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LIFE INSURANCE

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A. INTRODUCTION

The whole idea of insurance has developed on the fact that human life is full of uncertainties and the life of a person itself is very uncertain. Eventualities do cast their shadows, and therefore one has to equip oneself with possible means so as to face the unforeseen. It is well said that “Life is full of risks. For property, there are fire risks, for shipment of goods, there are perils of sea, for human life, there is the risk of death or disability and so on and so forth”.

Life insurance is a husband’s privilege, a wife’s right and a child’s claim. The scheme of life insurance provides an assurance that if such an event happens, the person or his dependents would get financial assistance to bear the loss.

It has been aptly said that life insurance offers the safest and surest means of establishing a socialistic pattern, perhaps not without a lot of sweat but certainly without blood and tears. It stabilizes the economic security of the policy holder and at the same time contributes its might to promotion of industry by providing the necessary capital and supports various social security measures.

B. MEANING AND DEFINITION

To understand life insurance we have to first understand the scheme of insurance. Insurance is a co-operative device to spread the loss caused by a particular risk over a number of persons who are exposed to it and who agree to insure themselves against the risk.

Under the plan of insurance, a large number of people associate themselves to share different types of risks attached to human life and property. The aim of all types of insurance is to make provision against such risks. In other words, it is a provision which a prudent man makes against inevitable contingencies, loss or misfortune. In this way, life insurance is a social device to share the risk of loss of life.

In simple words, it means an agreement in which one party agrees to pay a given sum of money upon the happening of a particular event contingent upon duration of human life in exchange of the payment of a consideration. The person who guarantees the payment is called *Insurer*, the amount given is called *Policy Amount*, the person on whose life the payment is guaranteed is called *Insured* or *Assured*. The particular event on which the payment is guaranteed to be given may be *Death* or *Life*. The consideration is called the *Premium*. The document evidencing the contract is called *Policy*.

There is no statutory definition of life insurance, but it may be defined as a contract in which the insurer, in consideration of a certain premium, either in lump sum or in form of any other periodical payments, in return agrees to pay to the assured, or to the person for whose benefit the policy is taken, a stated sum of money on the happening of a particular event contingent on the duration of human life. Here are a few definitions of life insurance which need to be considered:-

1. “Life insurance contract is a contract whereby a person (insurer) agrees for a consideration (that is payment of a sum of money) or a periodical payment, called the premium to pay to another (insured or his estates) a stated sum of money on happening of an event dependent on human life.”
2. “Life insurance is a contract to pay a certain sum of money on the death of a person in consideration of the due payment of a certain annuity for his life calculated according to the probable duration of life.”
3. “Life insurance is a contract in which one party agrees to pay a given sum of money upon the happening of a particular event contingent upon the duration of human life in consideration of immediate payment of a smaller sum or other equivalent periodical payments by the other.”
4. “A life insurance policy promises that the insurer will pay to the policy holder a certain sum of money if the person insured dies or any other specified contingency happens.”

The best explanation of the definition and nature of life insurance contract undoubtedly occurs in the case titled *Dalby* v. *India and London Life Assurance Company*. The basic fact about life insurance recognized in this case is that a contract of life insurance is not a contact of indemnity. One of the effects of life insurance not being a contract of indemnity is that on happening of the event insured against the insurer should pay the agreed amount irrespective of whether the assured suffers any loss or not.

Life insurance is, therefore, in the nature of a contingency insurance. It does not provide an indemnity but only provides for a payment on a contingent event. Moreover, the sum is not measured in terms of a loss; the policy states the amount payable. And the sum undertaken to be paid becomes payable irrespective of the value of life or limb lost.

The Supreme Court explained this concept in a case in which the subject matter of the contract was insurance on the life of the assessee. The contract on behalf of the assessee was entered into between his father and LIC as the assessee was then a minor. The contract of insurance provided that the assessee was not entitled to the policy till he adopted the contract on the date of his attaining majority. The apex court held that "reading the contract as a whole it appears in substance to be a contract of life insurance with regards to the life of assessee. The important point to notice is that if the assessee adopts the policy upon attaining majority the corporation becomes liable to pay the sum assured to the assessee on the stipulated date of majority, if the assessee was alive. The LIC was also liable to pay the amount assured if the assessee was to die before the stipulated date of majority but on or after the deferred date.

The insurance on the life of the assessee was the main intention of the contract and the other clauses relied are merely ancillary to the main purpose. Life insurance in a broader sense comprises any contract in which one party agrees to pay a given sum upon happening of a particular event contingent upon the duration of human life, in consideration of the immediate payment of a smaller sum or certain equivalent periodical payments by another party."

In light of the above definitions the essential features of life insurance can be summed up as under:

(i) It is a contract relating to human life

(ii) There need not be an express provision that the payment is due on the death of the person.

(iii) The contract provides for payment of lump sum money.

(iv) The amount is paid at the expiration of certain period or on death of the person.

C. SCIENCE OF LIFE INSURANCE

Life insurance is a business proposition resting on the combined operation of law of mortality and interest. We all know that time of our death is uncertain and in case of untimely death of a person his family could be put into great financial hardship. The science of life insurance revolves around the principle of providing some financial relief to the loved ones of a person in case of his sudden death.

The first essential for working of life insurance is calculation of risk to fix the amount of contribution(premium) to be made by each policy-holder according to his age, medical history, habits, occupation etc. so that the fund should be adequate to meet the whole claims. The probability of death or the law of mortality is used for this purpose. Secondly, the funds acquired from each policy holder must be carefully invested to safeguard the interest of the policy-holders. The insurance company should take care that adequate funds are available at all times to meet the claims of the policy-holders. Thirdly, the policy-holders are required to pay not only the timely premium but also the costs for meeting the expenses of organization. The expenses of organization are also included in the regular premium fixed at the time of taking policy.

