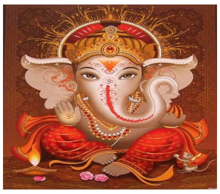


CASE STUDY-NOV 42- PROCEDURE FOR MARINE INSURANCE CLAIM

QUESTION: *Emmanuel sent one consignment to Ireland on 5th May 2021. The consignment was lost in sea and did not reach the destination. Explain him the procedure for making marine insurance claim.*

APPLICABLE PROVISIONS

IMPORTANT PROVISIONS OF THE MARINE INSURANCE ACT, 1963
APPLICABLE ON LOSS ASSESSEMENT AND PAYMENT

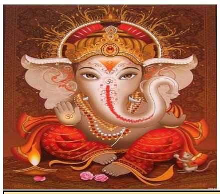
SECTION 67-EXTENT OF LIABILITY OF INSURER FOR LOSS. *—*
(1) The sum which the assured can recover in respect of a loss on a policy by which he is insured, in the case of an unvalued policy to the full extent of the insurable value, or, in the case of a valued policy to the full extent of the value fixed by the policy, is called the measure of indemnity.

(2) Where there is a loss recoverable under the policy, the insurer, or each insurer if there be more than one, is liable for such proportion of the measure of indemnity as the amount of his subscription bears to the value fixed by the policy in the case of a valued policy, or to the insurable value in the case of an unvalued policy.

SECTION 68- TOTAL LOSS*. —Subject to the provisions of this Act, and to any express provision in the policy, where there is a total loss of the subject-matter insured—*
(1) if the policy be a valued policy, the measure of indemnity is the sum fixed by the policy;
(2) if the policy be an unvalued policy, the measure of indemnity is the insurable value of the subject-matter insured.

SECTION 69-PARTIAL LOSS OF SHIP*. —Where a ship is damaged, but is not totally lost, the measure of indemnity subject to any express provision in the policy, is as follows—*
(1) where the ship has been repaired, the assured is entitled to the reasonable cost of the repairs, less the customary deductions, but not exceeding the sum insured in respect of any one casualty;

CS DEEPAK P. SINGH
(B.Sc. LLB FCS AIII CIAFP)
Mobile No. +91 9920830041/7506904961
Email ID: cs.deepakpsingh@gmail.com/ask.csdeepakpsingh@gmail.com



(2) where the ship has been only partially repaired, the assured is entitled to the reasonable cost of such repairs, computed as above, and also to be indemnified for the reasonable depreciation, if any, arising from the unrepaired damage, provided that the aggregate amount shall not exceed the cost of repairing the whole damage, computed as above;

(3) where the ship has not been repaired, and has not been sold in her damaged state during the risk, the assured is entitled to be indemnified for the reasonable depreciation arising from the unrepaired damage, but not exceeding the reasonable cost of repairing such damage, computed as above;

(4) where the ship has not been repaired and has been sold in her damaged state during the risk, the assured is entitled to be indemnified for the reasonable cost of repairing the damage, computed as above, but not exceeding the depreciation in value as ascertained by the sale.

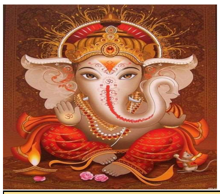
SECTION 70-PARTIAL LOSS OF FREIGHT.—Subject to any express provision in the policy, where there is a partial loss of freight, the measure of indemnity is such proportion of the sum fixed by the policy in the case of a valued policy or of the insurable value in the case of an unvalued policy, as the proportion of freight lost by the assured bears to the whole freight at the risk of the assured under the policy.

SECTION 71- PARTIAL LOSS OF GOODS, MERCHANDISE, ETC.—Where there is a partial loss of goods, merchandise, or other movable, the measure of indemnity, subject to any express provision in the policy, is as follows: —

(1) where part of the goods, merchandise or other movable insured by a valued policy is totally lost, the measure of indemnity is such proportion of the sum fixed by the policy as the insurable value of the part lost bears to the insurable value of the whole, ascertained as in the case of an unvalued policy;

(2) where part of the goods, merchandise or other movable insured by an unvalued policy is totally lost, the measure of indemnity is the insurable value of the part lost, ascertained as in case of total loss;

CS DEEPAK P. SINGH
(B.Sc. LLB FCS AIII CIAFP)
Mobile No. +91 9920830041/7506904961
Email ID: cs.deepakpsingh@gmail.com/ask.csdeepakpsingh@gmail.com



(3) where the whole or any part of the goods or merchandise insured has been delivered damaged at its destination, the measure of indemnity is such proportion of the sum fixed by the policy in the case of a valued policy, or of the insurable value in the case of an unvalued policy, as the difference between the gross sound and damaged values at the place of arrival bears to the gross sound value;

(4) "Gross value" means the wholesale price, or, if there be no such price, the estimated value, with, in either case, freight, landing charges, and duty paid beforehand; provided that, in the case of goods or merchandise customarily sold in bond, the bonded price is deemed to be the gross value. "Gross proceeds" means the actual price obtained at a sale where all charges on sale are paid by the sellers.

