

# **R.M.M. Law College, Saharsa**

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**L.L.B Part- 2<sup>nd</sup>**

**Subject- Insurance Act**

**Paper- 8<sup>th</sup>**

**Date- 12/11/2020**

**Topic- Define Fire Insurance? How is Fire Insurance affected? What are the circumstances under which it becomes null and void?**

## **Definition of Fire in Insurance-**

The fire insurance contract is defined as “an agreement, whereby one party in return for a consideration undertakes to indemnify the other party against financial loss which the latter may sustain because of certainly defined subject-matter being damaged or destroyed by fire or other defined perils up to an agreed amount”.

Fire, to make the insurer liable under the contract, must satisfy two conditions.

First, there should be actual fire or ignition, and second, the fire must be fortuitous in its nature.

It is a well-known fact that fire causes huge losses every year. The individual owner by taking fire Insurance can prevent fire waste to some extent.

The insurer acts as a middleman between all the members of the society who are exposed to the fire risk on the one hand and the members who will be the actual victims of the fire losses on the other.

The insurer charges the premium from all the insured members and makes good the losses when they occur to any of them.

The system of fire insurance cannot save the society from the economic loss to the community to the extent of the property lost by fire, but it compensates someone and this saves him from a ruinous loss, at the cost of a group of some others.

The party responsible to indemnify the loss is called the insurer, the party who is to be indemnified is called the insured, the consideration for the contract is termed ‘the premium’, the defined subject-matter is termed ‘the property insured’ the sum set forth in the contract is called the assured sum, and the document containing the terms and conditions of the contract is known as ‘the policy.’

## **Procedure or Steps in taking Fire Insurance Policy**

The following procedure is to be followed for taking a fire insurance policy.

### **1. Selection of Insurance Company**

First of all one should identify a fire insurance company from which the policy is to be purchased. In India, four general insurance companies owned by Government were operating in this field. These companies are:

- i. National Insurance Company,
- ii. Oriental Fire and General Insurance Company,
- iii. New India Assurance Company, and
- iv. United India Insurance Company.

Now private insurers have also entered the field. These companies can either be directly contacted or through a broker.

### **2. Proposal form**

After having chosen a company, the proposer will have to fill in a proposal form which furnishes the basis of the contract. The proposal form requires the proposer to give details such as his name, address, occupation and value and nature of property to be insured, type of policy required, amount of assured sum, etc.

While indicating the value of the property or the goods, the insured should give the market value because the company takes into account the current market value of the subject matter at the time of settling the claim. A little margin may be added to such value for likely appreciation in its market value.

As the fire insurance contract is based on the principle of utmost good faith, care should be taken to avoid ambiguity, while answering questions in the proposal form. The proposal form should be signed properly and sent to the company for acceptance.

### **3. Evidence of responsibility**

Fire insurance is a personal contract. Just by setting fire to the property, the insured can claim large sums of money. Hence, before accepting a risk, the insurance company requests the proposer to furnish reasonable evidence of his responsibility.

Before assuming the risk, the insurer has to ascertain whether the proposer is a respectable person and is taking policy in utmost good faith. This precaution is mandatory as the fire insurance involves a high degree of moral hazard which arises from the nature and behavior of human beings connected with the subject matter of insurance.

By purchasing a policy for setting fire to the property, the insured might get a large sum and make a quick buck out of it. If the proposer, on the other hand, is a well known figure, than the risk can be assumed without any enquiry but in case of new proposers or strangers of doubtful integrity, the insurer will have to compel them to produce some reasonable evidence of their integrity.

#### **4. Survey of property**

The next step in effecting fire insurance is a survey of property proposed to be insured through qualified experts known as surveyors. These surveyors are deputed to inspect the property carefully and to assess the degree of risk involved. It is on the basis of their report that the company accepts or rejects the proposal and determines the rates of premiums.

