Briefing Paper

CUTS International

CUTS CART

GRANIRCA 1/2012

Insurance Services

Challenges & Opportunities before Consumers

With such a large population and the untapped market area of this population, insurance happens to be a very big opportunity in India. Today it stands as a business growing at the rate of 15-20 percent annually. Together with banking services, it adds about seven percent to the country's gross domestic product (GDP). Despite of all these, still nearly 75 percent of India's population is without insurance cover due to lack of awareness. This briefing paper is an effort to raise consumer awareness on different insurances, its long run importance, rights of consumers as insured, fundamental principles of insurance and precautions to be taken while accepting insurance policies etc. so that number of insured increases in our country in the coming years.

Introduction

Insurance is concerned with protection of economic value of assets. Tangible assets are human beings, house, furniture, motor cycle etc. Intangible assets are liabilities. In the Constitution of India, there exist directions regarding social security and insurance. In the Preamble of the Constitution of India itself, there is a resolution to secure social, economic and political justice to all its citizens.

The Insurance sector in India is governed by Insurance Act, 1938, the Life Insurance Corporation Act, 1956 and General Insurance Business (Nationalisation) Act, 1972, Insurance Regulatory and Development Authority (IRDA) Act, 1999 and other related acts. In spite of all this growth, the statistics of the penetration of the insurance in the country is very poor. Nearly 75 percent of Indian population is without life and health insurance cover. This is an indicator that growth potential for the insurance sector is immense in India.

History of Insurance

In India, insurance has a deep-rooted history. Ancient Indian history has preserved the earliest traces of insurance in the form of marine trade loans and carriers' contracts. Insurance in India has evolved over time heavily drawing from other countries, England in particular.

The year 1818 saw the advent of life insurance business in India with the establishment of the Oriental Life Insurance Company in Calcutta. This Company, however, failed in 1834. In 1829, the Madras Equitable began transacting life insurance business in the Madras Presidency. 1870 saw the enactment of the British Insurance Act and in the last three decades of the 19th century, the Bombay Mutual (1871), Oriental (1874) and Empire of India (1897) started in the Bombay Residency.

In 1914, the Government of India started publishing returns of Insurance Companies in India. The Indian Life Assurance Companies Act, 1912 was the first statutory measure to regulate life business. In 1928, the Indian Insurance Companies Act was enacted to enable the government to collect statistical information about both life and non-life business transacted in India by Indian and foreign insurers including provident insurance societies. In 1938, with a view to protecting the interest of the Insurance public, the earlier legislation was consolidated and amended by the Insurance Act, 1938 with comprehensive provisions for effective control over activities of insurers.

The Insurance Amendment Act of 1950 abolished principal agencies. However, there were a large number of insurance companies and the level of competition was high. There were also allegations of unfair trade practices.

An Ordinance was issued on January 19, 1956 nationalising the Life Insurance sector and Life Insurance Corporation came into existence in the same year. 1957 saw the formation of the General Insurance Council, a wing of the Insurance Association of India which framed a code of conduct for ensuring fair conduct and sound business practices.

In 1968, the Insurance Act was amended to regulate investments and set minimum solvency margins. The Tariff Advisory Committee was also set up then.

In 1972 with the passing of the General Insurance Business (Nationalisation) Act, general insurance business was nationalised with effect from January 01, 1973. 107 insurers were amalgamated and grouped into four companies, namely National Insurance Company Ltd., the New India Assurance Company Ltd., the Oriental Insurance Company Ltd. and the United India Insurance Company Ltd.

Types of Insurance

Insurance in India can be broadly categorised into two types: life and general. Life insurance can be further classified into term life insurance, whole life insurance, money back plan, endowment policy and pension plan. Health, home, accident, motor and travel insurances fall under the general insurance category.

Life Insurance

Life Insurance is concerned with contracts of insurance on human life, wherein the life insurance policy provides compensation/sum assured to the insured or dependents in the event of maturity of policy or on occurrence of a peril covered like death, permanent disability of an insured.

