the level of claim leakages in health insurance. As per my experience in health insurance field, some major leakages are elaborated as below:

A commonly use practice by some customers is lodging fraudulent claims. It means the claim of a treatment is submitted which is not actually done. Sometimes, these types of claims are detected but sometimes these are more difficult to detect or verify for the insurance company. If the customer and the service provider are

equally involved in making a fraudulent claim then it is difficult or sometimes impossible for insurance company to detect or verify the claim and have to pay the claim in utmost good faith. On the other hand, if the insurance company does not have proper check and balance on its panel



service providers then they can also lodged fraudulent claim on behalf of a customer with or without his knowledge.

In another case, some customers and panel service providers use the practice of over billing. Let suppose a

person is admitted in a Service Provider for certain days and he incurred medical expenses about Rs.20,000. His health insurance policy covers the expenses up to the limit of Rs.50,000 then by mutual connivance the bill could be of limit i.e. Rs.50,000. If his bill is processed by the insurance company in full then this will be a pure leakage of Rs.30,000 which was not incurred indeed.

Sometimes, an uninsured person uses the health insurance facility on behalf of an Insured person by fraudulently using the name of insured person on claims documentation. In this scenario, sometimes service provider does not check the identity of the person whom treatment is given. So, in this case the insured person lodge the claim to the insurance company which is not actually belongs to him but claims document shows his name. This type of misuse can also take place on a panel service provider if the service provider has not checked the patient's identity or if a patient is minor / child. These types of claims also produce a huge loss for an insurance company.

Exaggeration in the claim bills and documents is also a pure claim leakage. In this case, the insured person himself altered the amounts of bills by adding some figures in the bills i.e. suppose an insured got a treatment bill of Rs.6,450 and add some digits in the figures mentioned on the bill to enhance the bill amount to Rs.16,450. Sometimes, this type of exaggeration can be traced but sometimes it is quite difficult to trace. This is also loss factor for the insurance companies.

If a person or a family has dual health insurance and claims a treatment expense from both insurers then this is also a claim leakage i.e. a person and his wife are insured from Insurer A and his wife is also working woman and she and his husband are insured with Insurer B. If his wife incurred an expense of Rs.15,000 from Maternity benefit and submit this claim to both insurers, she will get the reimbursement of Rs.30,000 which is against the principle of indemnity and leads to pure claim leakage.

Sometimes, an insured person from far area, lodge a bogus claim to the insurance company. In reality, there is no existence of such Service Provider that the bills relate to. In some cases, the paper work is quite complete so

that it is more difficult to identify for insurance company whether the claim is fake or not. This can also increase the loss ratio of the insurance company.

Ex-gratia claim payments are also increased the loss of an insurance company.

Sometimes, insurance company pays claim for just to oblige a client which comes beyond the coverage in health insurance policy. If this practice is exercised frequently then the insurance company has to bear a heavy loss.

On the part of an insurance company, some benefits are offered to clients which are the standard exclusion as per health insurance policy. If these types of benefit i.e. coverage of pre-existing diseases, congenital defects, cosmetic treatments and prosthetic implants have been offered to the clients then the claims for these coverage will certainly increase the loss ratio of the insurance companies.

It is concluded from the above



elaborations that insurance companies collectively have to make some strategies and plans with the help of SECP and Insurance Associations for the prevention of fraudulent claims, over billings, exaggerated claims, ex-gratia payments and offering of excluded benefits to the clients. Furthermore, the Regulator has to instruct all insurance companies to make a centralized database of insured persons with historical claims. If all the insurance companies have the adequate claims information about a certain client, then each company will quote premium to the client quite handsomely which will more beneficial for the insurance companies as well as insurance industry.

Medical Insurance Claim Form

Please fill in the details accurately, giving as many details as possible. Failure to do so may result in claim rejection.

Personal Information

Forename: John

Other Names:

Main Street

Zip:

REJECTED



Qayyum Pervez Malik
Insurance Surveyor & Loss Adjuster /
Claims Investigator
Qayyum Pervez Malik & Co. (Pvt) Ltd

Theft and Burglary Coverage

Standard fire policy excludes the risk of theft after/during fire under express condition No: 5(a). Burglary risk is however included as extended peril by inserting a burglary clause / endorsement by charging additional premium.

Theft policy is issued separately however if it is so required by the proposer.

Theft risk is covered under motor policy but the risk of theft by employed driver is excluded declaring it a "misappropriation". Previously the issue of theft by paid/employed driver was unclear and disputed. Few claims were paid under these circumstances and recently this misunderstanding has been wiped off by amending the express wording of motor Insurance policy.

This amendment in the motor policy was criticized from some school of thought but they should keep in mind the principal of insurance that any person who is lawfully present in the premises including employees, servant, guard etc if commits theft the

risk is not included in any theft policy. Definition of burglary has been misunderstood widely. I have heard surveyors/insurers pleading that the burglary is only established when the trespassers are forcefully stopped by the insured or his employee to establish forcible and violent entry in to the other's premises. On the contrary it was held that if a person enters in to other's premises with the intention to commit felony by using a

stolen at the same time is necessary. Risk against physical damage to the vehicle or missing of parts after recovery of the vehicles after theft is also covered.

Previously the risk of theft/burglary was granted under theft policies only during night hours and the timings were expressly stated in the policy form but now it is available round the clock.



Burglary endorsement and theft policy form enlighten much about this category of risk but remained silent on its definition. It is quite unfortunate that the terms of insurance being used in underwriting in Pakistan by IAP are not properly defined. No such record is available to the

insured and no facility is provided by the IAP for awareness. Every information including tariffs which provide the basic guideline about the terms/conditions/warranties/endorsements/coverage/exclusions are restricted for members only. All the other stake holders like insured, bankers, solicitors, lawyers are put in dark. No print matter or guideline to fill the gap of information is made

Skelton key or a piece of wire for opening of lock that would fit in to the definition of burglary. Forcible and violent entry is established by that act. Loss by theft, burglary or house breaking to the parts/accessories are covered under private car comprehensive policies whereas it is not covered under commercial motor and motorcycle comprehensive policies where the vehicle should be

available by the only insurance association IAP. Even the Insurance surveyors who are naturally expected to act upon in accordance with the terms / conditions / warranties / endorsements / coverage / exclusions etc. are refused to obtain copies of this print matter by IAP being non-members. On the other hand their survey reports are being followed blindly. On the other hand all print matters, guidelines, tariffs, policies forms, endorsement forms, clauses; warranties are available on website of Indian insurance regulatory authority and their associations for public use and consumption officially. The surveyors at least, as a main stake holders should aware of every change in insurance law, policy wordings, change in terms/conditions, changes in warranties, new clauses so that the survey report could be issued keeping in view these changes but they are put in dark. They cannot even obtain copies of policies forms, warranty forms, clauses, tariffs etc officially.

