

SUGGESTED ANSWERS

PROFESSIONAL PROGRAMME

**INSURANCE LAW AND PRACTICE
(PP-IL&P/2014)
ELECTIVE PAPER 9.3**



**THE INSTITUTE OF
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THE INSTITUTE OF COMPANY SECRETARIES OF INDIA

PROFESSIONAL PROGRAMME

INSURANCE LAW AND PRACTICE



PP - IL&P/2014

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INSURANCE LAW AND PRACTICE
PRACTICE TEST PAPER

OPEN BOOK EXAMINATION

Time allowed : 3 hours

Maximum Marks : 100

Attempt all questions. All questions are compulsory.

Question No. 1

Please refer the below case study

The Olympics as a Story of Risk Management

A lot of things didn't happen at the Olympics this year, all of which were extensively prepared for. A terrorist incident, a breakdown of the London rail system, power blackouts, volcanic ash clouds, flooding, an outbreak of infectious disease—the London organizing committee (LOCOG) and the International Olympic Committee (IOC) spent years thinking about every scenario they could imagine. Simulations of security incidents were rehearsed, and contingency plans for mass evacuations or emergency situations were put in place. Risk management is now at the heart of the governance model for the Olympic Games and the Olympic movement, and not only because of their growing scale and complexity. There is also the time horizon involved, which can be up to twenty years from the genesis of a host city's bid to the conclusion of the actual event. Long timelines mean greater vulnerability to emerging risks—that is, dangers with a large potential impact that are not well understood or easily quantified or which emerge as the unanticipated result of disparate causal processes interacting. These risks can emanate from the realm of security, public health, natural ecology, technology, or economics. In the run-up to the London 2012 Olympics, for example, the global financial crisis caused private developers for the Olympic Village project to withdraw, requiring a refinancing package backed by government. Consider, too, that when threats materialize at large-scale events, the damage often spills over to other parties. Even before the official opening of London 2012, a mixup with the flag for the North Korean women's football team had organizers scrambling to resolve a diplomatic spat. Other mega-events have sometimes taken their toll in business disruption, by interrupting supply chains, altering consumption, or giving rise to workforce absenteeism. The Olympics can bring a halt to "business as usual" for the host government as well, as it diverts resources to support and police

the event. Higher than normal volumes of population movements can create hazards for public health and cause traffic congestion. The influx of spectators offers a target for petty crime, and the symbolism of the Olympics presents a temptation for terrorists.

One key to effective risk management is the ability to distinguish between phenomena that cannot reasonably be foreseen and dangers that are “self-inflicted” because they could be avoided by thorough planning and careful execution. At the start of the Atlanta 1996 Olympics, it was a catalog of minor operational and logistical problems that led journalists to start reporting on “the glitch Games.” The truth is that risk is often organizational in its origins, created through poor decision-making, misjudgments in planning assumptions, or human error in operations (such as in monitoring or enforcement activities). Many threats are not unforeseeable, but lie just beyond the edge of current knowledge. In planning for the Olympics, warning signals can be imperceptible amidst the noise, due to the relative scarcity of local experience, as organizers tread an unknown path (although there is a growing Olympic professional services complex made up of firms and consultants contracted to advise on bid teams and organising committees). Managing risk involves a judicious mix of preventing the risks that can reasonably be controlled, learning to recognize the ones that can't be prevented, being prepared to react to limit damage, and having the resources to recover from the problems that do occur. Olympics organizers traditionally focused on reaction and recovery, using tools such as insurance (taken out for personal injury and property coverage), safety plans, and command and control structures. Since the 1980s, however, Games organizing committees have increasingly invested in teams and systems dedicated to the management of risk through internal controls.

Risk mitigation is now integrated into decision-making and operations, and no longer treated as just an input into the calculation of insurance premiums. Ensuring readiness for Games-time (in Olympic- speak) now involves strategic pre-emption through stress-testing and scenario planning. Table-top ‘gaming’ exercises at the top of the chain of command and practical training of personnel through rehearsals are routine across many of the diverse functions of Olympic operations. In the months leading up to London 2012, for example, visible military rehearsals were staged on the River Thames in addition to many test events performed on the main site. Ahead of Vancouver 2010, IT planning identified around six hundred scenarios for rehearsals in a formal playbook which also documented procedures to follow in the event of an incident. The rise of Olympic risk management is certainly evident at the level of the IOC, the guardian of the Games. It is understandably preoccupied with financial risk, since the event is effectively its only commercial asset, and with reputational risk, given that the Olympic “halo” that derives from this is what makes that asset so valuable. Since the events of 9/11, the IOC has taken out insurance cover against event cancellation due to either terrorism or natural disaster (something which organizing committees had done for many years before). More significantly, though, since the 1990s it has increasingly formalized its process of evaluation of bids and its monitoring of the readiness of preparations of host cities. Bids of applicant cities must now be presented according to a standardised template, with covenants of support from the relevant public authorities and political actors. The IOC's Evaluation Commission then reports on the technical quality of the bid, prior to the vote of its membership to