Thus, the mortality, the interest and the expenses are the three main factors which are taken into account for ascertaining the contribution of each policy-holder.

D. INSURABLE INTEREST AND LIFE INSURANCE

Insurable interest is the bedrock of all types of insurance contracts. As a general rule, all the insurance contracts are wagering contracts, as they deal with an uncertain event but the presence of insurable interest transforms these insurance contracts into valid subsisting enforceable and binding contracts. Thus insurable interest is a basic requirement of any contract of insurance unless it can be, and is lawfully waived.

It simply means that the party to the insurance contract who is the insured or policyholder must have a particular relationship with the subject-matter of insurance whether that is a life or property or a liability to which he might be exposed. The absence of the required relationship will render the contract illegal, void or simply unenforceable depending on the type of insurance. The difference between life and other insurances is very crucial as far as law regarding insurable interest is concerned. Every contract of insurance requires an insurable interest to support it; otherwise, it is invalid. In certain kinds of insurance e.g. liability insurance and fidelity or solvency insurance, the very nature of the insurance implies the existence of an insurable interest. Whilst other kinds e.g. personal accident insurance and burglary or livestock insurance are in practice effected by the assured for the most part in respect of one's own person or property.

Occasionally, however, the assured may, for his own benefit, affect insurance upon the person or property of another, and then the question of insurable interest becomes important. For example, a personal accident policy may be affected by the assured against the loss which he may suffer by reason of an accident of a third person.

Without insurable interest, the 'life' of the insured itself would be in danger and if that aspect is not checked, the very purpose of life insurance business would be frustrated. The insurable interest alone gives rise to enforceable legal interest and at the same time, also offers a very fertile ground for insurers to refuse and dispute the claims so that they can retain their green pastures of resources intact.

1. Definition and Nature of Insurable Interest

Insurable interest in general sense means an interest in the safety and protection of subject matter of insurance. It exists when an insured person derives a financial or other benefit from the continuous existence of insured object. In legal sense, it means a legal right to insure, a subject matter, arising out of a financial relationship recognized under law, between the insured and the subject matter of insurance.

Insurable interest is an interest which can be or is protected by a contract of insurance. This interest is considered as a form of property in the contemplation of law. It is assimilated to an actionable claim transferable to the same extent and within the same limitations.

The classical definition of insurable interest was given by Lawrence, J., in *Lucena* v. *Craufurd* which is as under: "The having some relation to, or concern in, the subject of the insurance, which relation or concern, by the happening of the perils insured against may be so affected as to produce a damage, detriment or prejudice, to the person insuring and where a man is so circumstanced with respect to matters exposed to certain risks or dangers, he may be said to be interested in the safety of the thing with respect to it as to have benefits from its existence – prejudice from its destruction."

To put it in short, in his Lordship's words in the same case: „interest‟ means „if the event happens, the party will gain advantage, if it is frustrated, he will suffer a loss‟.

In *Lucena* v. *Craufurd* it has been pointed out that the interest must be enforceable at law. Mere hope however strong it may be is not sufficient. Lord Eldon observed that expectation though founded on highest probabilities is not interest and it is equally not interest whatever might have been the chances in favour of expectation.

A study of modern cases reveals that a vested or proprietary interest is not essential, but such interest may be merely possessory, inchoate, contingent, defensible, equitable or expectant. The following points must be kept in consideration in this respect:-

(a) The interest should not be a mere sentimental right or interest, for example love and affection.

(b) It should be a right in property or a right arising out of a contract in relation to the property.

(c) The interest must be pecuniary, that is, capable of estimation in terms of money.

(d) The interest must be lawful, that is, it should not be illegal, unlawful, and immoral or opposed to public policy.

To sum up, insurable interest is a financial or other interest in preservation of the thing insured and continuance of the life which has been insured.

2. Necessity of Insurable Interest

It is an undeniable truth that insurable interest is sine qua non of a contract of life insurance. In order to affect a life insurance contract, it is necessary that the person who is a party to the contract should have an insurable interest in the life of the person, for whom the policy is being bought. In *Warnock* v. *Davis* it was clearly laid down that in all life insurance there must be a reasonable ground, founded on the reasonable relations of the parties to each other, either pecuniary or of blood or affinity, to expect some benefit or advantage from the continuance of the life of the assured or otherwise the contract is a mere wager, by which the party taking the policy is directly interested in the early death of the assured. Thus, it is a tool to avoid moral hazards.

To put it more bluntly, if a person is allowed to insure the life of any other person there is a possibility that money in the form of life insurance policy may lead to inducement to commit murder. The tendency or temptation to kill the insured life will be removed if a person is not permitted to take insurance on any one's life, less relationship by blood or by financial relationship, because one stands to gain more by the continuance rather than by death of the life insured.

Moreover, if insurance is allowed without insurable interest, insurance could become insecurity. This aspect and significance of insurable interest was effectively demonstrated in the case of *Liberty National Life Insurance Company* v. *Weldon,* wherein a nurse took three insurance policies on the life of her two year old niece without the knowledge of her parents before administering soft drink mixed with arsenic, killing the insured child within a few hours. The nurse was prosecuted for murder. In such cases a restriction in form of insurable interest will counter this murder inducement. Therefore, it is a well settled principle of law that for the validity of an insurance contract the existence of an insurable interest is a mandatory precondition.