Trend of de-tariff is seen from last few years in Pakistan as well as India and this is creating a great hue and cry in the market. At the time of loss this aspect is creating great amount of disturbance as well as embarrassment on part of the insurers because policies issued by different insurers covering the same risk contain different set of warranties, clause, endorsements, terms/conditions/exclusions etc. The uniformity as seen earlier has gone obscured now.

These vital issues are to be addressed by the Insurance industry on priority basis. Detariff means different rates by different insurers but not different

in standard policy forms, warranty forms, clauses etc. De-tariff in rates phenomenon is also disturbing and creating negative impact in the market. Insured community is confused and smooth loss settlement has gone far away.

It is therefore urged upon from IAP and SECP to establish a comprehensive electronic database for awareness, information, and consultation for the stake holders. IAP should make their database open to access for intermediaries at least.

Since lot of controversies is present against the definitions of theft and burglary, an effort is made to give a clear understanding on this issue.



Black's Law Dictionary

Burglary: Burglary is defined as per Black's law dictionary as "Breaking and entering another's dwelling at night with the intent to commit a felony. The modern statutory offense of breaking and entering any building, not just a dwelling and not only in night with intent to commit a felony.

Theft: The felonious taking and removing of another's personal property with the intent of depriving the true owner of it. Broadly any act of instance of stealing including larceny, burglary, embezzlement and false

pretenses.

Forcible Entry: According to "Dictionary of Insurance" the term burglary means breaking and entering in to premises of another, with felonious intent and with visible signs of the forced entry. Since most insurance policies specifically define burglary under their own terms it is wise to be sure that the term burglary in the policy has the meaning for the coverage desired.

As per PII fire insurance book theft is a general term and if not qualified it includes burglary, house breaking and larceny in their full statutory meanings. According to this book normal losses by theft and larceny are not included in burglary.

According to PII fire insurance book the term actual forcible and violent entry does not include if a person uses duplicate key and enter in to the premises with the intent to commit felony.

Forcible entry is the taking possession of a property, structure, premises

etc by entering the premises using force of whatever manner to gain control over the property, structure or premises.

Encarta Dictionary

1. Illegal entry: the crime of entering a building to commit a felony, usually theft.

2. Illegal entry of building: an act of entering a building illegally to commit theft Microsoft® Encarta® 2009. © 1993-2008 Microsoft Corporation. All rights reserved.

3. Burglary: Unlawful removal of property from premises involving visible forcible entry.

Theft Act

Basic definition of theft:

A person is guilty of theft if he dishonestly appropriates property belonging to another with the intention of permanently depriving the other of it; and 'theft' and 'steal' shall be construed accordingly.

Robbery:

(1) A person is guilty of robbery if he steals, and immediately before or at the time of doing so, and in order to do so, he uses force on any person or puts or seeks to put any person in fear of being then and there subjected to force.

(2) A person guilty of robbery, or of an assault with intent to rob, shall on conviction on indictment be liable to imprisonment for life.

Burglary

(1) A person is guilty of burglary if:

(a) he enters any building or part of a building as a trespasser and with intent to commit any such offence as is mentioned in subsection (2) below; or
(b) having entered into any building or part of a building as a trespasser he steals or attempts to steal anything in the building or that part of it or inflicts or attempts to inflict on any person therein any grievous bodily harm.

(2) The offences referred to in subsection (1)(a) above are offences of stealing anything in the building or part of a building in question, of inflicting on any person therein any grievous bodily harm or raping any person therein, and of doing unlawful damage to the building or anything therein.

(3) A person guilty of burglary shall on conviction on indictment be liable to imprisonment for a term not exceeding-

(a) where the offence was committed in respect of a building or part of a building which is a dwelling, fourteen years;

(b) in any other case, ten years.

(4) References in subsection (1) and (2) above to a building, and the reference in subsection (3) above to a building which is a dwelling, shall apply also to an inhabited vehicle or vessel, and shall apply to any such vehicle or vessel at times when the person having a habitation in it is not there as well as at times when he is.

manufactured for the purpose of producing a practical effect by explosion, or intended by the person having it with him for that purpose.

(2) A person guilty of aggravated burglary shall on conviction on indictment be liable to imprisonment for life.

Burglary - felonious abstraction of property from within premises by persons making felonious entry by force of which there are visible marks on the exterior. [Source: Training Manual Original Glossary (Butterworth-July 2000)].

Theft - the unlawful taking of property of another: the term includes such crimes as burglary, larceny, and robbery. [Source: Training Manual Original Glossary (Butterworth-July 2000).

Forcible entry is defined by Merriam-Webster's Dictionary of Law as the unlawful taking of possession of real property by force or threats of force or unlawful entry

into or onto another's property, especially when accompanied by force.

The term is also sometimes used for entry by military, police, or emergency personnel. For the fire service, forcible entry is defined by the International Fire Service Training Association (IFSTA) as:

The techniques used to get into buildings or other areas of confinement when normal means of entry are locked or blocked.

and when accessing doorways can be defined as "through the lock" or "around the lock" depending on the techniques used.



Aggravated Burglary

(1) A person is guilty of aggravated burglary if he commits any burglary and at the time has with him any firearm or imitation firearm, any weapon of offence, or any explosive; and for this purpose-

(a) 'firearm' includes an airgun or air pistol, and 'imitation firearm' means anything which has the appearance of being a firearm, whether capable of being discharged or not; and
(b) 'weapon of offence' means any article made or adapted for use for causing injury to or incapacitating a person, or intended by the person having it with him for such use; and

(c) 'explosive' means any article

Judge Donaldson considered the question of forcible entry in the UK, in *Swales v. Cox* (1981):

"[...] he uses force if he applies any energy to the obstacle with a view to removing it. It would follow that, if my view is correct, where there is a door which is ajar but it is insufficiently ajar for someone to go through the opening without moving the door and energy is applied to that door to make it open further, force is being used. A fortiori force is used when the door is latched and you turn the handle from the outside and then ease the door open. Similarly, if someone opens any window or increases the opening in any window, or indeed dislodges the window by the application of any energy, he is using force to enter

Burglary (also called breaking and entering and sometimes housebreaking) is a crime, the essence of which is illicit entry into a building for the purposes of committing an offense. Usually that offense will be theft, but most jurisdictions specify others which fall within the ambit of burglary. To engage in the act of burglary is to burgle (in British English) or to burglarize (in American English).