award the Games. After this, the monitoring of readiness is transferred to the Coordination Commission, with its inspection visits providing opportunities to identify risks in project management and operations. The other crucial aspect in which the IOC has reshaped the way in which risk is understood by Olympic organizers is through its attempts to formalize learning between events under its Olympic Games Knowledge Management program. This integrated framework of services and documentation (made available to cities after a candidature fee has been paid) consists of an observer and secondment program for officials from future host cities, workshops, technical manuals, a Games evaluation process, and debriefing. Olympics organizers and the IOC have wisely leveraged the business world's growing understanding of risk management. "Risk-based" approaches to planning for the Vancouver 2010 Winter Olympics and the London 2012 Summer Olympics (confirmed through research interviews with senior officials) reveal the strong influence of the ideas and practice of risk management, for example in the creation of risk registers (i.e. databases) and monitoring systems put in place to spot issues that pose potential dangers further down the line. The rise of Olympic risk management has touched not only on the most visible fields of finance and security, but a wide range of activities, such as in procurement and contract management, health and safety, the assessment of environmental impacts, and public health planning. In turn, as organizers of Olympic games have become more sophisticated in risk management over the past thirty years, the broader discipline and profession of risk management has benefited from its example. As the concept of risk itself has taken hold in modern societies and organizations, the Olympics provide a compelling case study in the evolution and promise of risk management.

On the basis of above case study, answer the following questions.

- (a) List out the risk exposures from the experiences of the Olympic Games.
(10 marks)
- (b) What do you mean by speculative Risk and pure risk? Categorise the risk identified above under speculative risk and pure risk.
(10 marks)
- (c) Discuss how have the organizers become more professional in managing the risks and explain about the "risk-based approaches" adopted by the organizers of the games.
(10 marks)
- (d) What do you mean by risk based Planning? How can risk based planning help an organization in combating with risk discussed in above case study ?
(10 marks)
- (e) Discuss different risk management techniques with special emphasis on Insurance.
(10 marks)

Answer to Question No. 1(a)

Risk exposures is a quantified loss potential of a business. It refers to a likelihood of a happening of a loss. Risk exposure is usually calculated by multiplying the probability of an incident occurring by its potential losses. To calculate risk exposure, the influencing variables are determined to calculate the probability of the risk occurring. These variables are then multiplied by the total potential loss of the risk. To determine the variables,

organizations must know the total loss in dollars that might occur, as well as a percentage depicting the probability of the risk occurring. The objective of the risk exposure calculation is to determine the overall level of risk that the organization can tolerate for the given situation, based on the benefits and costs involved. The level of risk an organization is prepared to accept is called its risk appetite. This is the first step in the process of risk management, as it helps in estimating the risk exposure, and to select an appropriate method to manage the risk.

From the above given case study with reference to Olympic Games, the following are some of the risk exposures:

- Terrorism (Geopolitical risks)
- Construction. Transport and Infrastructure
 - (i) Breakdown of the rail system
 - (ii) Power blackouts
- Weather risk (flooding)
- Volcanic ash clouds (seismic risk)
- Safety and Security risks
- Health risks (outbreak of infectious diseases)
- Diplomatic spat
- Financial risk
- Operational risk (business disruption, workforce absenteeism)
- Public opinion and Reputational Risk
- Risks in fluctuation in foreign exchange rates (currency risk)
- Property Risk
- Global economic conditions

Answer to Question No. 1(b)