Earlier, insurable interest was not essential in life insurance. A contract of life insurance was simply enforceable at common law despite the absence of any relationship between the insured and the life insured. The reason for this was that wagers in general were legally enforceable and thus courts had no option but to enforce wagers in the form of life insurance contracts. An increase in these practices which could serve as an inducement to murder, led to growing concern and ultimately, legislative action in form of the Life Assurance Act 1774 was taken. The English Life Assurance Act 1774 laid down three rules:-

(a) In every contract of insurance, the insured or the person for whose benefit the insurance was affected must have an interest in the subject matter.

(b) The person for whose benefit the policy was affected shall not recover more than the value of such insurable interest. (c) Every policy shall have inserted in the policy, the name of the person interested or for whose benefit the policy was taken.

This Act for the first time required the insured to have an insurable interest in the life insured. The other relevant provisions of the Act required the names of the persons interested to be inserted in the policy and declare that when the insured has an interest, he can recover no more than the amount of value of his interest.

3. Insurable Interest and Life policies

Insurable interest is the key element in the structure of a life insurance policy. It is fundamental to the policy's very existence. If there is no insurable interest there is no life insurance policy. However, it is always difficult to define with precision what constitutes insurable interest in life policies; but one thing is settled, that for validity of a contract of life insurance, there must be an insurable interest. The basic principle of the insurable interest in life insurance is the understanding that the beneficiary of the policy value is interested in the continuance of the life insured far more than the money from the policy. In life policies, the following persons have been recognized as having insurable interest and they may conveniently be considered under two main headings, namely:

(a) Blood Relationships.

(b) Contractual Relationship.

(a) Blood Relationship:

This may be discussed under the following heads:- **(i) On one's Own Life**

Every person is presumed to have an unlimited insurable interest in his own life because the loss to the insured or his dependents cannot be measured in terms of money. Every person is entitled to recover the sum insured whether it is for full life or for any time short of it and if he dies his nominees or dependents are entitled to receive the amounts. Moreover, there is nothing to prevent a person bonafide insuring his own life as many times as he likes for his own benefit. **(ii) By Husband or Wife**

Husband and wife are presumed to have an interest in each other's life. No formal proof is required to establish the existence of such interest. In *Reed* v. *Royal Exchange Assurance Company,* it has been established that no evidence is required in such cases because the husband is legally bound to support his wife and wife is dependent on her husband and hence has insurable interest in the life of her husband. Moreover, in this case extent of loss or gain cannot be measured and therefore, the insurable interest is unlimited. With due development of life insurance business, it is now well settled in England as well as India that a wife has an insurable interest in the life of the husband and vice-versa. **(iii) Parent and Child**

Presumably, the parent child relationship arising from the ties of blood is the strongest one of all. No relationship is more sacred and binding than that of parent and child. These ties uniting the parent and child are so strong that this type of relationship is enough to presume insurable interest in the life of each other. But in England, it has been laid down that a parent has no insurable interest in the life of the child because mere love and affection is not sufficient to constitute an insurable interest. However if the person has any pecuniary interest in life of the child, he can take out an insurance policy on the life of such child. On the other hand, a child is presumed to have an insurable interest in the life of the parent because it depends on the life of the parent for support. In USA and India, mere sentimental interest is sufficient to raise presumption of existence of insurable interest.

(iv) Other Relations

The relationship by itself may not create an insurable interest. When one relation effects an insurance on the life of the other, there must be actual dependence on the person whose life is assured i.e. there must be reasonable expectation of benefit from the continued existence of such person and where he is so related to the other to have a claim for maintenance enforceable at law, in all such cases, there will be an insurable interest. **(b) Contractual Relationship** A wide variety of relations may acquire insurable interest by reason of contractual relationship. Some of them are noted hereunder.

(i) Debtor and Creditor

A creditor has an insurable interest in the life of the debtor. The creditor's interest is limited to the extent of the values of the debt. It is immaterial whether the debt is secured or unsecured. The creditor has insurable interest in the life of the debtor because the chance of obtaining repayment materially depends upon the continuance of the life of the debtor.

(ii) Partner and Co-partner

One partner has no insurable interest in another save where the latter is indebted to him personally or to the partnership, and to the extent only of such indebtedness. A partner has insurable interest in the life of his co-partner to the extent of the amount of capital which the latter has contributed in the partnership. Similarly, the following are said to have insurable interest: (i) Principal and Agent (ii) Master and Servant (iii) Trustee and Co-trustee

E. CONTRACT OF LIFE INSURANCE

A contract of insurance is a contract either to indemnify a person against a loss which may arise on the happening of an event or to pay a sum of money on the happening of some or any event for an agreed consideration. Under such a contract one party agrees to take the risk of another person's life, property or liability in consideration of certain comparatively small periodic payments.

1. Nature of Life Insurance Contract

The nature of contract of life insurance may be summarized under the following heads:

(a) Unilateral Contract

It is that type of contract where only one party to the contract makes legally enforceable promise. Here it is the insurer who makes an enforceable promise. The insurer can repudiate the contract of payment of full policy, but he cannot compel the insured to pay the subsequent premiums. On the other hand, if the insured continues to pay the premium, the insurer has to accept them and continue the contract.

(b) Contract of Utmost Good Faith

An insurance contract is a contract of utmost good faith and therefore, the contracting parties are placed under a special duty towards each other, not merely to refrain from active misrepresentation but to make full disclosure of all material facts within their knowledge. It has been said that „there is no class of documents to which the strictest good faith is more rightly required in courts of law than policies of insurance‟.

