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INSURANCE REGULATORY AND DEVELOPMENT AUTHORITY'S CONTROL OVER SECTOR WISE DISTRIBUTION OF INSURANCE BUSINESS

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ABSTRACT:

Government of India established an autonomous statutory body Insurance Regulatory and Development Authority to keep control over the Insurance Industry, which is provided to IRDA authorities of the Controller of Insurance to control and direct the different activities of the Insurance sectors in India. IRDA is involved in bringing reforms in the different sectors of the Insurance sector and Industry in India by way of regular monitoring, observing, directing and controlling over different activities of the Insurance sector at the different places across the country, which can be directly observed by comparing in the previous scenario of the Indian Insurance sector to the present scenario.

Keywords - Insurance Law

INTRODUCTION:

The Indian Insurance industry is regulated by a statutory body which is the Insurance Regulatory and Development Authority (IRDA), for protection of the interests of policyholders, and the perpetual growth and regulation for the insurance industry. Insurance provides monetary support in some hard times of a family, businessman, or employer/employee. New regulations have been set out by IRDA to benefit non-linked policyholders. I had formulated guidelines with an aim to improve the Insurance sector to protect the interest of policyholders. the changes made by IRDA in various areas of the Insurance sector to create a safe structure for policyholders with a minimum death benefit, and other benefits.[1]

From the past to present insurance industries have gone through many stages where it has seen optical changes. before 1999 Indian Insurance sector was dependent on the government but in 1999 the Indian government opened the insurance industry for private companies. Due to the population last in the country and gradually increasing income of middle-class families the Insurance sector has been seen as a booming market and it holds a great hold in the Global Insurance sector.

[1] V Srinivas, Ramanathan V, "Impact of New IRDA Regulations" , Tata Consultancy Services, 2014

The greatest Hindu theories give unquestionable truth of the nature of insurance, which means whatever is created will be destroyed. Insurance aims to protect the owner from a variety of risks which is anticipated. To secure an individual or business from uncertainty in due course of happening any event by sacrificing some part of earning. For example, if a boat drowns in the sea while on bringing fishes, the group of member society will provide the sum insured for the loss. In the present day, we see many of insurance like this is surviving, especially in tribal society.[2]

Insurance Act,1938, and Insurance Regulatory & Development Authority Act, 1999 are the primary legislation that deals with insurance sectors in India. To open a competitive market for individual customers the government passed the Insurance Regulatory and Development Authority (IRDA) Act, 1999, which brought a revolutionary development in the Indian insurance sector.

INSURANCE REGULATORY AND DEVELOPMENT AUTHORITY: AN OVERVIEW

Insurance Regulatory and Development Authority (IRDA) is an independent statutory government organisation which is in charge of the insurance sector in India. IRDA was constituted by an act of parliament of India which is called the Insurance Regulatory and Development Authority Act, 1999[3] , and aptly passed by the Government of India[4]. The organisation operates its functioning from its headquarters at Hyderabad, Andhra Pradesh but later it shifted from Delhi in 2001.[5] Its main duty to promote and ensure controlled growth of the insurance business and re-insurance business. It issues a certificate of registration, renew, modify, withdraw, suspend or cancellation to the applicant and to protect the interests of the policyholders in issues concerning the allocation of policy, insurable interest, settlement of insurance claim, surrender value of the policy and any other terms and conditions of the

[2] Leela Ram Newar, "Understanding Reforms in the Life Insurance Sector of India" , IJCAES Special Issue On Basic, Applied & Social Sciences, Volume III, January 201, [ISSN: 2231-4946]

[3] GOI. "IRDA ACT 1999".GOI. Source: http://india.gov.in/outerwin.php?id=http://indiacode.nic.in/fullact1.asp?tfnm=199941, Retrieved 28 March 2020

[4] PTI(Nov 21, 2001). "IRDA to shift HQ to Hyderabad by Feb". The Times of India. Source: http://timesofindia.indiatimes.com/business/india-business/IRDA-to-shift-HQ-to-Hyderabad-by-Feb/articleshow/281974863.cms?referral=PM, Retrieved April 20, 2015.

[5] GOI. "IRDAACT 1999"(PDF).DepartmentofFinancialServices,GOI.Source: http://india.gov.in/outerwin.php?id=http://indiacode.nic.in/fullact1.asp?tfnm=199941, Retrieved April 4, 2020.

contracts of insurance. Further, IRDA governs over the investment of funds by insurance companies, regulating the maintenance of margin of solvency, settlement of disputes between policyholders, insurers, and intermediaries or insurance intermediaries.