Risk per se has no single definition. It means differently to different people. It is often interchangeably used with uncertainty. But they are not the same. While measurable uncertainty is risk, immeasurable risk is uncertainty. Risks can be classified in many ways, such as pure risk, speculative risk, static risk dynamic risk etc. Pure risk exists when a situation is characterized by uncertainty as to whether or not loss will occur. In simple terms, pure risk refers to a situation where there can be either loss or no loss. Pure risk does not admit the possibility of gain but only potentiality for loss or status quo. Examples of pure risk include prospect of untimely and premature death, likely damage to property by flood, earthquake, lightning and fire and catastrophic medical expenses. On the other hand, Speculative risk is present when an event can result in either a gain or a loss or status quo. Speculative risk may result either in a loss or a gain situation. Examples of situations involving speculative risk include individual's decisions to buy shares or investment decisions of business firms or business ventures and investing in real estate. Another difference between the two risks is that while insurance companies basically insure pure risks, speculative risks are generally not considered insurable, barring a few exceptions like institutional portfolio investments. Secondly, while the law

of large numbers can be easily applied to pure risks, speculative risks are not easily amenable to the application of law of large numbers which facilitates prediction of future loss experience by insurance companies. In simple terms speculative risk is not calculable. Thirdly, while the society is harmed by the presence of pure risk when a loss occurs, society may benefit despite the occurrence of loss from a speculative risk, for example, a company developing a new technology to produce computers at a lower cost may benefit the society as a whole while some existing computer companies may become bankrupt because of this development, is an example in this regard. In some situations, it is possible that both pure and speculative risks may exist. For example, developing and introducing a new product into the market by a manufacturing firm is a speculative risk proposition. In addition, there could be a pure risk exposure also such as a potential product liability risk, in case the product is defective. Examples of pure risk from the case study include terrorist incident, breakdown of London rail system, power blackouts, outbreak of infectious diseases, weather risks, seismic risk, ash clouds etc. Speculative risks include operational risk, reputational risk, fluctuation in foreign exchange rates, global economic conditions.

Answer to Question No. 1(c)

The London Organizing Committee of the Olympic and Paralympic Games (LOCOG) and the International Olympic Committee (IOC) have spent years thinking about every scenario they could imagine. One key to effective risk management is the ability to distinguish between phenomenon that cannot reasonably be foreseen and danger that are “self-inflicted” because they could be avoided through careful planning and execution. Olympic organizers traditionally focused on reaction and recovery, using tools as insurance (taken out for personal injury and property coverage), safety plans and command and control structures. Since the 1980’s, Games organizing committee have increasingly invested in teams and systems dedicated to management of risk through internal controls.

Some of the risk based approaches include the following

- Simulations of security incidents were rehearsed and contingency plans for mass evacuations or emergency were put in place.
- Constituted Olympic professional complex made up of firms and consultants contracted to advise on bid teams and organizing committees.
- Risk mitigation is now integrated into decision – making and operations, and is no longer treated as just as input into the calculation of insurance premiums. Ensuring readiness now involves strategic pre-emption through stress-testing and scenario planning.
- Table-top gaming exercises at the top of the chain of command and practical training if personnel through rehearsals.
- Visible military rehearsals were staged on the river Thames in addition to many test events performed on the main site.
- IT planning identified around six hundred scenarios for rehearsals in a formal playbook.
- Ever since 9/11, IOC has taken out insurance cover against event cancellation due to either terrorism or natural disaster.

- Formalization of process of evaluation of bids and its monitoring of the readiness of preparations of host cities.
 - i. Standardized template
 - ii. Evaluation of the technical quality of the bid
 - iii. Inspections at regular intervals and continuous monitoring
- Olympic Games Knowledge Management Program consists of an observer and secondment program for officials future host cities, workshops, technical manuals, a games evaluation process and debriefing.
- Risk registers and monitoring systems
- Besides above mentioned processes, the Olympic Risk Management has touched
 - i. Procurement and contract management
 - ii. Health and safety
 - iii. Assessment of environmental impacts
 - iv. Public health planning

Answer to Question No. 1(d)

Risk based planning is a process that identifies loss exposures faced by an organization and selects the most appropriate techniques for treating such exposures.

Planning Process

- *Identify the loss exposures:*

Here, with reference to the case study, the various loss exposures are

- Geopolitical risks
- Construction, Transport and Infrastructure risks
- Weather risks
- Seismic risks
- Safety, Health and Security risks
- Financial risk
- Operational risk
- Reputational risk
- Property risk
- Global financial risk

- *Analyze the loss exposures*

Here, in this step the risks are to be segregated into controllable and uncontrollable loss exposures, based on the organizations' risk tolerance capabilities.