The common law burglary was defined by Sir Matthew Hale as The breaking and entering the house of another in the night time, with intent to commit a felony therein, whether the felony be actually committed or not.

1. Breaking can be either actual, such as by forcing open a door, or constructive, such as by fraud or threats. Breaking does not require that anything be "broken" in terms of physical damage occurring. A person who has permission to enter part of a house, but not another part, commits a breaking and entering when they use any means to enter a room where they are not permitted, so long as the room was not open to enter.

2. Entering can involve either physical entry by a person or the insertion of an instrument with which to remove property. Insertion of a tool to gain entry may not constitute entering by itself. Note that there must be a breaking and an entering for common law burglary. Breaking without entry or entry without breaking is not sufficient for common law burglary.

3. Although rarely listed as an element, the common law required that entry occur as a consequence of the breaking. For example, if a wrongdoer partially opened a window by using a pry bar and then noticed an



open door through which he entered the dwelling, there is no burglary at common law. The use of the pry bar would not constitute an entry even if a portion of the pry bar "entered" the residence. Under the instrumentality rule the use of an instrument to affect a breaking would not constitute an entry. However, if any part of the perpetrator's body entered the residence in an attempt to gain entry, the instrumentality rule did not apply. Thus, if the perpetrator uses the prybar to pry open the window and then used his hands to lift the partially opened window, an "entry" would have taken place when he grasped the bottom of

the window with his hands.

4. House includes a temporarily unoccupied dwelling, but not a building used only occasionally as a habitation.

5. Night time is defined as hours between half an hour after sunset and half an hour before sunrise.

6. Typically this element is expressed as the intent to commit a felony "therein". The use of the word "therein" adds nothing and certainly does not limit the scope of burglary to those wrongdoers who break and enter a dwelling intending to commit a felony on the premises. The situs of the felony does not matter, and burglary occurs if the wrongdoer intended to commit a felony at the time he broke and entered.

The common law elements of burglary often vary between jurisdictions. The common law definition has been expanded in most jurisdictions, such that the building need not be a dwelling or even a building in the conventional sense, physical breaking is not necessary, the entry does not need to occur at night, and the intent may be to commit any felony or theft.

United States

Burglary is prosecuted as a felony or misdemeanor and involves trespassing and theft, entering a building or automobile, or remaining unlawfully with intent to commit theft or any crime, not necessarily a theft – for example, vandalism. Even if nothing is stolen in a burglary, the act is a statutory offense. Buildings can include sheds, barns, and coops; burglary of boats, aircraft, and railway cars is possible. Burglary may be an element in crimes involving rape, arson, kidnapping, identity theft, or violation of civil rights; indeed the "plumbers" of the Watergate scandal were technically burglars. As with all legal definitions in the U.S., the

foregoing description may not be applicable in every jurisdiction, since there are 50 separate state criminal codes, plus Federal and territorial codes in force.

Nighttime burglaries:

Technically, a burglary committed during the hours of daylight is not burglary, but housebreaking. In many jurisdictions in the U.S., burglary is punished more severely than housebreaking. In California, for example, burglary was punished as burglary in the first degree, while housebreaking was punished as burglary in the second degree. California now distinguishes between entry into a residence and into a commercial building, with the burglary into a residence with heavier punishment.

In states that continue to punish burglary more severely than housebreaking twilight, night is traditionally defined as hours between 30 minutes after sunset and 30 minutes before sunrise.

United Kingdom (England and Wales)

Burglary is defined by section 9 of the Theft Act 1968 which created two variants:

1. A person is guilty of burglary if he enters any building or part of a building as a trespasser with intent to steal, inflict grievous bodily harm [or raping any person therein],[31] or do unlawful damage to the building or anything in it. (section 9(1)(a))

2. A person is guilty of burglary if, having entered a building or part of a building as a trespasser, he steals or attempts to steal anything in the building, or inflicts or attempts to inflict grievous bodily harm on any person in the building.(section 9(1)(b))

According to Burglary Insurance

policy of M/s. Adamjee Insurance Co. Ltd, the definition of burglary is mentioned as “the property lost by theft consequent upon actual forcible and violent entry upon the said premises or committed by any person or persons (other than employees) feloniously concealed thereon.

There was ambiguity in dealing with the insurance claims involving theft of vehicle by driver. Few claims were paid whereas others repudiated. There were two opinions on the issue of motor policy coverage regarding theft /burglary. Generally the theft/burglary policies exclude theft/burglary committed by employees/servant and persons who are lawfully present in the premises. Theft of car by paid driver was not considered as



theft/burglary within the meaning of these terms and it was being considered as misappropriation. In order to wipeout this ambiguity a circular was issued by IAP and later the standard motor policy form was amended excluding the risk of theft/burglary by driver declaring it as “misappropriation”.

Many people get confused while dealing with the risk of burglary with the terms “forcible and violent” entry in to other's premises as trespasser with the intent to commit felony. Many companies are seen repudiating such claims on the grounds of absence of physical evidence of “forcible and violent” entry.

According to their point of view a visible sign of fighting, use of force

against people, visible signs of physical threats, use of weapons or other hurting or fearing tools should be present to prove the existence of forcible and violent entry. On the contrary the other point of view which has broader support and widely accepted is that if a person with felonious intention enters in to other's premises by opening up lock with a piece of wire or Skelton key the violent and forcible entry would come in to existence. Entering in to other's premises with felonious intention is violence. Trespassing is also termed as violence.

Relevant offenses given in Pakistan penal code and relevant sections differentiating these offenses are being reproduced below for reference and guidelines.

