

# **HISTORY OF INSURANCE LA W**

**ASST.PROF. VITTHAL S. MAIND**

**Dayanand college of Law, Latur**

# HISTORICAL DEVELOPMENT

- The origin of insurance is lost in antiquity. The main concept of insurance that of spreading risk has been arose since the starting of human existence.
- Insurance has been an institution of human society for thousands of years, **Babylonian, Chinese, and Indian traders practiced various methods of transferring or distributing risk in a monetary economy in the 3rd and 2<sup>nd</sup> BC, respectively .**
- The Babylonions developed a system which was recorded in the famous code of Hammurabi.
- The HAMMURABI CODE was one of the first forms of written laws.
- Chinese merchants traversing treacherous river rapids would redistribute their wares across many vessels to limit the loss due to any single vessel's capsizing. It is called as **jettison**.

- Insurance in some form is as old as historical society. So-called **bottomry contracts** were known to merchants of **Babylonian** city of Mesopotamian civilization (contemporary of Haddpan civilisation) as early as 4000–3000 BCE.
- Bottomry was also practiced by the Hindus in 600 BCE and was well understood in ancient Greece as early as the 4th century BCE. Under a bottomry contract, loans were granted to merchants with the provision that if the shipment was lost at sea the loan did not have to be repaid.
- The interest on the loan covered the insurance risk. Ancient Roman law recognized the bottomry contract in which an article of agreement was drawn up and funds were deposited with a money changer. Marine insurance became highly developed in the 15th century.

## • **King Hammurabi's Code and Early Insurance**

- By some accounts, the earliest written insurance policy appeared in ancient times on a Babylonian monument with the code of King Hammurabi carved into it. Hammurabi's Code was one of the first examples of written laws.
- These ancient laws were extreme in most respects, but one offered basic insurance in that a debtor didn't have to pay back their loans if some personal catastrophe made it impossible (disability, death, flooding, etc.).
- Fire insurance arose much later, obtaining impetus from **the Great Fire of London in 1666**. After this disaster Nicholas Barbon opened an office to insure buildings. In **1680** he established England's 1<sup>st</sup> fire insurance company, **the fire office**. The number of insurance companies were started in England after 1711, during the so-called bubble era.

- Many of them were fraudulent, get-rich-quick schemes concerned mainly with selling their securities to the public. Nevertheless, two important and successful English insurance companies were formed during this period—**the London Assurance Corporation and the Royal Exchange Assurance Corporation**. Their operation marked the beginning of modern property and liability insurance.
- **Amicable society for a perpetual Assurance** considered the 1<sup>st</sup> life insurance company in the world, it was established in London on **25<sup>th</sup> July 1706**.
- No discussion of the early development of insurance in **Europe** would be complete without reference to **Lloyd's of London**, the international insurance market.

- In the late 1600s, shipping was just beginning between the New World and the Old, as colonies were being established and exotic goods were ferried back. The **practice of underwriting** emerged in the same London coffeehouses that operated as the unofficial stock exchange for the British Empire. A coffeehouse owned by Edward Lloyd, later of **Lloyd's of London**, was the primary meeting place for merchants, ship owners, and others seeking insurance.
- **Lloyd's of London**, the international insurance market began in the 17th century as a coffeehouse patronized by merchants, bankers, and insurance underwriters, gradually becoming recognized as the most likely place to find underwriters for marine insurance. Lloyd's was reorganized in 1769 as a formal group of underwriters accepting marine risks. With the growth of British sea power, Lloyd's became the dominant insurer of marine risks, to which were **later added fire and other property risks**. Today Lloyd's is a major reinsurer as well as primary insurer.

- In India, even from the days of Indus Valley civilization, the provision of taking care of the dependents of those dying was practised. Further, the concept of joint family system in itself is a method taking care of the dependents of those who die prematurely. Concepts of insurance has been also found in 3rd century BCE Hindu scriptures such as Dharmasastra, Arthashastra and Manusmriti.
- In Manu, Manav Dharma Shashtra - there are mentions about taking care of the dependents of those dying as also taking care of people during in old age. The term **Yogakshema** is found in Rig veda thereby indicating the existence of some type of joint family system even 3000 yrs ago.
- In the times of Buddha, mention about the existence of BURIAL SYSTEM is available, thereby indicating the concept of mutual welfare, which is nothing but the life insurance in action.

- The Greeks and Romans c. 600 BC set up guilds called "**benevolent societies**", which cared for the families of deceased members, as well as paying funeral expenses of members.
- Guilds in the Middle Ages had similar practices.
- The Jewish Talmud deals with several aspects of insuring goods.
- Before modern-style insurance became established in the late 17th century, "**friendly societies**" existed in England, in which people donated amounts of money to a general sum that could be used for emergencies.