- Select the appropriate technique for treating the loss exposures

The various alternative risk management techniques for the treatment of the above mentioned loss exposures can be a combination of the following techniques:

1. Risk control
 - (a) Avoidance
 - (b) Control
 - Loss prevention
 - Loss reduction
2. Risk financing
 - (a) Retention
 - (b) Non - Insurance transfer
 - (c) Commercial insurance

Here, in the given case, the techniques adopted are with reference to the case study is as follows:

- Insurance
- Stress testing
- Scenario planning
- Formalization of process of evaluation of bids with the help of standardized template, inspections)
- Risk registers, monitoring systems, internal controls.

Answer to Question No. 1(e)

Risk Management is a continuous process involving from risk identification to the adaptation of the best technique for managing the risk and at the same time, reviewing periodically to see if the desired results are achieved or if any change in the management need to be adopted.

Broadly risk management methods or techniques can be classified into

- Risk Control
- Risk Financing

Risk Control: It refers to techniques that reduce the frequency and severity of losses

Avoidance: It means a certain loss exposure is never acquired or an existing loss exposure is abandoned.

Loss prevention: It refers to measure that reduce the frequency of a particular loss.

Loss Reduction: It refers to measures that reduce the severity of a loss after it occurs.

Risk Financing : It provides for techniques that provide for the funding of losses.

Retention : It means that the firm retains part or all of the losses that can result from a given loss. Retention can be either active or passive.

Non-insurance transfers : These are methods other than insurance by which a pure risk and its potential financial consequences are transferred to another party, either through:

- Transfer of risk by contracts
- Hedging price risk
- Incorporation of a business firm

Insurance : It is the pooling of fortuitous losses by transfer of such risks to insurers, who agree to indemnify insured's for such losses, to provide other pecuniary benefits on their occurrence, or render services connected with the risk.

Requirements of an insurable risk

- There must be a large number of exposure units
- Loss must be accidental and unintentional.
- Loss must be determinable and measurable
- Loss should not be catastrophic
- Chance of loss must be calculable
- Premium must be economically feasible

Reference to the case study

Managing risk involves a judicious mix of preventing the risk that can be reasonably controlled, learning to recognize the ones that cannot be prevented, being prepared to react to limit damage, and having the resources to recover from the problem that occurs.

Olympic organizers traditionally focused on reaction and recovery using insurance as one of the tools. Insurance was taken out for personal injury and property coverage. The IOC has taken out insurance cover against event cancellation due to either terrorism or natural disaster. But with the passage of time, the organizers have become very professional and have started adapting IT based simulations to increase their preparedness to face any kind of eventuality.

Question No. 2

Answer the following

- (a) *Discuss the product approval process for non-linked insurance products. Highlight the main provisions of laws/regulations governing the approval process for non-linked insurance products. (10 marks)*
- (b) *What do you mean by Micro Insurance? State the salient features of Micro insurance in detail along with highlighting the IRDA Regulation on Micro Insurance in its effort for financial inclusion. (10 marks)*

- (c) *Who can be an Insurance Surveyor and Loss Assessor? Highlight the relevant provisions relating to registration, regulation and supervision of Insurance and loss surveyors in India?* (10 marks)

Answer to Question No. 2(a)

The Insurance Regulatory and Development Authority (IRDA) is the Regulatory body responsible for the activities of the insurance sector in India, after the industry was opened up to private and foreign companies. The main objective of the IRDA is to safeguard and protect the interests of the policyholders. Hence, every insurance company is required to comply with the FILE AND USE PROCEDURE Guideline issued by IRDA, for any launch of any new product or even if it launch of an existing product with any modifications.

Non-linked business refer to all life insurance products other than the products classified under linked-business, and include life insurance business, general annuity business, pension business, or health insurance business, as the case may be. Non-linked Insurance products are regulated by IRDA under IRDA (Non-linked Insurance Products) Regulations, 2013. The company must comply with the following procedure for approval of non-linked insurance products:

- (i) *Procedure to be followed for introduction of new insurance products*
- (a) A life insurer, wishing to introduce a new product, shall submit an application to the Authority along with Form IRDA - Life-Non Linked -NP. The Authority will issue an acknowledgement of date of receipt of application.
- (b) Within 30 days of the receipt of the application referred to in sub-para (1), the Authority may seek additional information with regard to the product, and the insurer shall not commence selling the product in respect of which additional information has been sought by the Authority, until the Authority confirms in writing having noted such information. If no such information is sought by the Authority, the insurer can commence selling the product in the market, as set out in the application after the expiry of the said 30-day period.
- (ii) *Procedure to be followed for changes in terms and conditions of existing products*
- (a) A life insurer, wishing to make changes to an existing product, shall submit an application to the Authority setting out the details of the changes in the terms and conditions and giving reasons for the proposed changes, subject to procedure laid down.
- (iii) *Procedure to be followed in case of withdrawal of existing products*

A life insurer, wishing to withdraw an existing product, shall inform the Authority giving the details of the product and the reasons for withdrawal.