Section/Offence:

- 378. Theft
- 379. Punishment for theft
- 380. Theft in dwelling house, etc.
- 381. Theft by clerk or servant or property in possession of master
- 361 -A. Theft of a car or other motor vehicles
- 382. Theft after preparation made for causing death, hurt or restraint in order to the committing of the theft

Of Extortion

- 383. Extortion
- 384. Punishment for extortion
- 385. Putting person in fear of injury in order to commit extortion
- 386. Extortion by putting a person in fear of death or grievous hurt
- 387. Putting person in fear of death or of grievous hurt, in order to commit extortion
- 388. Extortion by threat of accusation of an offence punishable with death or imprisonment for life, etc.
- 389. Putting person in fear of accusation of offence, in order to commit extortion

Of Robbery and Dacoity

- 390. Robbery, when theft is robbery, when extortion is robbery
- 391. Dacoity
- 392. Punishment for robbery
- 393. Attempt to commit robbery.
- 394. Voluntarily causing hurt in committing robbery
- 395. Punishment for dacoity
- 396. Dacoity with murder
- 397. Robbery or dacoity, with attempt to cause death or grievous hurt
- 398. Attempt to commit robbery or dacoity when armed with deadly weapon
- 399. Making preparation to commit dacoity
- 400. Punishment for belonging to gang of dacoits
- 401. Punishment for belonging to gang of thieves
- 402. Assembling for purpose of committing dacoity

Of Hijacking

- 402-A. Hijacking
- 402-B. Punishment for Hijacking
- 402-C. Punishment for harbouring hijacking etc.

Of Criminal Misappropriation of Property

- 403. Dishonest misappropriation of property
- 404. Dishonest misappropriation of property possessed by deceased person at the time of his death

Of Criminal Breach of Trust

- 405. Criminal breach of trust

- 406. Punishment for criminal breach of trust
- 407. Criminal breach of trust by carrier, etc.
- 408. Criminal breach of trust by clerk or servant
- 409. Criminal breach of trust by public servant, or by banker, merchant or agent

Of Receiving of Stolen Property

- 410. Stolen property
- 411. Dishonestly receiving stolen property
- 412. Dishonestly receiving stolen property in the commission of a dacoity
- 413. Habitually dealing in stolen property
- 414. Assisting in concealment of stolen property

Of Cheating

- 415. Cheating
- 416. Cheating by personation
- 417. Punishment for cheating
- 418. Cheating with knowledge that wrongful loss may ensue to person whose interest offender is bound to protect
- 419. Punishment for cheating by personation
- 420. Cheating and dishonestly inducing delivery of property

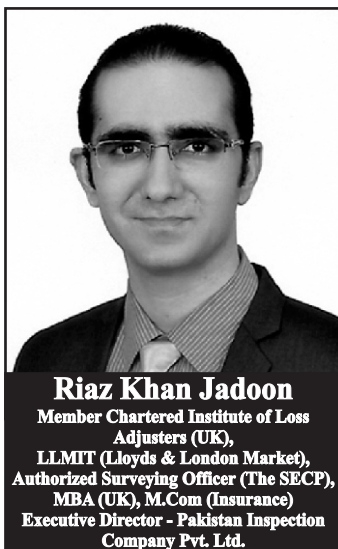


Currently the Insurance industry is not fully following the law of land while defining the above terms while granting insurance cover. After occurrence of loss FIR under relevant section is registered which describe the nature and type of offence? IAP needs to follow it and give a proper consideration to this issue. There is major difference in severity of offence in theft, burglary, aggravated burglary, robbery, dacoity, misappropriation, cheating etc. Putting all or majority of risks under one head like theft is not proper and needs to be revisited according to the law of land.

Keeping in view the existing law of land the Insurance companies should avoid giving any other meanings to these terms. According to the severity of offence proper risk categories should be assigned by charging due rate of premium.

Large numbers of law cases are available to put valuable light on the subject so lot more is required to be discussed which will be released in next episode.





Uberrimae Fides Utmost Good Faith

The Latin phrase “Uberrimae fides” may seem slightly strange at a first glance, as it is unusual for Insurance Professionals to use it in our local Insurance Industry. However, Professionals in more mature Insurance Market are well aware of that the Latin phrase is a synonymous for “Utmost Good Faith”. Being the first principal of Insurance, it would be outrageous if any Insurance Professional may not know the literal meaning of this universally used phrase. In layman terms, it generally means that both parties to an Insurance Contract, i.e. the Insurer and the Policyholder, must deal in Good Faith, making a full declaration of all Material Facts at the time of Insurance Proposal and signing of the Insurance Contract.

The principle of “Utmost Good Faith” requires anyone seeking Insurance protection to disclose all Material Facts about the Risk that he / she knows, or should know to the best of knowledge. A Material Fact has been defined in a number of Legal Cases, and broadly, it is any fact which may influence the judgment of a prudent Underwriter in

deciding whether to accept a Risk and if so at what rate of premium. In this context, the principal case is that of *Carter V Boehm* (1766), quoting Lord Mansfield:

“The special facts lie most commonly in the knowledge of the Insured only: the underwriter trust to his



representation and proceeds upon confidence that he does not keep back any circumstance in his knowledge to misled the underwriter.... and to induce him to estimate the risk, as if it did not exist.”

It must be noted that this is a Condition Precedent to the Insurance

Contract. In case, the Material Facts have been misrepresented or non-disclosed and a Claim is made on the Policy, the incorporated clause will allow the Insurers to utilize the opportunity of avoiding the policy at their option. Thus, a Misrepresentation or Non-disclosure about Material Facts on the part of

Policyholder can give the Insurer the right to cancel the Insurance Policy or refuse a Claim. An Insurer may do this only if the Misrepresentation / Non-disclosure was Material to the Risk Insured against and would have influenced the Insurer in determining whether to issue or not to issue an Insurance Policy. It may be noted though that the decision to avoid the Policy will rest with the Insurers.

The remedies to deal with Misrepresentation and Non-disclosure available to the Insurers are Avoiding or Cancelling the Insurance Policy as well as proceeding with it on case-to-case basis at the Insurer's own option. Misrepresentation / Non-disclosure may be categorized into one of the following three categories:

1) Deliberate Misrepresentation / Non-disclosure is tantamount to fraud. It entitles the Insurer the right to avoid the Policy and retain the premium received against Insurance Policy. Thus, the Policyholder does not receive any refund.