(c) Conditional Contract

Life insurance is subject to the conditions and privilege provided on the back of the policy. The conditions put the obligation on a party to fulfil certain conditions before the proof of death or of disability are the parts of the contract. The conditions whether precedent or subsequent of the legal rights must be fulfilled in order to complete the contract.

(d) Aleatory Contract

In such a kind of contract, no mutual exchange of equal monetary value is done. It is the happening of the contingency on which the payment is made. If death occurs only after payment of a few premiums, full policy amount is paid.

(e) Contract of Adhesion

In such a contract, the terms of the contract are not arrived at by mutual negotiations. Similarly, in a life insurance contract, the contract is decided upon by the insurer only. The party on the other side has to choose between the two options, i.e. either to accept or reject the policy.

(f) Contract of Certain Amount

Life insurance contract does not provide an indemnity. It is in the nature of a contingency contract by providing for the payment of the agreed amount on the happening of the event.

(g) Standard Form of Contract

In the life insurance, all the essentials of a general contract as provided by the Indian Contract Act, 1872, for a valid contract are present.

2. Formation of Life Insurance Contract

Like any other contract, a contract of life insurance must satisfy the essentials of a valid contract. All the agreements are contracts if they are made by the free consent of the parties competent to contract, for a lawful consideration and with a lawful object, and are not hereby expressly declared to be void.

(a) Offer and Acceptance

The intimation of the proposer's intention to buy insurance is the 'offer', while the insurer's willingness to undertake the risk, is the acceptance. The insurer may also propose to make the contract. From whichever side the offer may be, the main fact is acceptance.

The offer in life insurance is usually made by the assured in the printed form of the proposal supplied by the insurer. In life insurance the proposal is contained in four parts, namely, (i) proposal form, (ii) medical report (iii) agent's report, and friend's report. Generally, the acceptance of proposal is to be made by the insurer. The insurer receiving the papers containing the proposal scrutinizes them and when they are found in order he signifies his assent thereto by a letter of acceptance. Until this is sent there is no acceptance, though a cheque for the premium is sent and the money is received and retained till after the death of the insured. **(b) Consideration**

The law of life insurance also requires a lawful consideration for its validity as it is essential to a legal contract. Consideration is the price for which the promise of the insurer is purchased. The payment of first premium is the consideration for the insurer and the insurer’s promise to indemnify the assured from the stipulated risk in the policy is the consideration to the assured.

In case of *Raj Narain Das Mahapatra,* it was settled that cashing of the cheque was an acceptance of the risk whether policy was issued or not. **(c) Competence of Parties**

The parties must be competent to enter into a contract, the parties must be of the age of majority, of sound mind and not disqualified from contracting by any law to which any of them is subject. Regarding the insurance contracts only those insurers can grant insurance policies who have been issued license under the Insurance Regulatory and Development Authority. **(d) Legality of Object**

A contract will be invalid if the object is illegal or against public policy. The object of life insurance contract will be legal if it is made for one's own protection or for the protection of the family against financial losses. In brief, the person desiring policy must have insurable interest in the life proposed for insurance.

The object of an agreement is lawful unless:

(i) it is forbidden by law, or

(ii) it is of such a nature, that if permitted would defeat the provisions of any law, or

(iii) it is fraudulent

(iv) it involves injury to person or property of another

(v) the court regards it immoral or opposed to public policy.

In *Northern India Insurance Company* v*. Kanhaya lal,* the policy became void because the insured caused his own death before the policy has been in existence for one year.

(e) Free Consent of Parties

When parties to a contract agree on the terms and conditions of the contract in the same sense and spirit, they are said to have free consent. The consent is said to be free when it is not caused by coercion, or undue influence or fraud or misrepresentation or mistake.

In a contract of insurance the insurer and the insured must be in genuine agreement as to the subject matter of insurance, that is, life to be insured, sum assured and term of the insurance and every other particular relating to the contract. When a person signs a proposal for insurance, he gives his free consent to the contract. The proposer should understand the contents of proposal in the same sense and make a written declaration on the proposal. He is responsible for the proposal made by him. In *Bernarsi Das* v. *New India Assurance Co. Ltd,.* a principle of law has been laid down. It is well established rule of law that in case of a person who is illiterate or who is not in a position to understand the contents of a document, the contract cannot be imposed upon him simply because he had endorsed his signature thereon.

case of an illiterate person it is necessary to prove the fact that he had knowledge of what was stated in the proposal.

3. Performance of Life Insurance Contract

The performance of insurance contract has been discussed under following headings:-

(a) Preparation of Policy

(b) Conditions of Policy

(a) Preparation of Policy The policy is prepared after formation of the contract. Preparation of policy involves various stages which are of prospectus, filling up of proposal form, construction of policies and alteration in policies. These steps have been discussed as under:

(i) Prospectus

Prospectus is defined as "any notice, circular, advertisement or other invitation, offering to the public for subscription or purchase of any shares or debentures". The prospectus of a company generally discloses the financial position of the company. The prospectus of a life insurance company is different from other companies. It explains about the different types of policies, privileges and conditions of the policies, procedures of insurance contract and settlement of claims and rules and regulations of insurance contract but the prospectus will be a binding document between the insurer and the insured only when it is referred in the policy. **(ii) Proposal Form**

There are different types of proposal forms for each type of policy, with and without medical examination, children's policies, annuities etc. The proposal form includes information pertaining to the amount, kind and term of policy. The proposer has to disclose all the material facts truly and fully in good faith by way of written answers to questions in the proposal form. On the basis of this information the insurer assesses the insurability of the proposer and makes an offer if the proposal is acceptable. The proposer is free to accept or reject the offer and he can bring about a binding contract of insurance by accepting it according to its terms.