Answer to Question No. 2(b)

Microinsurance is a mechanism to protect low-income people against specific perils (e.g. accident, illness, death in the family, and natural disasters) in exchange for regular premium payments tailored to their needs, income, and level of risk. It is aimed primarily at developing world's low-income workers, especially those in the informal economy who

tend to be underserved by mainstream commercial and social insurance schemes. Microinsurance allows policyholders to recover and rebuild after a crisis. It can mean avoiding difficult, often devastating risk coping measures such as putting children to work, eating less food, or selling productive assets.

Supervision

In order to facilitate penetration of micro insurance to the lower income segments of population, IRDA has formulated the micro insurance regulations. Micro Insurance Regulations, 2005 provide a platform to distribute insurance products, which are affordable to the rural and urban poor and to enable micro insurance to be an integral part of the country's wider insurance system.

The main thrust of micro insurance regulations is protection of low income group with affordable insurance products to help cope with and recover from common risks with standardised popular insurance products adhering to certain levels of cover, premium and benefit standards. These regulations have allowed Non Governmental Organisations (NGO) and Self Help Groups (SHGs) to act as agents to insurance companies in marketing the micro insurance products and have also allowed both life and non-life insurers to promote combi-micro insurance products. The flexibility provided in the Regulations allows the insurers to offer composite covers or package products.

The IRDA has reviewed this regulation comprehensively and had released an exposure draft on 26th July, 2012 with the proposal to expand the definition of Micro Insurance Agency, and to re-examine the definition of Micro Insurance Product. Also, the Authority had issued a circular on 3rd April, 2013 permitting several more entities like District Co-operative Banks, Regional Rural Banks, Individual owners of Kirana shops, etc., who are banking correspondents to be appointed as Micro Insurance agents with a view to facilitating better penetration of Micro Insurance Business.

IRDA Guidelines to Financial Inclusion

Insurance Regulatory & Development Authority (IRDA) has been making immense efforts to educate and empower the common citizens about insurance industry in India and their rights & responsibilities. IRDA has been at the forefront of insurance sector deepening, protecting the rights of policyholders, regulating insurance companies & advisors and bringing about insurance inclusion in India for all segments especially the poor. Some of the steps taken by IRDA for financial inclusion include:

1. *National Strategy for Financial Education*: IRDA has released the draft National Strategy for Financial Education for comments and feedback in Year 2012. The final strategy is yet to be notified by the IRDA. The National Strategy recognises that financial literacy and financial education play a vital role in financial inclusion and inclusive growth and envisages ways towards creating awareness and educating consumers on access to financial services, availability of various types of products and their features; changing attitudes to translate knowledge into responsible financial behaviour; and making consumers of financial services understand their rights and obligations. The National Strategy seeks to create a financially aware and empowered India. It aims at undertaking a massive Financial Education campaign to help people manage money more effectively to achieve financial well being by accessing appropriate financial products and services

through regulated entities with fair and transparent machinery for consumer protection and grievance redressal.

2. *Website on Insurance Education* : In an attempt to increase insurance awareness levels across the country, the authority has taken a number of consumer education initiatives and has recently launched an exclusive insurance education website www.policyholder.gov.in. This website has self-explanatory menus and gives information in simple language on topics such as:
 - Buying insurance
 - Making a claim
 - Policyholder Protection and Grievance Redressal
 - Handbooks in 13 languages
 - Do's and Don'ts for a policyholder
 - Comic series
 - Consumer Affairs Annual Booklets
3. *Grant of Corporate Agency license to Department of Postal* : To promote financial inclusion, IRDA has granted corporate agency license to the Department of Post for distributing insurance products.
4. *Emphasis on educating insurance agents to weed out mis-selling* : IRDA has been chalking out an ambitious plan to combat mis-selling, a menace that has been haunting the industry for about a decade now, especially after the emergence of equity-oriented insurance products. IRDA has been emphasizing specialized training to the country's 2.5 million insurance agents after they clear the basic examination to qualify as a licensed agent to sell insurance products. The training, aimed at instilling seriousness among insurance agents about sales as a career and stop unfairly selling insurance schemes just to earn commissions.