The Act[6] was passed on the recommendation made by the Malhotra Committee report (1994), in which the committee recommended for establishment of an independent regulatory authority for insurance companies in the country. Thereafter, IRDA was incorporated as a statutory body in April 2000. The Act allows the private companies to enter the insurance industries in India apart from foreign equity of 26 percent[7] in a private insurance company operating in India. The Foreign investment (FDI) limit in insurance sector was increased to 49% in July 2014[8].

Revisiting on some of the arisen requirements of the Indian insurance sectors, IRDA Act was amended in 2002. As mentioned in the act, the primary aim of the IRDA is "to protect the interests of the policyholders, regulate, promote and ensure continuous growth of the insurance sector and for issues related therewith or incidental thereto." The Indian insurance industry is governed by the rules and regulations made by the IRDA. Domestic laws have certain expectations from the authority to perform in the Indian insurance sector. Authority should preserve the rights and interests of policyholders by ensuring fair treatment by the insurance industry. The development of insurance companies in a speedy and orderly manner is being taken care of by the IRDA. Authority monitors and implements quality competence and fair practice by the insurance companies in the insurance industry. Authority should make sure that the companies are providing precise and true information about their products offered by them for the customers. Authority should also ensure speedy adjudication of genuine claims by the policyholders and prevent malpractices in the exercise of a claims settlement. IRDA governs all the Insurance business in the country. Authority is setting up structure, limitations, and boundaries for the insurance industry to act upon. In the beginning, from licensing to approving the insurance products, authority directs the companies in India. IRDA also ensures customer's interests in the country. As per the current direction issued by the authority, the Insurance Companies are not allowed to invest in Indian Depository Receipts (IDR), at the same time

[6] IRDA ACT, 1999

[7] http://www.thehindu.com/business/Industry/irda-chief-bats-for-49-per-cent-fdi/article3961702.ece "IRDAchief bats for 49 per cent FDI" The Hindu . 4 October 2012. Source: http://www.thehindu.com/business/Industry/irda-chief-bats-for-49-per-cent-fdi/article3961702.ece, Retrieved 5 April, 2020.

[8] http://timesofindia.indiatimes.com/business/india-business/Govt-allows-100-FDI-in-telecom-hikes-insurance-cap-to-49/articleshow/21106372.cms8 "Govt allows 100% FDI in telecom, hikes insurance cap to 49%". Times of India. 16 July 2013. Source: http://timesofindia.indiatimes.com/business/india-business/Govt-allows-100-FDI-in-telecom-hikes-insurance-cap-to-49/articleshow/21106372.cms, Retrieved 07 April 2020

they are granted to invest in Equity shares/ Bonds/ Debentures. Authority needs to revoke its disparity to open up investment opportunities by Insurance Companies and by that means also enhance the liquidity of IDRs.

COMPOSITION OF IRDA:

As per section 4 of IRDA Act' 1999, the Insurance Regulatory and Development Authority (IRDA, which was constituted by an act of parliament) specifies the composition of Authority[9].

"The Authority shall consist of the following members, namely:-

(a) a Chairperson;

(b) not more than five whole-time members;

(c) not more than four part-time members,

to be appointed by the Central Government from amongst persons of ability, integrity, and standing who have knowledge or experience in life insurance, general insurance, actuarial science, finance, economics, law, accountancy, administration or any other discipline which would, in the opinion of the Central Government, be useful to the Authority:

Provided that the Central Government shall while appointing the Chairperson and the whole-time members, ensure that at least one person each is a person having knowledge or experience in life insurance, general insurance, or actuarial science, respectively."

All members are appointed by the Government of India[10].

The duties, powers, and functions of IRDA have been specified under Section 14[11]:

Section 14 of IRDA Act specifies that duty to promote, regulate and ensure gradual growth and promotion of the insurance and reinsurance businesses across India, subject to the provisions provided under this Act or any other acts which are parallel and being enforced along with the IRDA Act.