The proposal form is important because statements in it are the basis of the contract between the parties and their correctness will be declared to be a condition precedent to the validity of the contract. **(iii) Construction of Policies**

(iv) Alteration in Policies

The terms and conditions of the policies can be altered during its currency by the mutual consent of the parties. Revival of a policy which has lapsed for non-payment of premium is also an instance of alteration by mutual agreement. **(b) Conditions of Policy**

The conditions of life insurance contract are generally governed by the conditions and privileges mentioned on the back of the policies. Since, there are different kinds of policies, the conditions and privileges will vary. The conditions of standard policy are discussed here under: **(i) Proof of Age**

The premium and sum assured are calculated on the age of the Life Assured as stated in the schedule. So in case the age is found to be higher than the said age the sum assured and the bonus addition will be altered to the amount as would have been secured for the correct age. **(ii)Forfeiture in Certain Events** In certain events the policy is determined and all the money paid in consequence is forfeited.

(iii) Days of Grace

Days of Grace are that period during which the policy does not lapse on the ground of non-payment of premium on the due date. The insurance cover continues uninterrupted during these days even without payment of premium for the current period. The days of grace in India is one calendar month but not less than 33 days of grace is allowed for payment of yearly, half yearly or quarterly premiums and 15 days in case of monthly premium. If death occurs within that period and before payment of premium, then the policy will still be valid. However, the grace period for payment of the premium does not provide free insurance or operate to continue the policy after it expires by agreement of the parties.

(iv)Premium Notice

Premium Notice means a notice from the insurer that the premium is or will soon become due. It mentions the amount of premium, the due date and days of grace. The insurer is not legally bound to send the premium notice, but as a matter of practice, the insurer sends a premium notice to every insured about a premium falling due on a particular date in the next few weeks.

(v) Payment of Premium The first premium is the consideration for the insurer's promise; but the subsequent premiums are conditions to continue the contract. In case of non-payment of premium the policy is forfeited.

(vi) Return of Premium

"Equity implies a condition that the insurer shall not receive the price of running a risk if he runs none. Where the contract does not come into effect, the insurer is not liable for premium and he has to return the premium to the insured Thus, the insured can claim the return of any premium paid on account of misrepresentation or breach of warranty. **(vii) Revival of Lapsed Policies**

A lapsed policy can be revived or reinstated at the request of the insured although the insurer will be within his right to decline the revival. When the premium is not paid within the days of grace, the policy lapses, but can be revived during the life time of the life assured, but within a period of five years from the due date of the first unpaid premium and before the date of maturity. Thus revival of lapsed policies is a valuable contractual right and the insurer has no arbitrary or discretionary right to refuse reinstatement if the conditions laid down have been compiled with. **(viii) Non-forfeiture Regulations**

The policy conditions provide various safeguards to policyholders, when there is a premium default. These safeguards are called non-forfeiture regulations. If after at least five full years premiums have been paid in respect of a policy, and any subsequent premium is not duly paid, then the policy shall not be wholly void. But the sum assured shall be reduced to such sum as shall bear the same ratio to the full sum assured as the number of premiums actually paid shall bear to the total number of premiums originally stipulated in the policy.

(ix) Guaranteed Surrender Value

Guaranteed Surrender Value is the cash received after surrender of policy after fulfilling above mentioned condition. The policy can be surrendered for cash after the premiums have been paid for at least five years or to the extent of 1/4th of the total number stipulated in the policy, provided such one-fourth exceeds three full years premium.

(x) Policy Loans

Policy loan is a loan issued by an insurance company that uses the cash value of a person's life insurance policy as calculated. The insured‟ rights to obtain a loan on the security of the policy within its surrender value are also one of the privileges mentioned by some insurers in the policy itself. The insurer has a lien on the proceeds of the policy to the extent of outstanding loans and interest thereon. And if the borrower fails to repay the loan, the money is withdrawn from the insurance death benefit. **4. Discharge of Life Insurance Contract**

The insurance contract is made between the two parties–the insurer and the insured. The contract can be discharged in the following ways:

(a) By Agreement
(b) By Impossibility of Performance
(c) By Breach
(d) By Performance

(a) Agreement

The insurer and the insured may agree to perform the contract on mutual agreement. They may agree that on surrender of the policy for cash payment the policy will cease. Similarly, they may agree to vary the terms of a life policy. The policy may be converted into a paid up policy or in other form of policy such as from a whole life insurance to endowment insurance. The insurance contract may be discharged by agreement in two forms:- (i) Novation (ii) Waiver

(b) Impossibility of Performance

The contract is deemed to be performed when an act of impossibility occurred or where the promisor could not prevent, the act which made, the contract void. For example, when war occurs between the countries of insurer and insured and discharge of the contract becomes impossible, then in such a situation the contract is deemed to be discharged by impossibility of performance.

(c) Breach of Conditions

The breach of contract may take place when the promisor refuses to perform the contract or renders himself disabled to perform the contract or fails to perform it or by his action or conduct it becomes impossible of performance. The promisee may refuse to perform his part of the contract.

(d) Performance

When both the parties perform their promises, the contract is discharged under normal course of business. When the life assured pays the premium the insurer will be bound to pay the sum assured by the policy at the time of death or at the maturity of the claim as the case may be. By making the payments to the person entitled, the life office is discharged or released from its obligations under the contract.