- However evidence are on record which show that earliest form of insurance was in the nature of marine trade. Then came fire insurance and life insurance and later on the miscellaneous insurance.

Marine Insurance

```
graph TD; A[Marine Insurance] --> B[Fire Insurance]; B --> C[Life Insurance]; C --> D[Miscellaneous Insurance];
```

Fire Insurance

Life Insurance

Miscellaneous Insurance

- **Marine Insurance:-** The marine insurance business probably began in **North Italy** by the end of 12<sup>th</sup> century. Marine Insurance The oldest and the earliest records of marine policy relates to a **Mediterranean voyage in 1347**. Marine Insurance spread from Italy trading routes in other countries of Europe.
- **Marine Insurance in India:-** It was the British, insurers who introduced general insurance in India, in its modern form.
- The Britishers opened general insurance in India around the year 1700.
- The first company, known as the **Sun Insurance Office Ltd.** Was set up in Calcutta in the year 1710.
- In 1972, the government of India nationalized the general insurance business by forming GIC.

- **2. Life Insurance :-** The early developments of life insurance were closely linked with that of marine insurance. The first insurers of life were the marine insurance underwriters who started issuing life insurance policies on the life of master and crew of the ship and the merchants. The early insurance contracts took the nature of policies for a short period only. The underwriters issued annuities and pension for a fixed period or for life to provide relief to widows on the death of their husbands. The first life insurance policy was issued on 18<sup>th</sup> June 1583, on the life of **William Gibbons** for a period of 12 months.

- **Life Insurance in India:-** The British companies started life insurance business in India, by issuing policies exclusively on the lives of European soldiers and civilians. They sometime issued policies on the lives of Indians by charging extra. Different insurance companies like Bombay Insurance Company LTD.(1793) and Oriental Life Assurance Company (1818) was established to issue the assurance policies in India. Gradually, **the first Indian Company named as Bombay Mutual Life Insurance Society Ltd. was formed in Dec. 1870.** By 1971, the total numbers of companies working in India were 15, out of which 7 were Indian and the remaining were British companies, After several changes have been made for the period from 1930 to 1938, the Government of India passed Insurance Act, 1938. The act still deals to all kinds of insurance business by instituting necessary amendments from time to time.

- **3. Fire Insurance :-** Fire insurance has its origin in **Germany** where it was introduced in municipalities for providing compensation to owners of the property, in return of an annual contribution, based on the rent of those premises. The fire insurance in its present form started after the most disastrous fire in human history known as the **'Great Fire'** in London, which had destroyed several buildings. In **1680** established England's 1<sup>st</sup> fire insurance company, **the fire office**. The number of insurance companies were started in England after 1711. The 19<sup>th</sup> century marked the development of fire insurance.
- **Fire Insurance in India :-** In India, fire insurance was started during the British regime. The oldest of these companies include the **Sun Insurance Office**, Calcutta (1710). **London Assurance and Royal Exchange Assurance** (1720) **Phoenix Assurance Company** (1782), etc.

- **4. Miscellaneous Insurance :-** Due to the increasing demands of the time, different forms of insurance have been developed. Industrial Revolution of 19th century had facilitated the development of accidental insurance, theft and dacoit, fidelity insurance, etc. In 20th century, many types of social insurance started operating, viz., unemployment insurance, crop insurance, cattle insurance, etc. This way the business of insurance developed simultaneously with human and social development. Today, the use of computers in the field of insurance is frequently increasing. Now Insurance becomes an inseparable part of human development.

# INSURANCE IN INDIA

1. History of life insurance

2. History of general insurance

## HISTORY OF LIFE INSURANCE :-

- The history of insurance in India can be understood in 2 parts ;
- Part 1 :- prior to the year 1912 ( before 1912 India had no legislation to regulate insurance business )
- Part 2 :- after 1912 when the life insurance companies act, and the provident fund act were passed

- **1818** :- Life Insurance business introduced in India through **Oriental Life Insurance Company (Calcutta)**
- 1829 :- Madras Equitable started life insurance in the Madras Presidency
- 1834 :- Failure of the Oriental Life Insurance Company
- **1870** :- **Bombay Mutual life Assurance Society** was established.  
**This was the 1<sup>st</sup> Indian life insurance company**
- 1871 :- Set up of Bombay Mutual
- 1874 :- Set up of Oriental
- 1897 :- Set up of Empire of India

- **1912 :-** Life Insurance Companies act 1912 was passed. This act of 1912 made it necessary that the premium rate tables and periodical valuation of companies should be certified by an actuary. ( one who calculates the premium). However, this Act discriminated between foreign and Indian companies on many accounts and gave priority to the foreign companies putting the Indian companies at disadvantage.