"Without prejudice to the generality of the provisions contained in Section 14 sub-section (2) of IRDA Act, the powers and functions of the Authority shall include:

[9] https://www.irdai.gov.in/ADMINCMS/cms/frmGeneral_Layout.aspx?page=PageNo108&flag=1 Retrieved 0n 9th April 2020,

[10] Ibid

[11] IRDA Act, 1999

a) the issue to the applicant a certificate of registration, renew, modify, withdraw, suspend or cancel such registration;
b) protection of the interests of the policyholders in matters concerning assigning of policy, nomination by policyholders, insurable interest, settlement of insurance claim, surrender value of the policy and other terms and conditions of contracts of insurance;
c) specifying requisite qualifications, code of conduct and practical training for intermediary or insurance intermediaries and agents;
d) specifying the code of conduct for surveyors and loss assessors;
e) promoting efficiency in the conduct of insurance business;
f) promoting and regulating professional organizations connected with the insurance and reinsurance business;
g) levying fees and other charges for carrying out the purposes of this Act;
h) calling for information from, undertaking inspection of, conducting inquiries and investigations including an audit of the insurers, intermediaries, insurance intermediaries and other organizations connected with the insurance business;
i) control and regulation of the rates, advantages, terms and conditions that may be offered by insurers in respect of general insurance business not so controlled and regulated by the Tariff Advisory Committee under section 64U of the Insurance Act, 1938 (4 of 1938);
j) specifying the form and manner in which books of account shall be maintained and statement of accounts shall be rendered by insurers and other insurance intermediaries;
k) regulating the investment of funds by insurance companies;
l) regulating the maintenance of margin of solvency;
m) adjudication of disputes between insurers and intermediaries or insurance intermediaries;
n) supervising the functioning of the Tariff Advisory Committee;
o) specifying the percentage of premium income of the insurer to finance schemes for promoting and regulating professional organisations referred to in clause (f);
p) specifying the percentage of life insurance business and general insurance business to be undertaken by the insurer in the rural or social sector; and
q) exercising such other powers as may be prescribed[12]."

[12]ibid

DISTRIBUTION OF INSURANCE BUSINESS: SECTOR WISE

The insurance industry of India comprises of 52 insurance companies of which 24 are in the life insurance business and 28 are other than life insurers. Out of the life insurance companies, Life Insurance Corporation (LIC) is the sole public sector company. Apart from this, among the other insurance companies there are six public sector companies. In addition to these, there is only one national re-insurer company, named, General Insurance Corporation of India. Apart from government companies and private there are many stakeholders within the Indian Insurance industry include agents (like individual and corporate companies), brokers, surveyors, and third party administrators servicing health insurance claims.

Among 28 other than life insurance companies, five private insurance companies are authorised to sponsor policies especially in health, personal accident, and travel insurance section. Star Health, Allied Insurance Company, Apollo Munich, Max Bupa, Religare Health and Cigna TTK are some specialised section. Export Credit Guarantee Corporation of India for Credit Insurance and Agriculture Insurance Company Ltd for crop insurance are other two more specialised insurance companies belonging to the public sector.

(A) LIFE INSURANCE :

- Term Life Insurance
- Permanent Life Insurance

(B) GENERAL INSURANCE

- Fire Insurance
- Marine Insurance
- Accident Insurance

(A) LIFE INSURANCE

Life Insurance is a contract insurance providing payment of a sum of money to the person insured or, following him to the person nominated to receive the same, on the mishappening of a certain event. It is a method to protect a family of an Individual financially, in case of death, by providing monetary relief for the loss of income.

A1. Term Life Insurance:

Under a term life insurance contract, the insurance company pays a specified lump sum amount to the beneficiary is of the insured policyholder. These policies are used to be for 5, 10, 15, 20, or 30 years.

A2. Permanent Life Insurance:

In permanent life insurance, some portion of the premium paid as is invested in a fund that earns interest on a tax-deferred basis. Thus, after a certain period of time that policy will accumulate certain "cash value" which an investor will be able to get back either during the period of the policy or at the end of the policy.

ENDOWMENT POLICIES

Policies that provide for period payment of premium and a lumpsum amount either in the event of the death of the insured or on the date of expiry of the policy, whichever occurs earlier.

MONEY BACK POLICIES

These policies provide for periodic premium payments of part survival benefits in the meantime of the term of the policy itself. It is a unique feature associated with this type of policy that in the occurrence of death of the insurance holder during the policy term, the nominated beneficiary will get the full sum assured without cutting any of the survival benefit amounts, which have been paid in terms of money-back components. Apart from this, the bonus on such policies is also calculated on the full sum assured.