(i) Death of Insured Person

A life insurance contract is discharged at death of insured person and the premium become payable. In case of a death claim, proof of death, proof of title and proof of age are required. After completing the above formalities the insurance company issues a discharge form for completion which is to be signed by the person entitled to receive the policy money.

(ii) Maturity Claim

A notice is generally issued by the insurer shortly before the maturity date. It states the number of the policy and name of the life assured, the date of maturity, the amount of sum and bonus, if any and the net sum payable. If the policy does not stand assigned the amount is payable to the insured. However where the policy is assigned, the assignee will get the policy amount provided the assignment is absolute one.

F. KINDS OF LIFE INSURANCE

Life insurance products are usually referred to as „plans" of insurance. These plans have two basic elements, one is death cover and the other is survival benefit. If regular premiums are paid throughout the duration, one gets the sum assured in the policy at the end of the period. Or, if the holder dies while the policy is in force, his survivors will get the amount as compensation for the economic loss. Thus, if you live till the end of policy period, you get the sum assured or if you die before the end of policy period, your survivors will get the sum assured. Privatization has greatly revolutionized the product range of insurance companies. Now, there are different kinds of insurance plans, which are available to people in life insurance itself. People today have greater option in choosing a policy depending on their requirements. The major kinds of life insurance plans are:

1. Term Assurance

The plans of insurance that provides only death cover for a specific term are called term assurance. You can select the term for which you would like the coverage; up to 35 years. Payments are fixed and do not increase during your term period. In case of an untimely death, your dependants will receive the benefit amount specified in the policy. One can also customize term insurance with the additional riders, such as children benefit, waiver of premium or accidental death benefit. The whole life plan is a long term „Term Assurance‟.

2. Pure Endowment

The plans of insurance that provide only survival benefits are called pure endowment plan. A term insurance plan is just the opposite of a term insurance plan. In this plan the life insurance company promises to pay the life insured a specific amount (sum insured) only if he survives the term of the plan. If the insured dies during the tenure of the plan then the family is not entitled to anything. It means there is no death cover. But in this plan, the premium is much higher compared to the term assurance. All the different insurance plans of any insurance company are a mixture of these two basic plans, though their proportions may vary. While doing it, customer needs are given preference, out of which are born different insurance plans.

3. Annuity (Pension) Plan

Annuities are practically the same as pensions. We all know that each and every person is going to retire at some time or the other and the greatest risk after retirement is the lack of income, or a reduced earning capacity. To take care of this, different insurance companies have devised different plans providing annuity. A contract providing for regular periodic payments during a specified period is an annuity contract. It is designed to generate regular income for senior citizens when they retire. Once the pension starts, insurance protection is removed. The pension can be had monthly, quarterly, half yearly or yearly.

4. Unit Linked Insurance Plan

ULIPs are market linked life insurance products that provide a combination of life cover and wealth creation options. This is a very attractive and equally useful scheme. Here, after paying the first 2-3 yearly premium amounts, even if one does not pay the rest of premiums, his insurance protection continues. The policy does not lapse. Most importantly, it provides flexibility of choosing from a variety of fund options depending upon the customers risk appetite. Under the ULIP, the holders can decide whether to invest in equity shares, or debt and company deposits, or only in government schemes, or in money market operations. This scheme will certainly be all pervasive in the insurance sector in future.

5. Whole Life Policy

A term insurance plan with an unspecified period is called a whole life policy. Under this plan premiums are paid throughout life, till his death, but the claim i.e. the sum assured becomes payable only after his death. The policy does not expire till the time any unfortunate event occurs with the individual. The advantage of this policy is that the validity of this policy is not defined and hence the individual enjoys the life cover throughout life. Moreover, this policy is the cheapest policy as the premium under this policy is lowest and exempted from tax.

6. Whole Life Policy- Limited Payment

Here, the holder can decide in advance the number of years he is going to pay the premiums. After the period of premium payment, the risk continues without payment of premiums, and if the policy is participatory, the amount of yearly declared bonus is added to the sum assured. A feature of this policy is that in the declining period of life, when premium payment becomes burdensome because of carrying out of other responsibilities, premiums need not be paid, because the premiums have already been paid during the prime life.

7. Convertible Term Insurance Policy

Convertible term insurance policy is for those people who may not be able to afford a large premium at present, but will be capable of paying large premiums in 4-5 years after their income has grown and stability has been attained in the occupation. Convertible term insurance policy allows the insured to convert a term policy to a permanent policy at a later date as the insurance needs and financial resources change. It is a term assurance policy with a period of 5-7 years. They have to decide whether to convert it into a whole life policy or endowment policy, at least two years before the end of the term of this policy. For this, there is no need for fresh medical examination. Only, premium has to be paid at the time of making the changes according to the changed age, and for the changed term accordingly.

8. Convertible Whole Life Assurance Policy

This is devised for those people who want a large insurance protection, but want a minimal premium at the beginning, which may be increased four to five times after five years and also want to convert it into a whole life policy of a proper duration. In the beginning, it is in the form of a whole life assurance policy where premiums have to be paid till the age of 70. Before the end of five years, the holder can convert it into a whole life policy of a proper duration. For this, there is no need for fresh medical examination. If no changes are made, the insurance continues in the form of a limited payment whole life plan, where premiums have to be paid till the age of 70.