SECTION 72-APPORTIONMENT OF VALUATION. —

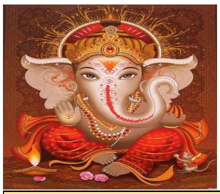
(1) Where different species of property are insured under a single valuation, the valuation must be apportioned over the different species in proportion to their respective insurable values, as in the case of an unvalued policy. The insured value of any part of a species is such proportion of the total insured value of the same as the insurable value of the part bears to the insurable value of the whole, ascertained in both cases as provided by this Act.

(2) Where a valuation has to be apportioned, and particulars of the prime cost of each separate species, quality, or description of goods cannot be ascertained, the division of the valuation may be made over the net arrived sound values of the different species, qualities, or descriptions of goods.

***SECTION 73-GENERAL AVERAGE CONTRIBUTIONS AND SALVAGE CHARGES**. —*

(1) Subject to any express provision in the policy, where the assured has paid, or is liable for, any general average contribution, the measure of indemnity is the full amount of such contribution if the subject-matter liable to contribution is insured for its full contributory value; but, if such subject-matter be not insured for its full contributory value, or if only part of it be insured, the indemnity payable by the insurer must be reduced in proportion to the under-insurance, and where there has been a particular average loss which constitutes a deduction from the contributory value, and for which the insurer is liable, that amount must be deducted from the insured value in order to ascertain what the insurer is liable to contribute.

CS DEEPAK P. SINGH
(B.Sc. LLB FCS AIII CIAFP)
Mobile No. +91 9920830041/7506904961
Email ID: cs.deepakpsingh@gmail.com/ask.csdeepakpsingh@gmail.com



(2) Where the insurer is liable for salvage charges the extent of his liabilities must be determined on the like principle.

SECTION 74-LIABILITIES TO THIRD PARTIES. *—Where the assured has effected an insurance in express terms against any liability to a third party, the measure of indemnity, subject to any express provision in the policy, is the amount paid or payable by him to such third party in respect of such liability.*

SECTION 75-GENERAL PROVISIONS AS TO MEASURE OF INDEMNITY. *—*

(1) Where there has been a loss in respect of any subject-matter not expressly provided for in the foregoing provisions of this Act, the measure of indemnity shall be ascertained as nearly as may be, in accordance with those provisions, in so far as applicable to the particular case.

(2) Nothing in the provisions of this Act relating to the measure of indemnity shall affect the rules relating to double insurance or prohibit the insurer from disproving interest wholly or in part, or from showing that at the time of the loss the whole or any part of the subject-matter insured was not at risk under the policy.

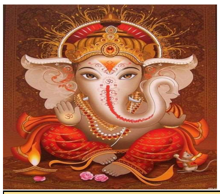
SECTION 76-PARTICULAR AVERAGE WARRANTIES. *—*

(1) Where the subject-matter insured is warranted free from particular average, the assured cannot recover for a loss of part, other than a loss incurred by a general average sacrifice, unless the contract contained in the policy be apportionable; but, if the contract be apportionable, the assured may recover for a total loss of any apportionable part.

(2) Where the subject-matter insured is warranted free from particular average, either wholly or under a certain percentage, the insurer is nevertheless liable for salvage charges, and for particular charges and other expenses properly incurred pursuant to the provisions of the suing and labouring clause in order to avert a loss insured against.

(3) Unless the policy otherwise provides, where the subject-matter insured is warranted free from particular average under a specified percentage, a general average loss cannot be added to a particular average loss to make up the specified percentage.

CS DEEPAK P. SINGH
(B.Sc. LLB FCS AIII CIAFP)
Mobile No. +91 9920830041/7506904961
Email ID: cs.deepakpsingh@gmail.com/ask.csdeepakpsingh@gmail.com



(4) For the purpose of ascertaining whether the specified percentage has been reached, regard shall be had only to the actual loss suffered by the subject-matter insured. Particular charges and the expenses of and incidental to ascertaining and proving the loss must be excluded.

***SECTION 77- SUCCESSIVE LOSSES**. —*

(1) Unless the policy otherwise provides, and subject to the provisions of this Act, the insurer is liable for successive losses, even though the total amount of such losses may exceed the sum insured.

(2) Where, under the same policy, a partial loss, which has not been repaired or otherwise made good, is followed by a total loss, the assured can only recover in respect of the total loss: Provided that nothing in this section shall affect the liability of the insurer under the suing and labouring clause.

***SECTION 78- SUING AND LABOURING CLAUSE**. —*

(1) Where the policy contains a suing and labouring clause, the engagement thereby entered into is deemed to be supplementary to the contract of insurance, and the assured may recover from the insurer any expenses properly incurred pursuant to the clause, 17 notwithstanding that the insurer may have paid for a total loss, or that the subject-matter may have been warranted free from particular average, either wholly or under a certain percentage.