In case the risk is small, agent's report will be sufficient and the insurer does not insist on the survey. For insuring private house, small shops and other small buildings etc., the insurer accepts such risks on the basis of information furnished in the proposal form. On the contrary, if the risk is very high, the insurance company will depute surveyors to inspect the property to get first hand information and to estimate the degree of risk involved.

On the basis of this report, the insurance company may accept the proposal or reject it.

#### **5. Acceptance of proposal form**

After examining the contents of the proposal form and the surveyor's report, the insurer will decide whether to accept the proposal or not. If he finds that the information furnished in the proposal form and surveyor's report is satisfactory, he will accept the proposal and intimate the same to the proposer.

#### **6. Commencement of Risk**

As soon as acceptance of the proposal is conveyed, the proposer will be asked to pay the premium within a stipulated period of time. On payment of the premium, the fire insurance contract is said to have entered upon and the risk commences.

#### **7. Issue of Cover note**

Once the risk is assumed, the insurer is supposed to issue a fire policy to the insured. As the preparation of fire policy takes some time, the insurer will issue a provisional document known as Cover Note. The cover note is in the nature of interim policy and covers the risk immediately on the receipt of first premium.

The cover note is effective till the fire policy is issued. If the loss occurs before the final policy is issued, the cover note can be produced as an evidence of insurance. Thus, the cover note protects the insured as much as the policy.

#### **8. Issue of Fire Insurance Policy**

Later on, the insurer prepares the first insurance policy (to replace the cover note) and sends it to the insured. The policy is the final acceptance of the company and simultaneously it cancels the, provisional acceptance given before.

The fire policy contains the name and address of the insured, the sum insured, the terms and premiums, date of issuing the policy, policy number, description and location of property covered and other details. It is generally issued for one year.

## **Circumstances under which it becomes null and void**

### **1. Natural weathering**

Any superficial and gradual cracks over a period that develop because of natural weathering of your property are not admissible as damages for an insurance claim.

### **2. Improper plumbing**

As the property owner, it is your responsibility to take reasonable care of your property. As such, an insurer would not admit claims that arise from internal seepage caused by defective plumbing known to Insured.

### **3. The normal cracking, settlement, and bedding down of new structures due to subsidence**

New buildings and structures can sometimes crack early on in their life simply because of bedding down and unequal load distribution on newly constructed foundations. This could also happen due to improper compacting of the underlying soil. Any such damage is not covered by a Standard Fire and Special Perils policy.

### **4. Defective design or workmanship**

Any loss or damage to your property that is caused directly by subsidence due to defective design or workmanship or the use of defective materials will not be admitted as a claim under your insurance policy.

### **5. Contents**

While the structure of your building is covered by your Standard Fire and Special Perils policy, the contents of the building still need to be covered separately.

### **6. Disposition**

Permanent or temporary dispossession resulting destruction by order of the Government Authority.

### **7 Burglary, housebreaking and theft**

Burglary, housebreaking, and theft are not covered under the policy. Please remember that any loss by theft during or after a loss event covered will also not be admissible as a claim, other than as provided for under Riot, Strike, Malicious and Terrorism Damage cover.

### **8. No insurable interest**

The insurance policy is automatically terminated if the policyholder's interest in the property passes from the Insured otherwise than by will or operation of law. In other words, if the loss event does not financially impact you – you cannot file a claim when that event occurs.

## **9. Electrical or mechanical breakdown**

In case a piece of machinery suffers loss, destruction, or damage due to electrical breakdown or mechanical breakdown but does not result in a fire – the damage to the machinery itself is not covered under this policy. The breakdown could be a result of over-running, excessive pressure, short-circuiting, arcing, self-heating or leakage of electricity.

## **10. Not taking preventive measures**

After a loss event occurs, you are expected to take reasonable precautions to limit the loss or damage to the insured property. Your claim may be denied if the property is left exposed to additional loss and reasonable steps are not taken to reduce the extent of the loss.

Other than the reasons listed above, your claim will also be denied if you miss paying your premium. Remember that not paying your premium on time can cause the policy to lapse, and in such a case you will be extended no coverage at all.

**The End**