9. Pure Insurance

This scheme is for young people with a limited income but who want a large insurance protection. If the holder dies while the policy is in force, the whole insurance amount together with loyalty addition amount is paid. If he lives till the end of the term, all premiums paid by him (less extra premiums paid), together with loyalty addition are paid to him. In addition, free insurance protection is provided for next 10 years, depending on the policy duration for 30 to 60 percent of the original sum assured.

10. Mortgage Redemption Policy

Mortgage redemption policy is designed to meet the requirements of the policy holding individual who seeks to ensure that all his outstanding loans and debts are automatically paid up in the event of his demise. This plan is suitable to a person who is refunding loan on EMI basis. If he dies before repaying the full loan amount, instead of the burden of his loan balance repayment falling upon his survivors, the loan is automatically repaid out of the insurance amount payable on his death. Premiums have to be paid for a period which is two years less than his loan duration. One time premium payment can also be made. The premiums are easily affordable. At any time, the policy face value is equal to the loan balance. In other words, policy face value goes on decreasing yearly in proportion to loan balance. The holder gets no benefits under the policy, once the loan is repaid fully. Medical examination is compulsory. Since the premium amount is fixed according to the loan interest, loan amount, age of the holder and loan duration, the premium amount is informed to him after he applies for the loan.

11. Endowment Assurance Policy

This is the most popular policy. There is a wonderful mixture of risk coverage and provision for old age in this policy scheme. If the holder dies while the policy is in force, his survivors get the compensation in the form of the sum assured. At the end of policy period, if he is alive, he gets the policy amount. These policies are both with and without bonus. This is considered to be a model insurance policy, and over 60 percent of all the policies are taken out under this scheme. It is suitable for middle aged to elderly professionals whose dependants might need assistance in clearing their debts in case of their unexpected demise. This policy bears no surrender value.

12. Money Back Policy

This scheme is devised for those who need a lump sum amount after a certain period, or those who want to invest this amount somewhere other than in insurance and earn more profits. While this policy is in force, if the holder is alive after certain period of time, he is paid 15-20 per cent of the sum assured as survival benefit. On the other hand, if he dies at any time during the policy period, the whole amount is paid to his survivors. If he is alive after the policy duration, the whole amount after deducting the survival benefits already paid is paid back to him.

G. DIFFERENCE BETWEEN LIFE INSURANCE AND OTHER INSURANCES

The primary point of distinction between life insurance and fire and marine insurances is that the subject matter of insurance in the former is human life, which is invaluable in terms of money and further the event insured against is death, which is a certain event; while in fire and marine insurance, the subject matter of insurance is property or a ship, which has economic value and the event insured against is fire or maritime peril which may or may not occur. The difference between life insurance and other forms of insurance flow from the following characteristics:

1. Life insurance is not a contract of indemnity but fire and marine insurances are contracts of indemnity and the assured cannot recover more than the actual loss suffered by him.
2. In life insurance, the event insured against is death which is a certain event. The uncertainty lies only in the time when it occurs. In fire and marine insurances, the event insured against may not happen at all.

3. In life insurance, the insurable interest need to exist only at the time of the contract but in fire and marine insurances, the assured must have an insurable interest at the time of loss.
4. In life insurance, the insurable interest is incapable of being valued in terms of money. In fire and marine insurances the insurable interest is capable of valuation in terms of money and so where there is gross over-valuation, the policy may become void as a wager.
5. In life insurance, the contract is for a longer duration or generally for whole life and is a continuous contract and cannot be cancelled by the insurance companies, however, if the premium is not paid annually or at stated intervals the contract may lapse. In fire and marine insurances, the contract is for short time, usually year to year only, and the insurance automatically comes to end after the expiry of the year.
6. The life insurance possess the elements of protection as well as investment but other forms of insurance only involves the element of protection.
7. The principle of subrogation is not applicable to life insurance whereas it applies to other forms of insurance, fire and marine.
8. Life insurance contract provides credit facility but against other forms of insurance policies credit cannot be obtained.

H. ADVANTAGES OF LIFE INSURANCE

1. Covers Risk of Death

Unlike any other ordinary saving plan, the insurance scheme covers the risk of death. In case of death, insurance company pays full sum assured, which would be several times larger than the total of the premium paid. Thus, it saves the family from the financial strain due to unforeseen and premature death.

2. Encouragement of Compulsory Savings

After taking an insurance policy, if the premium is not paid the policy lapses. So, it becomes compulsory for the insured to pay the premium. This builds the habit of long time savings thereby developing the attitude of savings. Thus it possesses a tremendous psychological advantage as a method of saving because it is semi-compulsory in nature. Moreover, regular savings over a period of time ensures that a decent corpus is built to meet the financial needs at various stages.

3. Facilitation of Liquidity

Insurance facilitates and maintains liquidity. If the policyholder is not able to pay the premium, he can surrender the policy for a cash sum.

4. Provision of Profitability

Insurance is a source of investment. The money paid as premium is an investment with assured returns. The element of investment i.e. regular saving, capital formation, and return of the capital along with certain additional return are perfectly observed in life insurance. It provides economic security and better family life. The element of profitable investment has made insurance more attractive.

5. Assistance in Odd Situations

Life insurance is a necessity for a person having responsibilities of the family. Middle aged people with children have potential expenses of their children's education, settling them and their marriage. It assists the family in case of sudden illness, death or accident of the bread earning member of family and helps the dependents of insured by providing for education, housing, medical treatment and marriage of children.

6. Easy Settlement and Protection against Creditors

The procedure of settlement of claims is very simple and easy. After the making of nomination or assignment, a claim under the life insurance can be settled in a simple way. The policy money becomes a kind of security which cannot be taken away even by the creditors.