(2) General average losses and contributions and salvage charges, as defined by this Act, are not recoverable under the suing and labouring clause.

(3) Expenses incurred for the purpose of averting or diminishing any loss not covered by the policy are not recoverable under the suing and labouring clause.

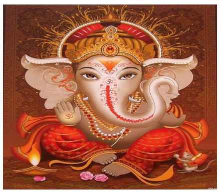
(4) It is the duty of the assured and his agents, in all cases, to take such measures as may be reasonable for the purpose of averting or minimising a loss.

CS DEEPAK P. SINGH

(B.Sc. LLB FCS AIII CIAFP)

Mobile No. +91 9920830041/7506904961

Email ID: cs.deepakpsingh@gmail.com/ask.csdeepakpsingh@gmail.com



ANSWER:

Marine insurance is a wide concept. Basically, it provides coverage for marine risks. It covers financial losses that may arise due to damage or loss of goods in transit on the hull, cargo, ships, terminals, or any transport or cargo. Marine insurance policy is very important for the financial integrity of the business that involves the shipping of goods.

1. Care to Minimize the Loss:

Corrective measures are the first step to be taken during the event to minimize the impact of loss or damage to goods. Reasonable care from the insured is one of the conditions in the marine insurance policy. It's important to ensure the safety of carriers and third parties involved in the marine activity.

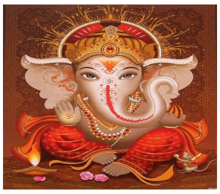
2. Approach the Insurer and Notify:

Immediately intimate the insurer about the loss or damage to goods along with the details of the incurred event. If the marine insurance policy was purchased through a broker or an agent, immediately inform them to understand the further course of action. The insurer will check if all the safety measures needed were taken while transporting the goods or not. This makes it easy for you to proceed with the claim. Once you place the claim, collect the formal acknowledgement from the insurer.

3. Inform the Shipping Company:

Simultaneously, it's also important to inform the shipping company of the loss or damage of goods. In this case, also, formal acknowledgement is required to be received. It's also important to ensure the facts of events are accurately and properly conveyed to the shipping company and as well as to the insurer. In case of non-delivery and theft, FIR also has to be lodged compulsorily.

CS DEEPAK P. SINGH
(B.Sc. LLB FCS AIII CIAFP)
Mobile No. +91 9920830041/7506904961
Email ID: cs.deepakpsingh@gmail.com/ask.csdeepakpsingh@gmail.com



4. Detailed Survey:

Upon receiving the claim notification, the insurer appoints a surveyor to do a site investigation at which loss or damage took place. Post his site examination, he is required to submit his findings to the insurance company. The insurance company's further claim procedures will be based on the findings of the surveyor.

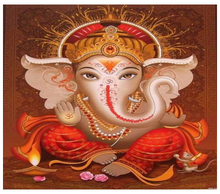
5. Submission of Documents on Time:

Immediate notification of loss or damage of goods and filing the claim makes it easier for investigation and to speed up the claim process. In most cases, there is a time limit of one year is given to file a suit against shipping companies from the date of discharge of goods. The time limits may also vary among insurers. Because placing the claim on time with all the necessary documents makes the marine insurance claim process hassle-free.

Documents Required for Marine Insurance Claim Settlement

1. ***Original marine insurance policy or certificate*** *– this evidence of insurance is the main document to get the claim settled. This carries all the details such as policy number, cargo details, and other terms and conditions applicable to the policy.*
2. ***Copy of bill of lading*** *– This particular document issued by the shipper to the carrier provides every detail of shipments such as type, the number of goods, and its destination.*
3. ***Survey report or certificate*** *including the detailed findings made on site.*
4. ***Commercial invoice*** *and packing list along with weight notes or shipping specifications – purchase price of the goods can be established from commercial invoice. The packing list along with weight notes gives a breakdown of shipments made. Confirmation of term of sales makes it certain about the application of insurance interest.*
5. ***Copies of all the correspondence exchanged*** *with the insurance company and shipping company.*
6. ***Claim bill.***

CS DEEPAK P. SINGH
(B.Sc. LLB FCS AIII CIAFP)
Mobile No. +91 9920830041/7506904961
Email ID: cs.deepakpsingh@gmail.com/ask.csdeepakpsingh@gmail.com



Additional Documents Required for marine Insurance Claim Settlement

Depending on the nature of the claim and other claim circumstances, some of the additional documents mentioned below may require to be submitted.

- *Consignment note.*
- *Container damage report*
- *Vessel outrun report.*
- *Tally sheets*
- *Carrier's written confirmation of non-delivery of goods*
- *FIR (first investigation report) from the police department in case of theft*

DISCLAIMER: *the case study presented here is only for sharing information with readers. In case of necessity do consult with professionals.*

CS DEEPAK P. SINGH
(B.Sc. LLB FCS AIII CIAFP)
Mobile No. +91 9920830041/7506904961
Email ID: cs.deepakpsingh@gmail.com/ask.csdeepakpsingh@gmail.com