ANNUITY / PENSION POLICIES / FUNDS

These insurance policies/funds require the insurance policyholder to pay the premium in a single lump sum or through installments in a certain number of years. The policyholder in return will receive back a specified sum of funds periodically from a specified date onwards, either for life or for a fixed number of years. In event of the death of the insured, or after the fixed annuity period completed for annuity payments, the invested annuity fund will be refunded, with some additional amounts as per the terms and conditions of the policy. Annuities / Pension funds are different from other types of life insurance as an annuity policy/fund does not cover any life insurance but offers a guaranteed income for life or a certain period. Therefore, this type of insurance is majorly taken to get an income after retirement.

MAJOR PLAYERS IN THE INSURANCE SECTOR IN INDIA

The insurance industry in India comprised mainly of only two state insurers namely: -

LIFE INSURERS:

- Life Insurance Corporation of India (LIC)

GENERAL INSURERS:

- General Insurance Corporation of India (GIC)

GIC is having four subsidiary companies, namely:-

1. The Oriental Insurance Company Limited
2. The New India Assurance Company Limited,
3. National Insurance Company Limited
4. United India Insurance Company Limited.

(However, w.e.f. Dec 2000, these subsidiaries were de-linked from the GIC and made independent insurance companies).

In addition to the above state insurers, some other companies have been permitted to enter into the insurance business, which are following:-

LIFE INSURERS

- HDFC Standard Life Insurance Company Ltd. FC Standard Life Insurance Company Ltd.
- Max New York Life Insurance Co. Ltd.
- Tata AIG Life Insurance Company Ltd.
- SBING Vysya Life Insurance Company Private Limited
- Life Insurance Company Limited
- Allianz Bajaj Life Insurance Company Ltd.
- Metlife India Insurance Company Pvt. Ltd.
- AMP SANMAR Assurance Company Ltd.
- Dabur CGU Life Insurance Company Pvt. Ltd.

GENERAL INSURERS:

- Royal Sundaram Alliance Insurance Company Limited
- Reliance General Insurance Company Limited.

- IFFCO Tokio General Insurance Co. Ltd.
- ATA AIG General Insurance Company Ltd.
- Bajaj Allianz General Insurance Company Limited

IRDA'S CONTROL OVER SECTOR WISE INSURANCE BUSINESS

I. Control in the Rural And Social Sector: The rules and regulations framed by IRDA on the commitment of the insurance companies towards rural and urban sector stipulated targets to be fulfilled by insurers on a yearly basis. In terms of the rules and regulations, the insurance companies are required to complete year-wise prescribed targets (i) in terms of a number of individuals under social obligations; and (ii) year-wise prescribed goals in terms of percentage of policies to be sponsor and percentage of total gross policy premium income written directly by the life and non-life insurance companies respectively under rural obligations. The rules and regulations require insurance companies to sponsor business in these sections based on the year of commencement of their operations and the applicable goals are connected to the year of operations of each insurer. To meet these goals, the regulations further provide that, if an insurance company starts its operations in the second half of the financial year and operated for less than six months as at 31st March of the specific financial year (i) no rural or social obligations shall be applicable for that specific period; and (ii) the yearly obligations as indicated in the rules and regulations shall be computed from the next financial year which shall be considered as the first year of commencement for the purpose of compliance. In some cases where an insurance company commences operations before the second half of the financial year, the applicable obligations for the first year shall be 50 percent of the responsibility as specified in the rules and Regulations.

II. Control Over Regulation of Insurance Sector: There is a big impact of authority in the overall rules and regulation of the India Insurance sector. The Authority is having a close look over the different activities of the insurance sector in India in order to ensure the proper protection of the individual policyholders' interests and scope of regulation is constantly increasing.

III. Impact Over Policyholders Interests Protection: As far as the matter of protection of individual policyholders' interests is concerned, it is the main objective of the IRDA, and IRDA is also making its level best in this concern. Thus, it is visible that the impact of IRDA over individual policyholders' interests' protection is significant.

IV. Impact Over Awareness to Insurance: IRDA Authority is not only prioritizing over the introduction of different rules and regulations in the insurance sector to protect the interests of individual policyholders but the authority is also trying to make the activities of insurance companies transparent and for which IRDA is taking different steps to increase the awareness of the society to the insurance.