2) Reckless Misrepresentation / Non-disclosure is when it is established that the Policyholder had been negligent and did not care about accuracy of the information. It also entitles the Insurer to avoid the Policy. However, premium must be returned to the Policyholder.

3) Inadvertent Misrepresentation / Non-disclosure is when the Policyholder acted in Good Faith but inadvertently got an answer wrong. Conditions to deal with this sort of Misrepresentation / Non-disclosure may vary on case-to-case basis. Insurers do possess the right to rely on their Strict Legal rights and may avoid the Policy. In some cases, Insurers may also opt to proceed with the Insurance Coverage due to commercial considerations.

At the time of entering into Insurance Contract, many Policyholders sign it without caring to inquire about Clauses put forth by the Insurers. Premium is what only majority of

Policyholders cares about at the initial stage. As a consequence, disputes arise between the Insurer and the Policyholder regarding Policy Coverage and Indemnity issues.

Loss Adjuster & Surveyors may often come across the question that what constitutes a Material Fact posed by the Policyholders at a time when their Insurance Claims are at stake. It may also be unreasonable to hold only them accountable for this sordid state as expecting Policyholders to understand terminologies like Insurable Interest, Indemnity, and Subrogation etc. would be way too much when these are even not understood by majority of Agents who sell it to them.

It is of utmost significance that Insurance Clauses and their implications are well understood generally by the Policyholders and particularly by the Insurance Agents / Brokers so that they can properly guide the Policyholders prior to the issuance of the Insurance Policy to them. This will ensure that conflicts between the Insurers and Policyholders are avoided at a later



stage when the same would have been sorted out initially. Thus, it is essential that we embark upon the Training and Education of not only Insurance Agents / Brokers but also all other Insurance Professionals besides Insuring Public and Entities in today's Insurance development environment in our country.

It is encouraging to see that Securities & Exchange Commission of Pakistan (SECP) and Pakistan Insurance Institute (PII) have been quite vigorous to pursue and meet the challenging needs of Insurance Industry. It must also be appreciated that PII has come up with Training Courses to meet the Professional Mentoring needs of Insurance Agents / Brokers which will accrue in the development of those who are the primary contacts of Policyholders for their Insuring needs.





Nasir Siddique
Dip. CII (UK), MBA (I & RM)
Assistant Manager (Re-insurance)
Adamjee Insurance Co. Ltd

Home Insurance Benefits for Individuals

Home insurance is a type of insurance policy in which the home along with its contents and other possessions of the homeowner is insured against theft or accidents that may occur in that particular home. Basically, the term home insurance includes he insurance structure for two different criteria's. The insurance for the home and then the insurance for the contents of the house, that cover the household objects and as well as the other valuables.

Homeowner's policy is referred to as a multiple-line insurance policy, meaning that it includes both property insurance and liability coverage, with an indivisible premium, meaning that a single premium is paid for all risks. The cost of homeowner's insurance often depends on what it would cost to replace the house and which additional endorsements or riders are attached to the policy. The insurance policy is a legal contract between the insurance company and the named

insured(s). It is a contract of indemnity and will put the insured back to the state he/she was in prior to the loss. Typically, claims due to floods or war (whose definition typically includes a nuclear explosion from any source) are excluded from coverage, amongst other standard exclusions. Special insurance can be purchased for these possibilities,

insured must pay the insurer the premium each term. Most insurers charge a lower premium if it appears less likely the home will be damaged or destroyed: for example, if the house is situated next to a fire station or is equipped with fire sprinklers and fire alarms; if the house exhibits wind mitigation measures, such as hurricane shutters; or if the house has

a security system and has insurer-approved locks installed.

However, all insurance policies are not created alike, which makes it harder for the homeowners to decide which insurance policy will be better and cheaper for him. Usually

the premium paid and the level of protection offered by the insurance policy differs from policy to policy along with the premium and price.

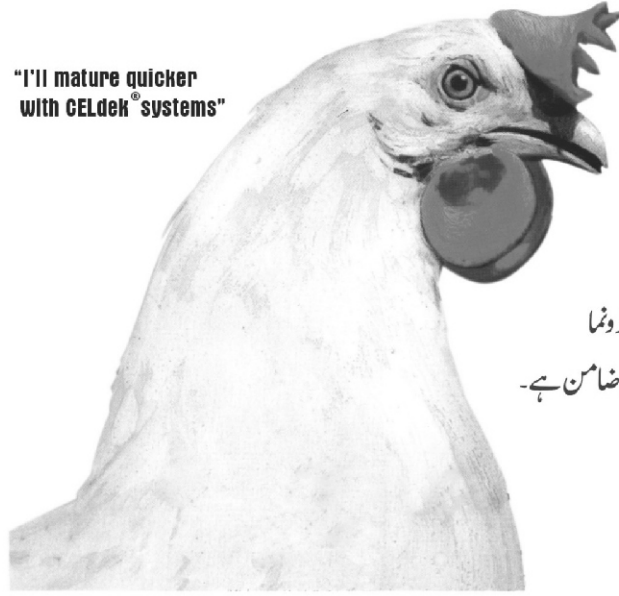
including flood insurance. Insurance is adjusted to reflect replacement cost, usually upon application of an inflation factor or a cost index.

The home insurance policy is usually a term contract, i.e. a contract that is in effect for a fixed period of time. The payment the insured makes to the insurer is called the premium. The

Homeowners should take special care and should make complete research before concluding and deciding on which insurance policy to be undertaken by them.



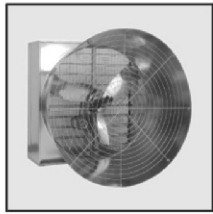
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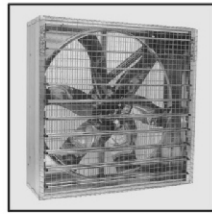
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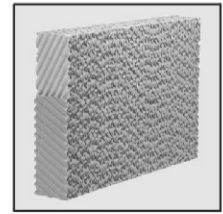
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There are steps available which would make the premium that the homeowner will have to pay, much less than what he would have had to pay otherwise.

Insurance policies are usually undertaken by homeowners to make sure that they don't ever run into financial losses and have to bear the grunt of it. Homeowners should try to seek a home policy which carries a low premium with it. The homeowners can come to take the benefit of it, only when they lower the risk associated with it.

