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The Legal Responsibilities of Insurance Companies in the Event of Natural Disasters and Catastrophic Events in the Context of India

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ABSTRACT

This article examines the legal responsibilities of insurance companies in India regarding natural disasters and catastrophic events. As a disaster-prone country, India faces numerous challenges in dealing with the impacts of such events. Insurance companies are required to provide prompt and fair compensation to affected individuals, collaborate with government agencies and other organizations to mitigate future risks, and ensure compliance with relevant regulations. The obligations of insurance companies include offering comprehensive coverage, processing claims efficiently, and paying compensation promptly. The Insurance Regulatory and Development Authority of India (IRDAI) regulates the insurance sector and enforces guidelines for timely claims settlement. However, there may be limitations of liability in insurance contracts, which policyholders should carefully review. The legal framework governing insurance companies during natural disasters involves various government agencies, acts, and the judiciary. This article highlights the importance of insurance companies fulfilling their legal obligations to support disaster recovery efforts and ensure the availability and affordability of insurance in India.

Keywords: Insurance Law; Natural Disaster; IRDAI; Liability of Insurance Companies; Policyholders.

I. INTRODUCTION

The insurance business assumes a key part in relieving the financial effect of regular disasters on people, organizations, and legislatures. As one of the most disaster-prone nations in the world, India has confronted many difficulties in adapting to the effect of normal calamities. Indian insurance agencies are legally necessitated to give brief and fair pay to impacted people and to work with government organizations and different organizations to lessen the risk of future disasters. The reason for this exposition is to look at the obligation of insurance agencies

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in India for Catastrophic events and mishaps. It investigates the guidelines of insurance agencies in India, the risk of insurance agencies to their policyholders, and the moves made by insurance agencies to plan for and alleviate Disaster. All in all, this exposition means to give an outline of the job of an insurance agency in guaranteeing speedy and reasonable recuperation from Catastrophic events and Disaster in India. Insurance agencies assume a key part in moderating the impacts of regular and Disaster. The lawful commitments of insurance agencies guarantee that they act genuinely and morally. Insurance agencies should observe approaches and rules set by the public authority to guarantee that residents get the most ideal help when they need it. Back-up plans should have important monetary assets to give quick help to policyholders in case of a catastrophic event or disaster. They assume a significant part in assisting impacted people and networks with recuperating from such awful accidents. Likewise, Insurance Policies should agree with pertinent regulations and guidelines to stay away from legitimate obligations that might emerge from inappropriate direct. Back-up plans need to view their legitimate liabilities in a serious way when they are secured and satisfactorily covered to offer types of assistance to guarantee policyholders. At last, these lawful commitments are of extraordinary significance and add to the powerful work of insurance agencies to relieve the effect of Catastrophic events and catastrophes in India. One more significant undertaking of guarantors in Catastrophic events and fiascoes is to pay claims as soon as possible. Back-up plans ought to look to determine claims and pay remuneration straight away to limit the monetary weight on impacted people and organizations. Protection Administrative and Improvement Authority of India (IRDAI) rules require an insurance agency to handle claims within something like 30 days of recording. Nonetheless, delays are normal during interruptions brought about by regular and different debacles. In such cases, the guarantor is expected to speak with the policyholder to stay up with the latest on the situation with the case. Further, if it's not too much trouble, note that the backup plan can't involve missing documentation or deficient data as a justification for postponing or keeping the handling from getting a protection guarantee. The responsibility of insurance agencies in Catastrophic events and disasters is vital to guarantee the accessibility and reasonableness of protection in India.

II. OBLIGATIONS OF THE INSURANCE COMPANIES TO PROVIDE INSURANCE DURING NATURAL DISASTERS AND CATASTROPHIC EVENTS

Insurance companies play an important role in providing adequate insurance coverage during natural disasters and accidents. Although these events are beyond human control, their effects can be mitigated with timely and adequate coverage. The government and regulatory bodies

have imposed specific rules and obligations on insurance companies to ensure coverage in such situations. Insurance companies have the obligation to offer comprehensive insurance to policyholders regardless of whether the damage is caused by natural disasters or man-made events. In addition, insurance companies are expected to assess the situation and pay compensation quickly and transparently. They are also responsible for partnering with government and other stakeholders to mitigate the impact of a disaster and help affected individuals and families. Finally, insurance companies must inform policyholders of the coverage available during natural disasters and calamities so that they can better prepare for such situations.