V. Impact Over Customers Education: Authority is trying to make all the important and material information associated with insurance products public and it has also made mandatory for the insurance companies to disclose all the secret information to the policyholders.

VI. Impact Over Insurance Market: The impact of IRDA on the insurance industry is not hidden to anyone. It brought a great change in the insurance market whether with respect to an insurance product, marketing, competition, and customers' awareness.

VII. Impact Over Development of Insurance Product: One of the significant impacts of IRDA amongst its different impacts over the insurance industry is its effect on the development of insurance products. The authority has brought a revolution in the direction of the development of insurance products. The development of a Unit-linked insurance plan is the outcome of the privatization of the insurance sector.

VIII. Impact Over Distribution Channel (Insurance Intermediaries) of Insurance Product: It is a very natural event that only good distribution (demand) can sustain continuous production (product development). Thus, the Authority has also given due attention to the development of insurance intermediaries (Distribution Channel) in order to make available insurance to everyone.

IX. Impact Over Life Insurance Corporation of India: Life Insurance Corporation of India was a single company in the life insurance sector prior to the establishment of the IRDA and LIC of India had created a monopoly over the life insurance market in India. But now, there are 23 other private life insurance companies apart from the LIC of India the existing life insurance market, therefore, the LIC of India has to make it so strong that it may compete with its competitive companies and secure its previous position in the market.

X. Impact Over Insurance Objective: The introduction of private players in the insurance industry has made the insurance industry enlarged and competitive. It has also brought a dramatic change in the tendency of policyholders/customers and as a result insurance objective for the people of the society has been thoroughly changed.

XI. Impact Over Organisation Structure of Insurers: First of all, Introduction of IRDA Act has invited private companies in the insurance industry and secondly it has imposed certain obligations over the insurance companies, which have forced the existing insurance companies to make changes in their organizational structures in a way to carry out instructions and fulfilling the obligations.[13]

XII. Impact Over Regulation Requirement in the Indian Insurance Sector: At the present time it's in great need for a proper regulatory system in the Indian Insurance Industry in order to provide protection of the interests of the individual policyholders at large and ensuring the proper functioning of the insurance industry. Therefore, in the present scenario proper and systematic regulation is very essential for the smooth operation of the insurance industry.[14]

XXIV. Impact Over Government Responsibility: Continuous increase in the number of insurance companies, the number of diversified products is being launched by them, and increasing competition in the insurance market, a huge amount of many individuals deposited with a different insurance company in the form of premiums and diversified activities of the insurers is making the government responsible to bring uniformity in the insurance sector.

XXV. Impact Over Banks and Post Offices: At Present, insurance is not only a means of security from danger, mishappening to life, or uncertainties but also it is one of the most popular and common modes of saving and investment. It is the consequence of the action of the present insurance market, which has diverted the flow of funds from the banks and post offices to the insurance industry.

XXXI. Impact Over the Indian Economy: All the economic activity in the country adds something more or less to the development of the economy of the country. Funds invested in various types of insurance products in the form of premiums channelize the funds of a country for non-economic use to economic use and above all of them, it makes available to the governments of the country in order to execute the several development related activities for the country. Thus, there is a big impact of IRDA in the economic development of the country.

[13] Insurance Regulatory Development Authority Act - Peter Lancett
[14] Annual Report of IRDA 2009-10

CONCLUSION

The IRDA established as a National Authority for the insurance sector by the Government of India, and there are several arrangements for taking remedial steps to incorporate the rising requirement in the Insurance sector in the country.

The formation of IRDA has brought dramatic changes in the Insurance industry. In the past 10 years of establishment of IRDA the Insurance sector has witnessed tremendous growth when IRDA come into existence there were only two players in the Insurance industry life Insurance Corporation and General Insurance Company of India however in the last decade 23 new companies have entered in the field of Insurance. IRDA successfully dealing with any discrepancy/ irregularity in the Insurance sector and has been controlling the sector-wise insurance business in the country.

The establishment of IRDA helped the insurance sector as a whole. Firstly, by providing an organization which is regulating the conduct of several insurance market players. Secondly, it is monitoring the policies and hence, benefits the policyholders in general by keeping a check on any irregularities taking place in the insurance industry. Thirdly, Authority, by issuing various notifications has ensured that the interest of the consumers remains intact and their interest does not suffer.