Thus the homeowners should try to lower the risk associated with their home, in order to lower the risk for their insurance policy. Homeowners should make sure that they meet the security requirements of the insurance companies. They should fit locks and deadlocks at all the doors and windows, organize neighborhood watch patrol, and make sure that they fix theft alarms by recognized fitters. If the homeowners take these few steps to secure their home, then they can get the premium reduced to their liking and benefits.

However before making the security arrangements and using the security equipment's, the homeowners should



enquire whether the insurance companies would comply with the steps that the homeowners have taken to secure their home.

Homeowners should also try to lookout for different home insurers for the home and as well as for the contents of the home. Because, sometimes although the insurers charge low for the building insurance, but they charge a high price for the contents of the home. Thus it would be beneficial for the homeowners to look

and search for different insurance policies, because their aim should be to avail the cheapest home insurance.

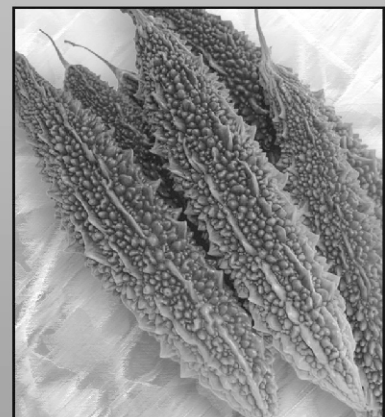
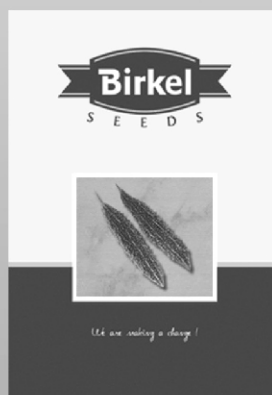
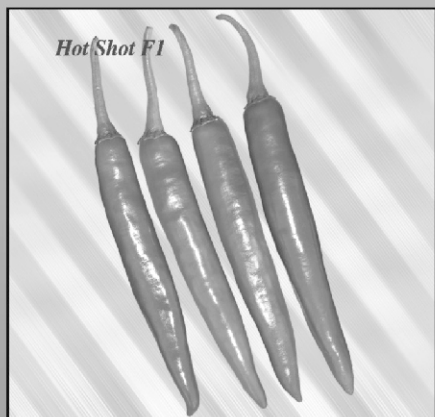
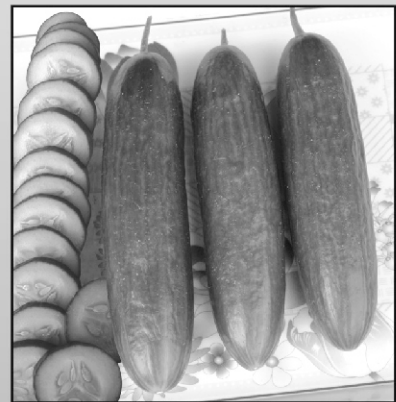
Furthermore, the homeowners should themselves lookout for cheap insurance policies instead of depending on the money lenders to provide them a scheme. They should themselves directly go and have a talk with the insurers or rather search in the web, which is very cost effective and as well as pretty fast.



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Bushra Shafiq Bangash
MBA (Marketing), MS (HR)
OG-I (General Banking)
National Bank of Pakistan

Leader

Leader! Who is a leader? If one asks a layman who is a leader he will reply Imran Khan or Nawaz Sharif. Each one of us can claim that we know who the leader is; but in reality no one can define or explain who the leader is and what qualities make a good leader. Whenever one glance at the pages of history the first question in his/her mind arises who is a leader? Is he someone who is born to lead people or is he someone who modifies himself in such a way that people start to follow him? Lifetime debate is required to answer the most asked question, "leaders are born or made?" Leader is a term, which is always taken in a positive way. People believe that leader is a person who wins the hearts of people and they follow him due to some motivation. As Martin Luther King, Jr. said "A genuine leader is not a searcher for consensus but a molder of consensus." Leader is a person who influences people.

According to Keith Davis, "Leadership is the ability to persuade others to seek defined objectives enthusiastically. It is the human factor which binds a group together and

motivates it towards goals."

Whitaker (2008) claims that leadership is widely studied topic among researchers. Leadership is not easy to define; Rejai and Phillips (1997) wrote a full chapter just to define leadership. Northhouse (2007, p3) defines leadership as a process in



which a person influence others and lead them to achieve a common goal with collaborative efforts. Yukl (2002) defines leadership effectiveness as a process in which leader achieves organizational goals by acknowledging his subordinates needs.

Leadership is not only explained by western philosophers but Islam through Quran has given us the concept of leadership as well. Leadership concept as written in Quran with the help of several verses such as:

Is it they who would portion out the Mercy of thy Lord? It is We who portion out between them their livelihood in the life of this world: and We raise some of them above others in ranks, so that some may command work from others. But the Mercy of thy Lord is better than the (wealth) which they amass. (Zukhruf, 33:32)

In the above verses concept of leadership and leader can be easily understand but it is also said that Allah is the merciful.

Give us (the grace) to lead the righteous (Al-Furqan, 25:74)

Here, the verses are referring towards prophets who lead humanity towards the right path.

The leader for all Muslims and the role model is only one personality and that

is Prophet Muhammad (P.B.U.H).

Ye have indeed in the Apostle of God a beautiful pattern (of conduct) (Al-Ahzab, 33:21)

History is full of great leaders like Abraham Lincoln and Nelson Mandela. They fought for the rights of their people and faced all kind of hardships first hand.

One of the quotes of Abraham Lincoln; "No man is good enough to govern another man without the other's consent."

Types of Leaders

Every leader has his own style of leadership, some believe on authority others believe on participation. Not one leadership style can be claimed as the best leadership style as each one has its plus and minus. Leadership styles may vary from situation to situation. There are numbers of leadership styles but few leadership styles are mostly adopted by leaders and here I will highlight few of them:

1. Autocratic Leaders make decisions without consulting their team members, even if their input would be useful. This can be appropriate when you need to make decisions quickly, when there's no need for team input, and when team



agreement isn't necessary for a successful outcome. However, this style can be demoralizing, and it can lead to high levels of absenteeism and staff turnover. Mostly leaders who don't believe on the abilities of their followers adopt this style.