a) Insurance policies covering natural disasters and catastrophic events

Insurance policies covering Catastrophic events and disastrous occasions are vital in protecting people and organizations from the dangers related to such occasions. These insurance contracts normally cover the expense of fixing or substitution property harmed by Catastrophic events like typhoons, floods, and tremors. Also, the arrangements might give inclusion to the deficiency of pay coming about because of business interference brought about by these occasions. Insurance Policies likewise offer particular strategies, for example, the parametric insurance contract, which gives the guaranteed a pre-concurred payout in case of a particular Catastrophic event or disaster happening. The expansion in recurrence and force of catastrophic events underscores the significance of having insurance contracts that cover these sorts of occasions. It is pivotal that insurance agencies give straightforward and effectively available strategies to people and organizations to guarantee that they comprehend the inclusion given and can arrive at informed conclusions about their protection needs. Eventually, the accessibility and viability of insurance contracts directly following Catastrophic events and disastrous occasions assume a critical part in relieving the effect and empowering recuperation.

b) Policyholders' rights to claim compensation

As per the Insurance Regulatory and Development Authority of India (IRDAI), the insurance agency should act immediately in case of a Catastrophic event or a disastrous occasion and settle claims within a sensible time period. Policyholders reserve the option to file a claim for remuneration, for any harm brought about by such occasions, and insurance agencies are legitimately committed to handling such cases fairly and straightforwardly. They are likewise expected to freely unveil the details of their case claim settlement process to guarantee that policyholders have all of the significant data that they require. Moreover, the IRDAI commands that the insurance agency lay out a complaint redressal system to address any grievances of the

policyholder's concerning the settlement of claims, and neglecting to do so could bring about punishments and sanctions as well. In this way, policyholders in India are guaranteed of getting expeditious remuneration in case of a catastrophic event or devastating occasion as long as they conform to the expressed case documenting method.

c) Insurer's obligation to process the claims and pay compensation

Another important responsibility of insurance companies in case of natural calamities or disasters is the processing of losses and the prompt payment of claims. Insurers are required to provide policyholders with insurance coverage after a natural disaster and to process claims within a reasonable time. Insurers cannot delay or refuse to process claims without reasonable cause. They also cannot withdraw from the policy if the owner makes a claim. In the case of natural disasters such as floods or hurricanes, insurers must act quickly and efficiently to assess the damage incurred and compensate the policyholders. The insurer's commitment to processing claims and paying compensation is an important part of the insurer's trust and the insurer's reliability. If insurance companies do not fulfil this obligation, it can cause a loss of confidence among policyholders with regard to the insurance mechanism, which in turn leads to a lack of confidence among policyholders and a decrease in the number of policyholders. The legal liability of insurance companies in the event of a natural disaster or catastrophic situation in India is complex and extensive. First, insurance companies must ensure that their policies cover all possible natural disasters and calamities. In addition, they are obliged to correctly assess the damages caused by such events and ensure adequate compensation for their clients. This requires a fair amount of understanding of local laws and regulations relating to insurance in India and a strong network of resources and experts to help assess and manage claims handling. Insurance companies must also be prepared to respond quickly and effectively in an emergency, either locally or remotely. Finally, they must communicate clearly and openly with their customers during the advertising process so that they fully understand their rights and options. Overall, the legal obligations of Indian insurance companies are an integral part of the country's wider disaster relief and recovery efforts and must be taken seriously by all stakeholders.

III. LIMITATION OF LIABILITY IN INSURANCE CONTRACTS DURING NATURAL DISASTERS AND CATASTROPHIC EVENTS

The limit of obligation in insurance policies during catastrophic events and devastating occasions is a significant issue to be thought of. Insurance agencies ordinarily include clauses which limit their risk in such situations. These provisions frequently determine the most extreme amount of sum that the insurance agency will pay out to the insured party, no matter what the

degree of damage or loss incurred. This impediment of obligation is intended to safeguard the insurance agency from unnecessary compensation in case of a significant debacle. Be that as it may, it can likewise bring about insufficient remuneration for the insured party. It is thusly pivotal for people to carefully audit the conditions of their insurance policies and grasp the degree of their inclusion. Also, states and administrative bodies ought to guarantee that insurance agency work under fair and moral practices, and that the interests of the two players are thought about while deciding the degree of risk in insurance policies.