Answer to Question No. 2(c)

Every person who is a student-member of the Institutes of Surveyors and Loss Assessors intending to act as a Surveyor or Loss Assessor is required to be licensed by IRDA before he starts performing his functions for any general insurer. Surveyor and Loss Assessor shall be categorized into 3 categories, The three categories are Licentiate, Associateship and Fellowship which is awarded by the Institute of Surveyors and Loss Assessors. The nature of surveyor or loss assessment work which can be undertaken would depend upon the categorisation. Further IRDA shall also allot the department or the area work for the Surveyor and Loss Assessor from time to time.

The Insurance Surveyors and Loss Assessors (Licensing, Professional Requirement and Code of Conduct) Regulations, 2000 as amended in 2013, contains provisions relating to registration, regulation and supervision of Insurance and less surveyors in India.

Section 64 UM of the Insurance Act, 1938, mandates licensing of Surveyors and Loss Assessors (SLA) for settlement of losses above Rs.20000/- reported under a policy of general insurance. Further, the said section has also laid down the qualification requirements for grant of licence to act as SLA.

The enactment of IRDA Act, 1999, authorized IRDA to licence eligible persons to act as Surveyor and Loss Assessors (SLA). IRDA framed the Insurance Surveyors & Loss Assessors (Licensing, professional requirements & code of conduct) Regulations, 2000 under powers vested under Section 42D, 64 UM and 114A of the Insurance Act, 1938 and section 26 of IRDA Act, 1999. The said regulations, specifies the eligibility criteria, training and examination requirements for grant of licence to applicants to act as Surveyor and Loss Assessors. The said regulations also specify the Duties and Responsibilities & Code of Conduct for surveyors licensed by IRDA. The Code of Conduct specifies the professional and ethical requirements for conduct of their professional work.

Licenses are issued to both individuals and firms/companies to act as Surveyor and Loss Assessors. There are eight areas in which surveyors could be licensed to work, depending on their qualifications. These are Fire, Motor, Miscellaneous, Engineering, Marine cargo, Marine Hull, Loss of Profit and Crop Insurance. The IRDA is empowered to take regulatory action against surveyors for misconduct and/or violation of Act and Regulatory provisions. These regulations were amended in the year 2013 to bring further additional criteria for grant of licence to act as Surveyors and Loss Assessors including mandatory training and other requirements for grant of both fresh and renewal licence. Further, the amended regulations also allows a policyholder to appoint a surveyor to assess a claim under a policy of general insurance, in which case the expenses towards professional fees (survey fees) have to be borne by him.

Further the IRDA (Protection of Policyholders' Interests) Regulations, 2002 also stipulates the time limit for appointment of surveyors, which is 72 hours from date of intimation of claim to insurers/ occurrence of the event resulting in loss or damage and submission of survey report by surveyors, which is one month from the date of appointment by insurer.

Question No. 3

Mr. Vinod had availed a Hospitalization Insurance cover from XYZ Insurance Company for self and the details of the same were as under:

	<i>Rs.</i>
<i>Sum Insured</i>	<i>3,00,000</i>
<i>Limit Per Illness</i>	<i>3,00,000</i>
<i>Sub Limits per illness</i>	
<i>Room Rent including special nursing charges per day</i>	<i>5,500</i>
<i>Consultation /Visits by Doctor</i>	<i>5,000</i>
<i>Test/Examination</i>	<i>5,000</i>
<i>Surgical Expenses</i>	<i>75,000</i>
<i>Medical expenses</i>	<i>15,000</i>
<i>Domiciliary Hospitalisation per day</i>	<i>2,000</i>
<i>Cover Excluded Domiciliary Treatment</i>	

Mr. Vinod has a sudden attack of acute jaundice and was advised by the Doctor for immediate hospitalization and treatment, but had to wait for two days as there was no hospital accommodation available in any of the registered hospitals in the city. On both the days Doctor visited him at home and at his instructions a nurse also attended him at home. On the third day he was admitted in a hospital near his residence and underwent hospital treatment for 15 days before being discharged. The expenses incurred by him in the hospital were as below:

	Rs.
Room Rent per day	5,000
Special Nursing per day for three days	800
Five visits by the Doctor at Rs. 1,250 per visit	6,250
Test/examination	4,000
Injections and Medicines	22,000
Extra Bedding Charges for attendant for all the 15 days	7,500
Food expenses for Mr. Anand (During the Hospital Stay)	7,500

As there was no cashless facility extended under the policy Mr. Anand had to pay the Hospital bill first and had to seek reimbursement under his insurance policy. Adjust the amount that he would be able to recover under his insurance policy. (5 marks)