2. Democratic Leaders make the final decisions, but they include team members in the decision-making process. They encourage creativity, and people are often highly engaged in

projects and decisions. As a result, team members tend to have high job satisfaction and high productivity. This is not always an effective style to use, though, when you need to make a quick decision. This type of style may take a lot of time and most of the times people may not come to the same conclusion.

3. Laissez-Faire Leaders give their team members a lot of freedom in how they do their work, and how they set their deadlines. This autonomy can lead to high job satisfaction, but it can be damaging if team members don't manage their time well, or if they don't have the knowledge, skills, or self-motivation to do their work effectively.

Leadership is such a vast topic that it is not possible to conclude it in few pages or even discuss one of its aspects in detail. According to me a leader must care about his followers, is energetic, achiever, decision maker, have strong emotional control and is realistic and not lives in fairy land.



2010 C L D 792**[Lahore]*****Before Mian Shahid Iqbal and
Nasir Saeed Sheikh, JJ*****GHULAM RAZA SAJID---Appellant****Versus****STATE LIFE INSURANCE CORPORATION
OF PAKISTAN and another---Respondents**

R.F.A. No. 16 of 2008, heard on 13th May, 2010

(a) Insurance Ordinance (XXXIX of 2000)-----

---S.121---Limitation Act (IX of 1908), Art.86---Application for enforcement of insurance policy claim---Limitation---Accidental death of policy holder on 10-10-1996---Filing of such application before Insurance Tribunal on 22-7-2006---Plea of applicant was that Insurance Ordinance, 2001 was promulgated on 19-8-2000, but cause of action to raise such claim before Insurance Tribunal arose on 20-6-2006 when the same was constituted for first time, thus, such application was within time---Plea of Insurance Company was that right to institute suit under Art.86 of Limitation Act, 1908 had become time barred before constitution of the Insurance Tribunal---Validity---Government had not constituted Insurance Tribunal prior to date 20-6-2006, thus, question of raising such claim before the Tribunal did not arise---Provisions of Art.86 of Limitation Act, 1908 would apply to suits instituted in civil courts under ordinary law, but not to such application before Insurance

Tribunal---Insurance Ordinance, 2001 had not specifically restricted entertainment of such claim, which might have become due after its promulgation---Constitution of Insurance Tribunal under Insurance Ordinance, 2001 vide Notification dated 20-6-2006 was an intimation to policy holders to seek enforcement of their claims from said Tribunal---Limitation for moving the Insurance Tribunal for enforcement of such claim would commence from the date when same was constituted for first time on 20-6-2006---Such application was within time in circumstances. [pp.796, 797] A, B & C

(b) Insurance Ordinance (XXXIX of 2000)-----

---S.121---Limitation Act (IX of 1908), Art.86---Qanun-e-Shahadat (10 of 1984), Art.71---Application for enforcement of insurance policy claim---Accidental death of policy holder, ground of---Plea of Insurance Company was that according to its investigation report, deceased was murdered---Production of such report in evidence in statement of company's

counsel during trial---Validity--- Such policy was operative till death of deceased and was not cancelled by company---Husband of deceased deposed on oath as witness, but company did not put to him any suggestion with respect to facts stated in such report---Person having conducted investigation and prepared such report had not been examined in court, thus, such report would have no legal authenticity---Claim application was accepted in circumstances. [p.797] D & E

*Liaqat Ali Butt for Appellant.
Mian Naseer Ahmed for Respondents.
Date of hearing 13th May, 2010.*

JUDGMENT

1. NASIR SAEED SHEIKH, J. -This R.F.A is directed against the judgment dated 19-12-2007 pronounced by learned Additional District Judge-I, Lahore exercising powers of Insurance Tribunal constituted under section 121 of the Insurance Ordinance No. XXXIX of 2000.

2. Mst. Misbah Yasmin was a policy

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holder of respondent No.1 and she died on 10-10-1996. This death was accidental and a claim with respect to the group insurance was raised before the Federal Ombudsman or the recovery of group claim in the year, 1999 which was allowed vide order dated 2-4-2000. Against which order the respondent / Insurance Corporation made a representation to the President under section 32 of the office of Establishment of Federal Ombudsman 1983. This representation was dismissed by the President as barred by time. In the meantime, Ordinance No. XXXIX of 2000 was enforced by the President of Pakistan on 19-8-2000 whereby a provision was made for the constitution of Special Tribunal under section 121 of the Insurance Ordinance of 2000, for entertaining and disposing of the claims of the policy holders of the respondent / Insurance Corporation. No Tribunal under the provision of section 121 of the Insurance Ordinance of 2000, was constituted till 20-6-2006 when a notification was issued by Law Justice and Human Right Division, in exercise of powers under section 121 of the Insurance Ordinance of 2000, and the Federal Government constituted Special Tribunals for entertaining and deciding the claims of the policy holders and the respondent/insurance corporation.

3. The appellant moved an application dated 22-7-2006 before the learned Additional District Judge, Lahore, exercising powers of Insurance Tribunal, Punjab for recovering the policy proceeds under the Policy No.507669516-4 of Rs.1,00,000. It is pertinent to mention that the appellant was the husband of the deceased Mst. Misbah Yasin.

4. This claim application was contested by respondent/ Insurance Corporation and following issues were framed by the learned Insurance Tribunal:-

(1) Whether the petition is barred by

time? OPR.

(2) Whether the petition is liable to rejection in view of preliminary objection Nos.2, 3, 5, 6, and 7? OPR.

(3) Whether the petition is hit by principal of res Judicata? OPR.

(4) Whether the petitioner is entitled to policy proceeds, along with liquidated damages, if so, to what extent? OPP.

(5) Relief.

5. The parties produced their respective evidence and the learned Insurance Tribunal rejected the claim of the appellant vide judgment dated 19-12-2007, hence the instant appeal.

6. It is contended by the learned counsel for the appellant that the learned Tribunal has decided the claim application in an illegal manner. The learned counsel argued that although the statute under which the Insurance Tribunal was constituted was promulgated on 19-8-2000 but no Tribunal was established under the provisions of section 121 of the Insurance Ordinance of 2000, and that the Tribunal having been constituted for the first time through a notification dated 20-6-2006, therefore, the appellant got a right to move for the recovery of the insurance policy claim and the limitation for the purposes of enforcement of said claim arose from the date when the Insurance Tribunal was constituted. It is further contended by the learned counsel for the appellant that the learned Tribunal while recording its finding on the issue No.1 did not advert to this aspect of the matter and incorrectly applied the provisions of Article 86 of the Limitation Act of 1908, upon the facts and circumstances of the present case.