The most well-known impediment is the avoidance of specific sorts of Catastrophic events from inclusion, like floods. Furthermore, insurance contracts frequently accompany high deductibles and limits that may not be sufficient to cover the full degree of harm brought about by a catastrophic event or devastating occasion. In addition, there might be a postponement in getting instalments from insurance agencies, which can worsen the monetary weight looked at by injured people. At last, some insurance contracts might deny inclusion on the grounds of carelessness or inability to agree with specific necessities, like various clauses of the agreements. These restrictions feature the significance of intensive exploration and cautious choice of insurance contracts, as well as the requirement for more prominent responsibility and straightforwardness with respect to insurance agencies to guarantee that policyholders get the help they need during seasons of emergency.

Further, there are sure Lawful Exemptions for restrictions of obligation which might emerge in case of wilful unfortunate behaviour, gross carelessness, or different infringement of public arrangement. For example, assuming a backup plan purposely sells strategies that are deceitful or unequipped for giving inclusion in case of a catastrophic event, they could be expected to take responsibility for a break of agreement and misrepresentation. Moreover, there are likewise sure legal special cases for the restrictions of risk that Insurance Policies might depend on in specific conditions, for example, when the protected party has purposefully caused the misfortune or when the misfortune is the consequence of crime.

In India, courts have been quite consistent in holding that insurance companies are liable for damages caused due to natural disasters. However, the extent of liability is limited to the sum assured or the actual loss, whichever is lesser. The courts have been quite strict in limiting the liability of insurance companies in such cases. Nevertheless, in recent times, the courts have shown some leniency towards policyholders, allowing them to claim compensation for damages that are not covered under the contractual terms. For instance, in the recent case of *Oriental Insurance Company Ltd. v. Narinder Singh*, the Delhi high court ruled that policyholders were

entitled to compensation for loss of business caused due to floods, which was not a part of the insured risk.

IV. THE LEGAL FRAMEWORK GOVERNING INSURANCE COMPANIES DURING NATURAL DISASTERS AND CATASTROPHIC EVENTS IN INDIA

a) The Insurance Regulatory and Development Authority of India (IRDAI)

The Insurance Regulatory and Development Authority of India (IRDAI) is the focal administrative body for the protection area in India. Its essential obligations incorporate safeguarding the interests of policyholders, guaranteeing the monetary dependability of insurance agencies, advancing the improvement of the protection business, and controlling and managing insurance agencies to guarantee consistency with every applicable regulation and guideline. In the case of Catastrophic events and other horrendous occasions, the IRDAI assumes a significant part in guaranteeing those insurance agencies satisfy their legitimate commitments to policyholders. This incorporates managing the ideal instalment of cases and authorizing punishments against organizations that neglect to follow material guidelines. The IRDAI additionally works intimately with other government organizations and industry partners to advance debacle readiness and strength and to foster arrangements and rules that work with compelling reactions to catastrophic events and other devastating occasions. Generally, the IRDAI assumes a basic part in protecting the interests of policyholders and advancing the drawn-out manageability of the protection business in India.

b) Other relevant governmental agencies and acts

There are additional governmental organisations and acts that are pertinent in the case of natural disasters or catastrophic events in India, aside from the National Catastrophe Management Authority (NDMA) and the Insurance Regulatory and Development Authority of India (IRDAI). In such circumstances, coordination of relief and recovery activities falls to the Ministry of Home Affairs. The National Institute of Disaster Management (NIDM) is responsible for creating disaster management policies and training programmes. In rescue and relief operations, the Armed Forces, National Disaster Response Force (NDRF), and State Disaster Response Force (SDRF) play a vital role. The Disaster Management Act of 2005 also establishes the responsibilities of many parties and offers a legislative framework for the management of disasters. Other relevant acts such as the Wildlife Protection Act, of 1972, and the Forest Conservation Act, of 1980, also come into play during natural disasters, especially when it involves wildlife or forest areas. These agencies and acts play a significant role in ensuring an effective and efficient response to natural disasters and catastrophic events in India.