As per Insurance Act 1938, Life Insurance Business means the business of effecting contracts of insurance upon human life, including any contract whereby the payment of money is assured on death (except death by accident only) or the happening of any contingency dependent on human life, and any contract, which is subject to payment of premiums for a term dependent on human life.

Under the Life Insurance Scheme, the life of the consumer is insured. Earlier Life Insurance Corporation (LIC) of India was the only company which covered life insurance. With the advent of private companies recently, this class of insurance is also being covered by them. While taking a policy, the following precautions would help the consumer to get the maximum benefit of the policy:

1) The consumer must disclose the correct and true state of health. Sometimes the agent or well-wishers may influence the consumer to suppress his true state of health as he may have to pay more premium if he discloses his true state of health. However, sometimes if the death occurs due to the ailment, which the consumer had suppressed, the company would not pay amount.
2) The consumer should retain a photo copy of the filled up application or proposal form and doctor check-up report.
3) The consumer should pay the premium on time and retain the receipt of payment made.
4) The insurance company is liable to pay the sum assured, when there is no nexus between disease not disclosed and cause of death. Repudiation of claim on the ground of suppression of vital information regarding health is not tenable.

As on date in India, life insurance business is transacted by 23 life insurance companies, which have been provided licences to do life insurance by Insurance Regulatory and Development Authority (IRDA).

General Insurance

Health Insurance

The health insurance policy is popularly called as mediclaim. Any health insurance policy basically should cover all diseases and accidents, which may require hospitalisation. Medi-claim and LIC policies are almost similar in nature and partly cover the hospital charges and laboratory charges for settled diseases. However, all diseases are not covered by the Medi-claim policies. The policy will have certain exceptions and usually pre-existing diseases are not covered by the policy.

Motor Insurance

Most of the people own a motor vehicle, whether it is a two wheeler-a motor cycle or a four wheeler. On the auspicious day of purchase, the dealer of the showroom ensures that all essential formalities which are required to be completed for a new motor vehicle, such as insurance of vehicle and then its registration through RTO in the government transport department by depositing the necessary road tax. RTO, in turn, allots a new registration number to the new vehicle. The motor insurance policy may prove to be a boon, if vehicle is always insured and may be a matter of repentance, if does not insured.

Householders Insurance

The companies cover household articles, valuables and other articles under householder's policy. The value of the house, articles and valuables will be taken into consideration for calculating the premium. While taking the householders policy, certain guidelines would be helpful.

Fire and Flood Insurance

In case of fire and flood policy, the applicant should clearly mention in the agreement, the items that should be covered by risk, including the structures, machinery, factories, buildings or even material like finished products or raw-material. In case of any accident that may take place by fire or flood causing loss and damage to the property, the claimant cannot secure relief unless the premises is covered. Therefore, the applicant should be vigilant before signing the contract of insurance.

Miscellaneous Insurance

Some of the other important policies, which are required for business are Burglary Insurance, Fidelity Guarantee Insurance, Workmen Compensation Insurance.

Compulsory Public Liability insurance under the Public Liability Insurance Act 1991 is compulsorily required to be taken by owners dealing in hazardous substances.

Rural insurance policies provide the economic protection to the people/farmers living in rural areas. Kisan Package Insurance, Cattle Insurance, Agriculture Pump Set Insurance, Poultry Insurance, Inland Water Fish Insurance are important policies in this portfolio.

Shopkeepers' Insurance

This policy is specifically designed to cover all risks and contingencies faced by small to medium shop owners. It provides protection for the property and the interests of the insured and his partners in the business venture. The 11 sections under this policy can insure the shop building, its contents, money stored in transit/counter/safe, pedal cycle, plate glass, neon and glow signs, baggage, fidelity of employees, owner's public liability, workmen's compensation liability as well as interruption of business. Shops that implement manufacturing processes do not qualify for the Shopkeepers' Insurance policy.

Personal Accident Insurance

General Insurance companies have come out with various types of personal accident insurance covers to provide compensation in such eventualities. In this policy, the death is covered only due to accidental causes and the premium charged is very less.