Answer to Question No. 3

Amount payable to Mr. Anand is as follows:

(i) Room rent per day @ Rs. 5000 x 15 days	=	Rs. 75,000
(ii) Nursing expenses @ Rs. 500 x 3 days	=	Rs. 1500
(iii) Doctors visit (slab)	=	Rs. 5000
(iv) Medical expenses (slab)	=	Rs. 15000
(v) Extra bedding charges		NIL
(vi) Food expenses		NIL
(vii) Test and examinations		Rs. 4000
(viii) Domiciliary @ Rs.2000 for 2 days	=	Rs. 4000

Total Amount to be reimbursed to Mr. Anand = Rs. 1,04,500

Question No. 4

Why is it said that "a Proposal is the basis of insurance". Which insurance principle substantiates this statement? Give illustrative examples. In some of the cases, while filling the proposal form, material facts are not disclosed by the Insured. State the implications of concealment of Material facts by the insured. (5 marks)

Answer to Question No. 4

It is rightly said that "a Proposal is the basis of insurance" because Proposal form is the most important and basic document required for life insurance contract between the insured and insurance company. It includes the insured's fundamental information like address, age, name, education, occupation etc. It also includes the person's medical history. The contract of insurance is thus one of utmost good faith where the duty of disclosure lies on both the parties. The term "material fact" refers to every fact or information, which has a bearing on the decisions with respect to the determination of the severity of risk involved and the amount of premium. The disclosure of material facts determines the terms of coverage of the policy.

Any concealment of material facts may lead to negative repercussions on the functioning of the insurance company's normal business. For instance life insurance companies normally segregate the quality of lives depending upon the state of health of the people. Healthy people are accorded a higher status in the table and different (lower) rates of premium are applicable to them since their risk of ill health is lower. If a person suppresses facts about his ill health and manages to buy a policy at rates applicable to the low risk group then other policyholders in the same group have to share his risk. This results in adverse selection. Hence as per the principle of utmost good faith it is binding on the part of parties, the insured and the insurer, to expressly disclose all the relevant material facts pertaining to the contract. This doctrine is incorporated in insurance law and both the parties are expected to adhere to a high degree of honesty. Based on such faith, the insurer and the insured execute the contract of insurance.

CASES

1. *Economides v. Commercial Union Assurance Co. plc*, (1997) 3 All ER 636

It was held that the duty of the assured to disclose all material facts required an assured only to disclose facts known to him. There is no obligation on the assured to make enquiries as to the factual basis of his belief.

2. *Bhagwani Bai v. LIC of India*, AIR 1984 MP 126(130)

The insurer cannot avoid or repudiate an insurance policy on the ground of nondisclosure of lapsed policies by the assured which had no bearing on the risk taken by the insurer.

Question No. 5

Discuss the need and growing importance of Liability insurance policies in India quoting relevant examples with specific reference to Professional indemnity liability policy in the backdrop of the recent corporate scams. (5 marks)

Answer to Question No. 5

Liability insurance covers the financial consequences arising out of the insured's obligation to pay compensation for harm caused to third parties. The liability insurance has taken the form of third party risks, export financial protection. There may be commercial as well as personal risks. It has taken diversified forms of development viz., commercial general liability, product liability, professional indemnity, directors and officers D & O liability, product recall, personal liability, motor liability, social security systems. That is why the importance of liability insurance is growing in India.

Professional Indemnity policy is meant for professionals to cover liability falling on them as a result of errors and omissions committed by them whilst rendering professional service. The policy offers a benefit of Retroactive period on continuous renewal of policy whereby claims reported in subsequent renewal but pertaining to earlier period after first inception of the policy, also become payable. The policy covers all sums which the insured professional becomes legally liable to pay as damages to third party in respect of any error and/or omission on his/her part committed whilst rendering professional service. Legal cost and expenses incurred in defence of the case, with the prior consent of the insurance company, are also payable, subject to the overall limit of indemnity selected.

The policy is meant for professionals:

- Doctors and medical practitioners - which covers registered medical practitioners like physicians, surgeons, cardiologists, pathologists etc.
- Medical establishments - which covers legal liability falling on the medical establishment such as hospitals and nursing homes, as a result of error or omission committed by any named professional or qualified assistants engaged by the medical establishment.
- Engineers, architects and interior decorators.
- Lawyers, advocates, solicitors and counsels.
- Chartered accountants, financial accountants, management consultants.