c) The role of the judiciary and the judicial system

The judiciary plays a crucial part in administering insurance companies' legal liabilities in the fate of natural disasters and disastrous events. The court system serves as an unprejudiced and independent adjudicator that ensures insurance companies fulfil their contractual scores to policyholders. In the event of insurance companies refusing to recognize claims or failing to give acceptable compensation, individualities and communities affected by disasters can seek legal expedient through the courts. The bar also plays a pivotal part in interpreting and clarifying laws related to insurance and disaster operation, furnishing clarity and legal guidance to both policyholders and insurance companies. also, the bar can give a check on insurance companies, icing they work within the legal frame and fulfil their ethical scores to policyholders. With the bar's oversight, insurance companies can be held responsible for their conduct, promoting translucency, and fairness in the fate of natural disasters and disastrous events.

V. CERTAIN CASE STUDIES RELATING TO LIABILITY OF INSURANCE COMPANIES IN THE EVENT OF NATURAL DISASTERS

a) Madras High Court struck down in the case of United India Insurance Co. Ltd. v/s SBK Shipping Private Ltd. (W.A. No. 138 of 2012 & M.P. No. 1 of 2012), the claim of an insurance company that denied a shipping company's claim for tsunami damage to its barges. SBK Shipping Private Limited, Cuddalore Harbor entered into an insurance contract with United India Insurance Company Limited and insured its four barges. Clause IV of the contract says that the insurance covers damages caused to the object due to the danger of the sea, river, lake or other navigable water. It also covers losses caused by other activities such as fire, violent threats and piracy, if Clause V of the contract states that the insurance does not cover losses, damages, liability or expenses caused by earthquakes or volcanic eruptions. United India Insurance Company contested the damage to the barges of SBK Shipping Private Limited, arguing that the losses fell under the category of "marine perils" because the earthquake (not the tsunami) was a "proximate cause" (as opposed to a "remote cause"), the damage to the shipping company was not covered by the insurances.

The Division Bench Judges, consisting of Judges R. Sudhakar and S. Vaidyanathan, said that "the insurer's claim that the earthquake was the direct cause of the damage to the ship is unacceptable," and dismissed the United India Insurance Company's appeal. On the contrary, it is the remote cause. If the tsunami, a marine disaster, is the direct cause of the damage, then there is no need to do further research on the direct cause of the tsunami. The judges said, "Proximity is proportionate to harm, and if the claim corresponds, the claim is valid.

Scientifically it is stated that the earthquake was the cause of the tsunami, but for persons who suffered the wrath of the tsunami in TN, the earthquake is virtually a remote cause. The proximate cause for the damage caused to the property is giant tidal waves of a tsunami, a 'peril of the sea' and not the earthquake," the judges stated.

- b) Due to the Uttarakhand floods, private power projects in Uttarakhand had to be shut down due to floods and recovering these losses from insurance companies can be difficult. Insurers say that the informal estimates provided by the company of their losses run into hundreds of crores. But the trigger for these losses has been the deposit of debris and boulders upstream without any major physical damage to the dam structure itself. Jaiprakash Power said filing to BSE. "With the onset of monsoons, in Chamoli district of Uttarakhand, where the company's 400 MW Vishnuprayag hydroelectric plant is located, experienced very heavy rainfall, which caused unprecedented, very heavy flooding in the Alaknanda River with excess silt, rocks and other materials. Disrupting river protection works and leading to the shutdown of dams and power generation with effect from June 16, 2013".

Jaiprakash Power said that while the company is taking effective steps to restore production, the flood damage will be assessed once communication and connectivity to the dam area are restored. Unprecedented floods in the Alaknanda River have caused a force in the 400 MW Vishnuprayag project, the commercial aspects of which are handled under the Power Purchase Agreement between the Uttar Pradesh Power Corporation and the company. As a prudent practice, the 400 MW Vishnuprayag. project is also covered by industrial risk insurance.