Professional Indemnity Insurance

Professional Indemnity Insurance Policy is available to professionals like doctors, engineers, chartered accountants, architects, lawyers and other professionals to cover their legal liability arising due to negligence, omissions in their professional duties. Premium is charged on the amount of legal liability sought to be covered for any one claim and for any one policy year.

All Risk Insurance

All Risk Insurance Policy covers householder's valuables like jewellery, paintings, cameras, watches etc. for the loss or damage due to accidents, misfortune. Proposers are required to submit a detailed list of valuables showing the market value of each article. Insured is required to keep the record of purchase bills, cash memos of all articles for the verification of insurer.

Compulsory Public Liability Insurance

Compulsory Public Liability Insurance (PLI) Policy covers the public liability of the insured as per PLI Act 1991. The PLI Act stipulates the responsibility of the owner, whether he is involved in manufacturing, processing, treatment, packaging, transporting by vehicle other than railways, storage, sale, collection, use, conversion, destruction of hazardous substance is compulsorily required to take insurance policy to pay compensation to the persons handling or affected by the accidents caused due to handling of hazardous substances.

Workman Compensation Insurance

Workman Compensation Insurance Policy covers the legal liability of the employers for payment of compensation towards its employees for the death or permanent total disability or permanent partial disability or temporary disability, personal injury due to accidents arising out of and during the course of employment as per Workmen Compensation Act 1923.

Fidelity Guarantee Insurance

Fidelity Guarantee Insurance Policy covers the financial loss of employer caused due to fraud, dishonesty of employees on its pay roll. Policy can be issued to cover the employees on individual or collective basis, named or unnamed basis, position wise or without mentioning positions of employees. Sum insured/amount of guarantee can be fixed for individual employees or a maximum sum insured/guarantee can be fixed as total liability of the company.

Burglary Insurance

Burglary Insurance Policy is available for business premises and covers loss or damage to the insured property, goods, furniture due to burglary and house breaking of the premises. The policy can also cover the cash kept in safe and the loss due to damage to insured's property caused due to burglary. Policy does not cover the loss or damage due to theft or due to use of keys or duplicate keys.

Rural Insurance

As per Census of India 2011, India's most of the population (around 833,087,662) live in rural areas. Hence, it is required that people and property of rural areas are provided effective insurance protection and financial security on priority by life and non-life insurance companies.

Following are some of the important rural insurance schemes made available by non-life insurance companies in India, e.g. *Gramin Suraksha Bima*, *Parivar Suraksha Bima*, Cattle Insurance, Sheep & Goat Insurance, Rainfall Index Insurance, Farmer's Package Policy, Poultry Insurance, Agriculture Pump Set Insurance Policy.

Social Security Insurance

The Government of India has enacted social security laws and started social security insurance schemes for implementation of the directions given in the Constitution of India.

The main social security laws are:

1. The Employees Estate Insurance Act 1948
2. The Employee's Provident Funds and Miscellaneous Provisions Act 1952
3. The Workmen's Compensation Act 1923
4. The Maternity Benefits Act 1961
5. The Payment of Gratuity Act 1972

There are some other laws, such as Motor Vehicles Act 1988, Public Liability Insurance Act 1991 which are not social security laws but some provisions serve the welfare of victims and their dependents in an unfortunate accident caused due to motor accident/accident caused due to handling of hazardous substances.

Few others under the social security are *Swavalamban Pension Scheme*;[1] National Health Insurance Scheme (*Rashtriya Swasthaya Bima Yojana*);[2] *Aam Admi Bima Yojana*;[3] *Janashree Bima Yojana*;[4] *Mahatma Gandhi Bunkar Bima Yojana*; Health Insurance Scheme for Handloom Weavers; Group Accident Insurance Scheme for Active Fishermen; Universal Health Insurance Scheme; *Raj Rajeshwari Mahila Kalyan Bima Yojana*.[5]

Fundamental Principles of Insurance

Insurable interest: It means that the insured must have an actual interest in the property or subject matter of insurance. He must own a part or whole of it or he must be in a position that injury to it would affect him adversely. Insurable interest may be based on ownership of property whether absolute partial or limited legal or equitable. In case of life insurance close relationship such as husband & wife, parent & child, employer & employee may give rise to insurable interest in each other's life.