7. The learned counsel then argued that the finding with respect to the question of application of principle of res judicata was also illegally decided

by the learned Insurance Tribunal as admittedly the writ petition which was instituted by the petitioner, was not decided on merits which facts has not been controverted by the learned counsel for the respondent and it was argued that only parawise comments were requisitioned in the said writ petition and no final decision was pronounced. The learned counsel has also assailed the finding of the learned Tribunal recorded on issue No.4 whereby the learned Tribunal has rejected the claim of the appellant on the ground that the death of the wife of the appellant was found to be a murder by the respondent and therefore the appellant was declined the relief of the recovery of Insurance claim by the learned Tribunal.

8. Conversely, the learned counsel for the respondent has contested the appeal by arguing that the limitation for the recovery of the insurance policy claim commenced from the date of death of the wife of the appellant which took place on 10-10-1996 and therefore, the provisions of Article 86 of the Limitation Act of 1908, were rightly applied by the learned Insurance Tribunal. It was however, conceded by the learned counsel for the respondent that the writ petition instituted by the petitioner, which has been made the basis for the recording of finding on issue No.3 by the learned Tribunal against the appellant, was not decided on merits and only parawise comments were requisitioned in the said writ petition by the High Court. While defending the finding recorded by the learned Tribunal on issue No.4 learned counsel for the respondent contends that the respondent / Insurance Corporation conducted an investigation into the cause of the death of the deceased Mst. Misbah Yasmin was reported to be a murder in the said report, therefore, the insurance policy claim was rightly declined by the learned Tribunal, to the appellant.

9. We have considered the arguments

of the learned counsel for the parties and with their assistance have perused the record.

10. The provisions of Article 86 of the Limitation Act of 1908 are applicable to the suits instituted under the ordinary civil law before the civil courts. The claim sought to be recovered by the appellant before the learned Tribunal was raised through an application before the learned Tribunal which Tribunal was constituted for the first time through the notification dated 20-6-2006 issued by the Government of Pakistan, Law Justice and Human Right Division, and copy of which notification has been placed on the record of this R.F.A. Admittedly, statute on the basis of which the insurance policy of the respondent/Insurance corporation where to be enforced was promulgated on 19-8-2000, therefore we are of the view that cause of action to raise a claim for the enforcement of the insurance policy before the learned Insurance Tribunal arose when the Insurance Tribunal was constituted. Prior to the date of 20-6-2006 as there was no Tribunal constituted by the Federal Government, no question of raising the claim before the Tribunal with respect to the enforcement of an Insurance policy arises. The provisions of article 86 of the limitation Act of 1908, are applicable to a suit instituted under the ordinary law, therefore, the learned Insurance Tribunal misconstrued the provisions of Article 86 of the Limitation Act of 1908, for non-suiting the appellant under the provisions of Insurance Ordinance of 2000, which envisaged moving of an application before the Tribunal for enforcement of the insurance claim by a policy holder.

11. We are also inform that a claim with respect to the recovery of insurance group policy was raised by the appellant before the Federal Ombudsman in the year, 1999, which claim was granted to the appellant by

the Federal Ombudsman vide order dated 2-4-2000 against which a representation was made by respondent / Insurance Corporation before the President of Pakistan, which representation of the respondent/Insurance Corporation was dismissed as barred by time through an order dated 24-10-2000. The contention of the learned counsel for the respondent that as the right of the appellant to institute the suit under the Ordinary law as become time barred by applying the provisions of the article 86 of the Limitation Act of 1908, therefore, the application moved before the learned Insurance Tribunal was barred by time, is not entertain able by this court as the special law was promulgated in the year, 2000, an Ordinance No. XXXIX of 2000 and a Special Tribunal was constituted for entertaining the claims of the Insurance policy holders. This special law did not specifically restrict the entertainment of the insurance policy claims which might have become due after the promulgation and enforcement of the Ordinance of 2000, therefore, we cannot subscribed to the arguments addressed by the learned counsel for the respondent that under the Insurance Ordinance 2000, the claim of the appellant had become barred by time on account of the death of the deceased having taken place on 10-10-1996.

12. In our view, the constitution of the Tribunal under the special law vide notifications dated 20-6-2006, gave rise an intimation to the insurance policy holders to seek enforcement for their claims from the learned Insurance Tribunal constituted under the ordinance of 2000, therefore, in our opinion the limitation for moving the Tribunal for the enforcement of insurance policy claim will commence from the date when the Tribunal was constituted for the first time on 20-6-2006. In this context, the Article 86 of the limitation Act of 1908, will not cover the cases of those claimants who move the learned Insurance Tribunal for the purposes of

the Insurance policies claim through constitution of the Tribunal constituted under the Ordinance of 2000. Thus the finding of the learned Tribunal of holding the claim as move before the Insurance Tribunal to be barred by time is not sustainable and is set aside.

13. The finding of the learned Tribunal on issue No4 is also legally defective. The arguments of the learned counsel for the respondent that the Insurance Corporation conducted an investigation into the cause of death of the deceased Mst. Misbah Yasmin which report was produced in the statement of the learned counsel for the respondent during the trial, cannot be given any recognition or importance because without producing the person who conducted the investigation and prepared the investigation report, it cannot be held that report being relied upon by the learned counsel for the respondent is of any legal authenticity. There is no denial of the fact that insurance policy subsisted in respect of Mst. Misbah Yasmin till the time of her death and this insurance policy was not canceled by the respondent / Insurance Corporation till date and was enforceable. The appellant appeared before the learned Tribunal as P.W.1 and made a statement on oath and no suggestion was put to the said P.W./appellant even with respect to the facts stated in the investigation report being relied upon by the learned counsel for the respondent in his arguments.

14. In view of all the above circumstances, the instant R.F.A is accepted and impugned judgment passed by the learned Insurance Tribunal dated 19-12-2007 is set aside and the claim application has moved by the appellant is order to be accepted with no orders as to costs.

S.A.K./G/38/L

Appeal accepted.

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