Of late in India, this policy is selling in big numbers in the back drop of the accounting fraud in case of Satyam and many other negligent cases lodged against lawyers, doctors of late.

Example

1. *Dr. Balram Prasad Vs. Dr. Kunal Saha & Ors* : The Supreme Court vide its Judgment enhanced the compensation amount of Rs 1.73 crore, which was awarded by the National Consumer Dispute Redressal Commission (NCDRC) in 2011 to the tune of Rs 5.96 crore and asked the Kolkata- based Advanced Medicare and Research Institute (AMRI) and the doctors to pay the amount and also asked to pay interest at the rate of 6 per cent from the date of filing of the complaint in 1999 till the actual date of payment to Kunal Saha, a US-based Indian- origin doctor for medical negligence, which led to the death of his wife in 1998.
2. *US investors take PWC to court over Satyam scandal* : In a new class action lawsuit over the Satyam scandal, global audit major PricewaterhouseCoopers (PwC), along with its Indian and international units, has been charged with having "recklessly disregarded" a multi-year massive fraud by the former management of Satyam. The suit was filed on behalf of purchasers of the American Depository Receipts of Satyam from January 6, 2004 to January 6, 2009.
3. *Newly-weds miss flight, consumer court holds Meru cab service guilty* : Thane District Consumer Forum had asked a cab service provider to pay compensation to a couple who missed their honeymoon flight as their luggage could not be

retrieved from the car's locked boot in time. In the order, the Forum said that lack of a tool kit in the cab (which is mandatory for every vehicle on the road) and calls to Meru's maintenance department going unanswered was a clear-cut instance of deficiency in service.

Question No. 6

"Claims handling requires specialized skills." Do you agree? What makes insurance claims processing difficult and complicated and unpleasant especially in general insurance. Refer to the relevant IRDA guidelines for speedy settlement of claims.

(5 marks)

Answer to Question No. 6

Yes, it is indeed true that claims handling in insurance requires specialized skills, as the scope of the subject is vast, technical in subject, complications are many and every situation can be different. Unlike in a life insurance business, where a claim is certain to happen either in the form of a maturity claim or death claim, in case of general insurance business, claims frequency as well as severity is uncertain. As per the IRDA guidelines, an insurer carrying on life or general business, as the case may be, shall at all times, respond within 10 days of the receipt of any communication from its policyholders in matters concerning guidance on the procedure for registering a claim and early settlement thereof. IRDA has prescribed the claim settlement procedure under the IRDA (Protection of Policyholder Interests) Regulations, 2002 which is as follows :

- An insured or the claimant shall give notice to the insurer of any loss arising under contract of insurance at the earliest or within such extended time as may be allowed by the insurer.
- On receipt of such a communication, a general insurer shall respond immediately and give clear indication to the insured on the procedures that he should follow.
- In cases where a surveyor has to be appointed for assessing a loss/ claim, it shall be so done within 72 hours of the receipt of intimation from the insured.
- Where the insured is unable to furnish all the particulars required by the surveyor or where the surveyor does not receive the full cooperation of the insured, the insurer or the surveyor as the case may be, shall inform in writing the insured about the delay that may result in the assessment of the claim
- The surveyor shall communicate his findings to the insurer within 30 days of his appointment with a copy of the report being furnished to the insured, if he so desires.
- Where, in special circumstances of the case, either due to its special and complicated nature, the surveyor shall under intimation to the insured, seek an extension from the insurer for submission of his report.
- In no case shall a surveyor take more than six months from the date of his appointment to furnish his report.
- If an insurer, on the receipt of a survey report, finds that it is incomplete in any respect, he shall require the surveyor under intimation to the insured, to furnish an additional report on certain specific issues as may be required by the insurer.

Such a request may be made by the insurer within 15 days of the receipt of the original survey report.

- On receipt of the survey report or the additional survey report, as the case may be, an insurer shall within a period of 30 days offer a settlement of the claim to the insured.
- If the insurer, for any reasons to be recorded in writing and communicated to the insured, decides to reject a claim under the policy, it shall do so within a period of 30 days from the receipt of the survey report or the additional survey report, as the case may be.
- Upon acceptance of an offer of settlement, the payment of the amount due shall be made within 7 days from the date of acceptance of the offer by the insured.
- In the cases of delay in the payment, the insurer shall be liable to pay interest at a rate which is 2% above the bank rate prevalent at the beginning of the financial year in which the claim is reviewed by it.

Hence, with the complication involved as summarized above, it is rightly said that claims settlement requires specialized skill.