Utmost good faith: Insurance is a contract upon speculation. The man, who desires to take an insurance policy, must disclose to the under writer all the material facts/circumstances because the insurer knows nothing and the assured knows everything. A contract of insurance is a contract of utmost good faith.

*Indemnity***:** Principles of indemnity means that the insured can in no event make a gain out of the transaction. The object of contract is to place the insured (as far as possible) in the same position in which he would have been if the loss would not have occurred. He cannot make a gain out of that. Otherwise the insured would be tempted to destroy his property himself or in connivance with others and recover higher sum on its destruction.

*Mitigation of loss***:** The insured must take all necessary steps to protect the property and the subject matter, as he considers prudent if he is not insured. He must do everything in his power in order to minimise the loss and to save what is left.

Types of Insurance-related Grievances

These are various issues such as unsatisfactorily redressal; partial or total repudiation of claims by the insurance company; payment without interests; delay in policy delivery or settlement of claims; refusal of payment of money back policy; refusal to change the address of the existence insurer; and refusal to accept/honour third party insurer.

Grievance Redressal Agencies

There are many agencies available for redressal of grievances of insurance consumers. Grievance cell of IRDA, Insurance Ombudsman, Consumer Disputes Redressal Agencies set up under the Consumer Protection Act (COPRA) 1986, Director of Public Grievances under the Government of India are some of the important grievance redressal machineries. Further, safeguards in the interest of insurance consumers, in the form of standing instructions have been provided, for compliance by insurers, under IRDA's Protection of Policyholders' Interests Regulations, 2002.

Insurance law in India cover acts, such as The Insurance Act 1938, IRDA Act 1999 and various regulations framed by IRDA to control, regulate and ensure orderly growth of insurance sector in the interest of consumers in India. Insurance law also include specific acts related to specific policies like The Motor Insurance Act 1988 for Motor Insurance Policy, The Public Liability Insurance Act 1991 for Compulsory Public Liability Insurance Policy, The Workmen Compensation Act 1923 for Workmen Compensation Insurance Policy and COPRA 1986 for interests of consumers.

Special Stipulations for Claiming Insurance under Consumer Protection Laws

The COPRA, 1986 has established certain special considerations that must be fulfilled in order to make a valid case against insurance deficiency. This includes:

- *Payment of insurance premium:* A policy holder must have made diligent and timely premium payments to make an insurance claim. In case, a holder delayed premium payments and the policy lapsed, the same must have been revived with the proper default and late fees to make a claim.
- *Need for succession certificate*: A succession certificate can only be insisted by an insurance provider when there is a dispute about who the legal heirs of the policy holder are. When there is no such dispute, a succession certificate is redundant.

Growth of Insurance Sector with Entry of Private Players: *A Challenge before Consumers*

It was due to this immense growth that regulations were introduced in the insurance sector and in continuation "**Malhotra Committee**" was constituted by the government in 1993 to examine various aspects of the industry. The key element of the reform process was participation of overseas insurance companies with 26 percent capital. Since then, the insurance industry has gone through many sea changes.

With an annual growth rate of 15-20 percent and the largest number of life insurance policies in force, the potential of the Indian insurance industry is huge.

Insurance Co. Liable to Compensate

In *Ummedilal Agarwal vs. United India Assurance Co. Ltd.*, the complainant got goods in his shop insured against fire. Later, the shop was gutted in fire (caused by short-circuit), and goods in the shop were also burnt. When the insured claimed damages, the insurance company denied the claim leading to a breach of contract. The sufferer filed a lawsuit against the company. The National Consumer Disputes Redressal Commission (NCDRC) observed that the insured was a consumer under the provision of Section 2(1) (d) (ii) of the COPRA, 1986 and held the insurance company liable for paying the compensation to the insured.