7. Facilitation of Loan

Policyholders have the option of taking loan against the policy. This helps you meet your unplanned life stages needs without adversely affecting the benefits of the policy they have bought. Insurance extends various kinds of short-term and long-term loans to insured for business purpose or for some important domestic purpose.

8. Tax Relief

Life insurance plans provide attractive tax benefits under most of the plans, both at the time of entry and exit. Tax benefits are also available on the premiums paid and also on the claim proceeds according to the tax laws in force. The money paid toward, insurance premium is deducted from the gross income and this is really an investment.

9. Mental Peace

Insecurity and uncertainty in life is the main cause of mental worries. Life insurance helps in reducing this uncertainty and security as it is known that insurance company will come to his rescue in case the risk feared occurs. A person insured against such risks can get rid of all his worries and lead a peaceful life.

10. Awareness towards Good Health

Life insurance creates awareness towards maintenance of good health in the society. Insurance companies have started health improvement movement throughout the world, by distributing useful materials for health education.

THE CONCEPT OF RE-INSURANCE AND DOUBLE INSURANCE

1. Reinsurance

Reinsurance is a contract between two or more insurance companies by which a portion of risk of loss is transferred to another insurance company called the reinsurer. Usually, an insurance company insures a profitable venture that comes in its way, even if the risk involved is beyond the capacity. But if at a particular stage it feels that the risk undertaken by it is beyond its capacity, then it may retain the risk which it can bear and transfer the balance. By transferring the risk to any other insurance company, the insurer reduces his liability. In case of loss, the first company gets compensation from the second company. The insurer is concerned only with the first company from which it purchased the policy and is not a part of the reinsurance contract.

(a) Definition

Here are a few definitions of the term re-insurance:

(i) In the words of Reigel and Miller, “Reinsurance is the transfer by an insurance company a portion of its risk to another company.”

(ii) According to the Federation of Insurance Institutes, Mumbai “Reinsurance is an arrangement whereby an insurer who has accepted an insurance, transfers a part of the risk to another insurer so that his liability on any one risk is limited to a figure proportionate to his financial capacity.”

(iii) In the words of R. S. Sharma, “When an insurer transfer a part of his risk on a particular policy by insuring it with some other insurer, it is called re-insurance.”

Reinsurance does not affect the contract between the original insurer and the assured. Reinsurance can be restored in all types of insurance contracts, which involves larger risks. As the contract of reinsurance is a contract of good faith, the re-insurer is not liable to the assured and the contract is co-extensive with the original policy.

Under the reinsurance method, if an insurance company receives an insurance proposal worth Rs. 10 crore, where its risk bearing capacity is of Rs. 5 crore only, it has two options either to reject the proposal or to accept it. After accepting the proposal, the insurer can limit his liability by getting re-insured for Rs. 5 crore with another insurer. In case of complete loss the original insurer makes the payment of claim to the insured for Rs. 10 crore and then claims Rs. 5 crore from the re-insurer(s).

(b) Features of Reinsurance

The main features of a reinsurance contract are as under:

(i) It is an insurance contract between two insurance companies.

(ii) In re-insurance, the insurer transfers the risk beyond the limit of his capacity to another insurance company.

(iii) The relationship of the assured remains with the original insurer only. The re-insurer is not liable directly towards the assured.

(iv) Reinsurance is a contract of indemnity.

(v) Re-insurance does not affect the right of insured.

(vi) The fundamental principles of insurance are applicable in re-insurance also.

(vii) The original insurer cannot do re-insurance more than the insured sum.

(viii) Re-insurer is bound only by those liabilities for which the original insurer is legally liable.

(ix) Re-insurance can be possible in all types of insurance.

(x) Re-insurance is beneficial to the insurer and the insured, both.

2. Double Insurance

Double insurance refers to the method of getting insurance of same subject matter with more than one insurer or with same insurer under different policies. This means that a person may get two or more policies on same subject matter and can claim the amount of all these policies. However, the insured cannot profit from this arrangement because the insurers are legally bound only to share the actual loss in the same proportion in which they share the total premium. It is also called dual insurance.

Double insurance is possible in all types of insurance contract. A person can insure his life in different policies for different sums. In life insurance the assured can claim the sum insured with different policies on maturity or to his nominee after his death. This becomes possible in life insurance because life insurance is not indemnity insurance.

In indemnity insurance such as fire and marine insurance, only the real loss can be indemnified. In fire and marine insurance, where the same subject matter is insured with more than one insurer, the insured is entitled to the real loss in proportion to the insured sum on different policies obtained from different insurance companies. In other words, the total claim cannot exceed the real loss, payable proportionately by each insurer. If any one of the insurer pays more than his shares, he is entitled to a contribution from other insurers for the amount he pays in excess of his shares. An insured is not entitled to be benefited from all the insurance policies. In case the total loss is less than the value of insurance policies issued by different insurance companies, the insured can claim in full against all the policies.

(a) Features of Double Insurance

From the above description, the features of double insurance may be stated as under:

(i) More than one policy can be obtained against the same subject matter/life.

(ii) All the policies relate to the same subject matter.

(iii) The risk covered in all the policies is the same.

(iv) The risk in all the policies is of the same period.

(v) The insured has equal insurable interest in the subject matter.

(vi) The policies can be obtained either from the same insurer or from different insurers.

(vii) Double insurance is beneficial in life insurance only.

(viii) In the case of life insurance, the money from all the policies can be claimed by the assured or his nominee.

(ix) One can get insurance policies issued on a subject matter more than its value.

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