Also, the insurance companies are relaxing the norms to ensure faster and easier claim settlements for the victims of the Uttarakhand floods. Bajaj Allianz Life insurance head P Ravi said "To ensure prompt financial relief for the victim's family, we have eased our claim processing process. We have liberalized our procedures and exempted certain requirements such as documentation and investigations. Our priority is to be responsive to our customers and make the process smooth.

HDFC Life SVP (Underwriting, Claims and Operations) Frederick Dsouza said, "We are committed to the speedy settlement of claims and have rolled out a fast-tracking claim settlement process." The company will process claims on receipt of a duly completed claim form, attested death certificate from local municipal corporation, hospital or police, and identity and residence proof of nominee or beneficiary, he said. They have even set up a dedicated help desk to support the claimants at various stages to ease the claim process.

VI. CONCLUSION

In conclusion, insurance companies have an obligation to fulfill their legal responsibilities in the event of a natural disaster or catastrophic event in India. In order to ensure adequate reimbursement to clients, insurance companies must conduct thorough investigations, provide comprehensive coverage, and maintain transparency in their operations. Furthermore, insurers must prioritize the prompt and efficient settlement of claims, and maintain a close relationship with policyholders to prevent misunderstandings and conflicts. These measures are necessary not only to uphold the legal obligations of insurers, but also to establish trust and confidence among clients. Finally, it is important for insurance companies to remain proactive in their approach, and continuously review and update their policies and procedures to adapt to changing conditions. By adopting a comprehensive and ethical approach to their responsibilities, insurance companies can help mitigate the financial impact of natural disasters and catastrophic events on individuals and communities, and contribute to the sustainable development of India as a whole.

The government has established regulations and guidelines to ensure that policyholders receive adequate compensation for damages and losses incurred during such events. However, insurance companies must also uphold their ethical and moral obligations to their customers by providing timely and fair assessments of claims, and by responding promptly and efficiently to inquiries and concerns. In addition, insurance companies must invest in preventive measures and risk management strategies to mitigate the impact of natural disasters and catastrophic events. Furthermore, policymakers and regulators must maintain vigilance in enforcing regulations and monitoring insurance companies to ensure that they are fulfilling their legal responsibilities and serving the best interests of their policyholders.

VII. REFERENCES

- United States. Congress. House. Select Committee on Homeland Security. 'Faster and Smarter Funding for First Responders Act of 2004.' Report (to Accompany H.R. 3266) (including Cost Estimate of the Congressional Budget Office), U.S. Government Printing Office, 1/1/2004
- S. K. Sarvaria. 'Commentary on the Insurance Regulatory and Development Authority Act.' Lexis- Nexis, 1/1/2017
- Kay C. Goss. 'Guide for All-Hazard Emergency Operations Planning.' DIANE Publishing, 5/1/1998
- Alberta Law Reform Institute. 'Limitations Act.' Standardizing Limitation Periods for Actions on Insurance Contracts, Alberta Law Reform Institute, 1/1/2003
- Center for Professional Responsibility (American Bar Association). 'Model Rules of Professional Conduct.' American Bar Association. House of Delegates, American Bar Association, 1/1/2007
- Kyriaki Noussia. 'Transparency in Insurance Contract Law.' Pierpaolo Marano, Springer Nature, 3/11/2020
- Norman E. Harned. 'Kentucky Workers' Compensation 4th Edition.' LexisNexis, 9/3/2021
- Peter N. Swisher. 'Principles of Insurance Law.' Jeffrey W. Stempel, LexisNexis, 1/1/2012
- Insurance Company Told to Cover Tsunami Damages, The Indian Express, <https://www.newindianexpress.com/cities/chennai/2016/apr/05/Insurance-Company-Told-to-Cover-Tsunami-Damages-920382.html>
- Uttarakhand power plants face insurance hurdle, The times of India, http://timesofindia.indiatimes.com/articleshow/21262290.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cppst
- Insurance companies ease settlement norms for Uttarakhand Victims, The Economic Times, <https://economictimes.indiatimes.com/wealth/personal-finance-news/insurance-companies-ease-settlement-norms-for-uttarakhandvictims/articleshow/20897123.cms>