Source: (1989)3 Comp LJ 143 (NCDRC)

The year 1999 saw a revolution in the Indian insurance sector, as major structural changes took place with the ending of government monopoly and the passage of the IRDA Bill, lifting all entry restrictions for private players and allowing foreign players to enter the market with some limits on direct foreign ownership.

Since opening up of the insurance sector in 1999, foreign investments of ₹8.7 billion poured into the Indian market and 21 private companies were granted licences. Indian consumer, who had always seen life insurance as a tax saving device, are now suddenly turning to the private sector and snapping up the new innovative products on offer.

With regard to health insurance in India, insurer is still passing through a phase of retarded growth which is attributable to low awareness of insurance as a concept, adverse selection of risk due to people insuring at an advanced age, and the conservative approach of insurers towards pricing due to limited availability of statistical data.

The future in life insurance need to be defined by the increase in pure protection products, a refreshing look at unit-linked plans with rising protection components, launch of customised plans to suit niche requirements, improved positioning and market communication by players, and last but not the least, improved service levels which will get redefined with every passing day. There are gaps in coordination even among the four public sector companies, which ultimately puts undue influence on insurers.

General insurance is a complex business both in terms of its fundamentals and operating practices. A key feature of the general insurance market is its skewed structure in terms of rates and terms. Competition has to be mainly on promise of good service and performance thereof. An externally administered regime of rates and terms is inconsistent with a liberalised market. IRDA has recognised this but an action plan to move towards a free market rating regime with adequate safeguards is yet to be put in place.

In the public sector insurance companies, fear of runaway competition, their vulnerability in terms of observing price discipline, and the conduct of their field force and support staff are real challenges before consumers. Well-directed measures are yet to be brought about and the public sector insurers appear to be in an unenviable position. The question is whether the market should delay structural alternatives because of internal rigidities of public sector insurers and their inability to enforce internal discipline.

Rights of Insurance Consumers[6]

Justifying the premium

Premium is charged by the insurance company according to an IRDA approved premium chart. This can be easily obtained from the insurer's website or its office.

Right to Renewal

If the company has specified that the renewal will cease at a particular age of, say, 65 or 70, there is little scope for recourse. If policy wordings are silent on this issue, though, renewal cannot be denied. A renewal request can be turned down only in case of frauds or misrepresentation of facts by the insured. This is also applicable to the cancellation of a policy before its tenure expires.

Processing within Deadline

Since cashless claims are settled almost instantaneously, delays in processing are mainly associated with reimbursement claims. Usually, health insurers insist that they must submit the claim document, along with the bills, within 14-30 days, depending on their policies.

Redressal of Grievances

The insurance company is entitled to receive a written acknowledgement from the insurer within three working days of the receipt of a complaint. If it is not addressed during this period, the company is supposed to resolve the grievance within two weeks of its receipt and send a final letter of resolution.

Regulations in Insurance Services

Following the recommendations of the Malhotra Committee report, in 1999, the IRDA[7] was constituted as an autonomous body to regulate and develop the insurance industry. The IRDA was incorporated as a statutory body in April 2000. The key objectives of the IRDA include promotion of competition so as to enhance customer satisfaction through increased consumer choice and lower premiums, while ensuring the financial security of the insurance market. The functions of IRDA are to:

- protect the interest of and secure fair treatment to policyholders
- bring about speedy and orderly growth of the insurance industry for the benefit of the common man, and provide long term funds for accelerating growth of the economy
- set, promote, monitor and enforce high standards of integrity, financial soundness, fair dealing and competence of those it regulates
- ensure speedy settlement of genuine claims, prevent insurance frauds and other malpractices and put in place effective grievance redressal machinery
- promote fairness, transparency and orderly conduct in financial markets dealing with insurance and build a reliable management information system to enforce high standards of financial soundness amongst market players
- take action where such standards are inadequate or ineffectively enforced
- bring about optimum amount of self-regulation in day-to-day working of the industry consistent with the requirements of prudential regulation

Insurance Ombudsman

The institution of Insurance Ombudsman was created by the Government of India Notification on November 11, 1998 with the purpose of quick disposal of grievances of the insured customers and to mitigate their problems involved in redressal of those grievances. The institution has helped generate and sustain the faith and confidence amongst consumers and insurers. Insurance Ombudsman has two types of functions to perform: (1) Conciliation, and (2) Award making. The Insurance Ombudsman is empowered to receive and consider complaints in respect of personal lines of insurance from any person who has any grievance against an insurer.

