

## **OVERCOMING A REJECTED INSURANCE CLAIM – A LEGAL PERSPECTIVE**

The insurance sector in India is growing at 17% per annum and is all set to become a US\$ 350-400 billion industry by 2020. It is axiomatic that with the growing insurance policies being taken by the people of our country, the number of repudiated/rejected claims shall rise in absolute numbers. Most insurance companies in India already have a strong vetting team of legal and financial experts to ensure that claims which do not comply with the signed insurance policy document are rejected and not allowed under any circumstance.

As a practicing lawyer, I have handled numerous insurance litigations. I have had two kinds of experiences with my clients in relation to these litigations which I have handled:

- a. Cases of rejection of the claim by the insurance company on grounds of inconsistency in the statements of the policy holder, suppression of material facts or inadequate supply of claim related documents.
- b. Cases of rejection of the claim by the insurance company on grounds of the claim being completely outside the scope of the insurance policy or breach of a mandatory condition of the insurance policy contract.

Good legal representation could possibly help you in overturning an arbitrary/malafide rejection of claim by the insurance company when done under (a) as above mentioned through an order of the court where the insurance company is directed to pay the claim amount along with interest. However, in all cases of (b) as above mentioned it will be difficult for your lawyer to help you get the claim amount and hence any further expenditure on litigation to pursue such claims can be avoided.

Some of the key points in ensuring that the policy holder does indeed get the claim processed as soon as possible from the moment of loss are the following:

**a. Immediate intimation of the loss** event to the insurance company and to the local police station without any delay. For eg. if it is a fire insurance then immediate intimation of fire at the factory/godown to the insurance company and to the local police station.

**b. Consistency of information supplied.** It is important that the information supplied by the policy holder to the insurance company is consistent and uniform right from the beginning until the end. I have noticed many insurance claims, getting rejected on the ground that due to the initial panic, the policy holder provided incomplete/vague or cooked up details to the insurance company and later corrected the same. Such inconsistent details give a ground to the insurance company to reject the claim of the policy holder.

**c. Asking for the entire policy along with the terms and conditions.** You will be surprised to learn that many people in our country still do not understand a difference between a cover note and a policy document. Most people confuse the cover note to be the policy document. A cover

note is only the receipt (Challan) of the premium amount and provides for basic coverage details of the policy. The policy holder should remember to ask the entire policy document along with the elaborate terms and conditions as the policy holder should have a copy of the same at all possible times.

**d. Reading of the entire policy conditions.** I know this could be difficult for an ordinary citizen not trained in law to go through the complex policy conditions which are lengthy and verbose. The family lawyer or someone good with a command over English language in the house could be relied upon who can study through the policy terms and conditions and explain the same in simple language to the policy holder.

The policy holders should adopt litigation only as the last alternative. The aim of the policy holders should be to speak and write to the senior executives of the insurance company, if the claim is rejected. The policy holder can explain the reasons as to why the claim should be allowed and the rejection is illegal. It is advisable that the policy holder takes some form of legal representation after the rejection letter has been received. It is seen that in most cases, after issuance of rejection letter, the insurance company does not change the decision and hence approaching the court becomes an inevitable consequence.

A claim for the amount along with interest can be filed before a Civil Court or a Consumer Court by the policy holder. All claims below Rs. 20,00,000/- can be filed before the District Forum, claims between Rs. 20,00,000/- and Rs. 1,00,00,000/- can be filed before the State Consumer Disputed Redressal Commission and above Rs. 1,00,00,000/- can be filed before the National Consumer Disputes Redressal Commission. The advantage of filing a consumer case for a rejected claim is that the court fees for filing the case is very nominal. However, given the bad shape of the district forums in India, it is advised that a Civil Court should be approached if the claim is below Rs. 20,00,000/-.

The success of a court case shall be dependent on various factors like the merit of the claim, post rejection correspondences between the policy holder and insurance company, supporting documents in relation to the claim as provided by the policy holder and the quality of legal representation before the appropriate court. An intelligent and strategic decision making coupled with well thought out correspondences with the insurance company relating to the rejected claim shall go a long way in ensuring that policy holders get the deserved claim amount.

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