- 1914 :- Government of india published returns of the Insurance Companies in India

- 1928 :- Indian Insurance Companies Act enactment to enable the government to collect statistical data about the life and non-life business transacted in the country by both Indian as well as foreign insurers

- **1938** :- The Insurance Act 1938 was passed. It was the 1<sup>st</sup> legislation governing both life insurance and non-life insurance. It was aimed at providing strict state control over insurance business.
- **1944** :- now a time came when demand for Nationalization of life insurance industry gained momentum.
- **19th January 1956** :- the life insurance sector in India was nationalized and the LIC (Life Insurance Corporation) was set up. 245 Indian and foreign insurers & provident societies were taken over by the Central Government and nationalised. **The life insurance Corporation of India was created on 1<sup>st</sup> September 1956.**

## • History of general insurance in India

- **1850** :- General Insurance came to India with the establishment of **Triton insurance company Ltd.**, in the year 1850. It was established by the British in Calcutta.
- **1907** :- **Indian Mercantile Insurance Ltd.**, was set up. This was the 1<sup>st</sup> company to transact all classes of general insurance business in India.
- **1957** :- **General Insurance Council** was formed, it was a wing of the Insurance Association of India. The general insurance Council framed a code of conduct for ensuring fair conduct and sound business practices.
- **1968** :- The insurance act was amended with an aim to regulate investments and set minimum solvency margins. The tariff Advisory committee was also set up in 1968.

- **1972 and 1973** :- Nationalization of General Insurance in India. The general insurance business in India was nationalized by **General Insurance Business (Nationalization) Act 1972 ( GIBNA )**. However, after this general insurance business was nationalized with effect from **1<sup>st</sup> JANUARY 1973** with the formation of **general insurance Corporation of India**.
- **General insurance Corporation of India ( GIC )** was formed for the purpose of controlling, superintendent and carrying on the business of general insurance in India.
- For this **107** insurer were amalgamated and grouped into 4 companies, namely
  - **NATIONAL INSURANCE COMPANY Ltd.**
  - **THE NEW INDIA ASSURANCE COMPANY Ltd.**
  - **THE ORIENTAL INSURANCE COMPANY Ltd.**
  - **THE UNITED INDIA INSURANCE COMPANY Ltd.**

- **General Insurance Corporation of India ( GIC )** Was formed in pursuance of section 9(1) of GIBNA.
- The general insurance Corporation of India was incorporated as a company in 1971 and it commenced business on **January 1<sup>st</sup> 1973.**

## Common developments in life insurance and General Insurance

**1993 :- Malhotra committee Report** for the establishment of IRDA. The government had set up a committee under the Chairmanship of RN. MALHOTRA, former governor of the RBI, to make recommendations for reforms in the insurance sector.

The Malhotra committee submitted it's report in 1994. The report pitched for establishment of the **Insurance Regulatory and Development Authority IRDA** an autonomous body to regulate and develop the insurance sector. Following the recommendations of Malhotra committee IRDA was constituted in **1999**.

- **2000** :- Insurance Regulatory and Development Authority Act, 1999 was passed, the IRDA incorporated as a statutory body in April 2000. With IRDA Act 1999 coming into force the insurance industry was opened up to the **private sector**.
  - This Act introduced an amendment to GIBNA and the Insurance Act, 1938
  - An Amendment to GIBNA removed the exclusive privilege of GIC and its subsidiaries carrying on general insurance in India.
- **2000** :- The 4 subsidiaries of GIC were converted into independent companies while GIC was converted into a national re-insurer.
- **Re insurer** :- a reinsurer company is one that insures the risks of other insurance companies.

- **July 2002** :- parliament passed a **Bill to de-link the four subsidiaries from GIC . The general Insurance business(Nationalization) Amendment Act, 2002 came into force on March 21, 2003.**
- With this GIC ceased to be a holding company of it's 4 subsidiaries. And the ownership of 4 subsidiaries and GIC was taken over by the Government of India.
- Presently **34 general insurance companies** including the Export Credit Guarantee Corporation of India (ECGC) and Agriculture Insurance Corporation of India and **24 life insurance companies** are operational in India.

- Recently, the Ministry of Finance amended Indian Insurance Companies (Foreign Investment) Rules, 2015 and clarified on the final rules for increased FDI (Foreign Direct Investment) in the Insurance Sector. \_
- Parliament had passed the Insurance Amendment Bill 2021 to increase the FDI limit in the insurance sector to 74% from 49%.
- The Ministry of Finance has notified 'Indian Insurance Companies (Foreign Investment) Amendment Rules, 2021'.
- Insurance penetration in India is currently at 3.7% of the Gross Domestic Product (GDP) compared to the world average of 6.31%.
- The Insurance Regulatory and Development Authority of India (IRDAI) has mooted the concept of '**Model Insurance Village (MIV)**' to boost insurance penetration in rural areas.