Raising FDI in the Insurance Sector

Part of pushing the reforms, the government is seriously considering the possibility of raising the foreign direct investment (FDI) in insurance sector, against the recommendation of the Parliamentary Standing Committee on Finance to retain the existing 26 percent. A Bill to raise the FDI limit in insurance sector from 26 to 49 percent is awaiting Parliament approval.

As per the current regulation, a foreign player cannot have more than 26 percent stake in private insurance companies in the country. The Standing Committee had rejected the government's proposal to raise FDI ceiling to 49 percent in December 2011.

The committee in its report on the Insurance Laws (Amendment) Bill, 2008, said that the proposal to increase the FDI cap to 49 percent in insurance companies seems to have been decided upon "without any sound and objective analysis of the status of the insurance sector following liberalisation".

It said that the policy stance of enabling a greater role for foreign capital in the insurance sector would not necessarily have the desired impact. "Increased role of foreign capital may lead to the possibility of exposing the economy to the vulnerabilities of the global market,...flight of capital outside the country and also endangering the interest of the policy holders". However, it felt that there is need to bring in comprehensive changes in the archaic laws governing the insurance sector.

Foreign insurers and their domestic partners have been demanding an increase in the FDI cap to 49 percent to fund business expansion.

Those who oppose the move to increase the limit says, 'even if the FDI is raised to the proposed limit, there is no guarantee that the foreign companies will go to rural areas or in smaller cities. Instead they will simply compete with LIC and General Insurance Corporation. There are issues related to claimed settlement and the performance of foreign companies, which is dismal compared to Indian companies. People many times do not get their claimed settlement'.

Conclusion

The insurance business is at a critical stage in India. Over the next two decades, India is likely to witness high growth in the insurance sector for three reasons. Financial deregulation always speeds up the development of the insurance sector. Growth in income also helps the insurance business to grow. In addition, increased longevity and aging population will also spur growth in health and pension segments.

The insurable population in India has been assessed at 250 million and this number will increase rapidly in the coming two decades. This should be supplemented by innovative insurance products and programmes by *panchayats* with reinsurance backup by companies and the government to extend coverage to much larger sections of the population.

REFERENCES

1. www.irda.gov.in/ADMINCMS/cms/NormalData_Layout.aspx?page=PageNo4&mid=2
2. www.irda.gov.in/ADMINCMS/cms/NormalData_Layout.aspx?page=PageNo101&mid=1.2
3. www.researchandmarkets.com/reports/306103/indian_insurance_industry_new_avenues_for_growth
4. Justice P Ramakrishanan Raju (2005), "Insurance Claims and Consumer Protection
5. Professor Matadin (2005), "Insurance and Consumer", Indian Institute of Public Administration, New Delhi
6. Mehta, Pradeep S (1998) "How to Survive as a Consumer" CUTS International, Jaipur

ENDNOTES

1. www.pfrda.org.in
2. www.rsby.gov.in
3. www.licindia.in/aam_admi_features.htm
4. www.licindia.in/social_securities_001_features.htm
5. www.india.gov.in/govt/schemes.php
6. Economic Times Bureau, April 11, 2012 (preeti.kulkarni@timesgroup.com)
7. complaints@irda.gov.in

This Briefing Paper has been prepared by Deepak Saxena and George Cheriyan of and for CUTS Centre for Consumer Action, Research & Training (CUTS CART) as part of the project entitled, 'Grassroots Reachout & Networking in Rajasthan through Consumer Action' (GRANIRCA) with support from Department of Consumer Affairs, Ministry of Consumer Affairs, Food and Public Distribution, Government of India.