

Roll No.....

Time allowed : 3 hours

Maximum marks : 100

Total number of questions : 6

Total number of printed pages : 4

NOTE : Answer **ALL** Questions.

1. New Horizon General Insurance Company was granted a licence over a decade ago to transact general insurance business. On 1st April, 2012, it received a proposal from Excellent Polymers to take a fire and allied perils insurance policy. The proposal revealed that the proposer was a manufacturer of PVC granules. According to the proposal form and other information obtained from the proposer, the plant had been commissioned in December, 2011. The coverage required was for building ₹50 lakh, plant and machinery ₹75 lakh and stocks ₹1.5 crore. Based on the proposal and other information given, the insurance company issued fire and allied perils policy after collecting the necessary premium. However, the risk was not inspected by the insurance company before granting the insurance.

On 26th August, 2012, the insurance company received a telegram from Excellent Polymers intimating a major fire accident in the factory in the early morning hours of 26th. The insured followed-up the telegram by a letter and claim form claiming loss of entire stocks worth ₹1.5 crore, substantial portion of which was finished goods of PVC granules. As per the claim form, the fire originated in the control section and spread to the stocks. The insurance company deputed Pavitra Surveyors, a surveyor holding a valid licence issued by the insurance regulator, to survey and assess the loss. The surveyor submitted its report assessing the loss at ₹1.5 crore as claimed by the insured. The fire brigade report also stated the probable cause of the fire as accidental.

Immediately, on the receipt of the telegram from the insured, the insurance company rushed Manoj, its claims officer, an engineer, to the factory at around 10.45 AM on 26th August, 2012. Prem, proprietor of the factory was not available but his son Anil, took Manoj around the site. By that time the fire had been extinguished and the fire brigade had also left the site. Manoj observed that the control section was separated from the manufacturing section by a distance of around 25 feet. He also observed that electrical wiring on the wall was at a safe distance from the machinery and stock.

Among other documents, the insurance company called for copies of bank statements, invoice, books of accounts and electricity bills from the inception of the policy as available. Though the purchase (raw material) and sales (finished goods) submitted were for sizeable amounts, the bank statements showed that the average monthly transactions for payments and receipts did not exceed ₹5 lakh. As per the electricity bills, the average consumption of power was

negligible. One of the electricity bill also had a remark 'premises closed'. These facts aroused some suspicion in the minds of the officials in the insurance company. The insurance company, therefore, deputed Avinash, a qualified Chartered Accountant, to investigate the claim.

The insured complained to the insurance regulator that the insurance company was adopting delaying tactics and avoiding settlement despite assessment of the loss by a licenced surveyor. The insurance regulator called for the explanation of the insurance company. The company explained the reasons for entrusting the matter for investigation. The insurance regulator sent the explanation of the company to the insured and sought its comments. The insured has not replied to the regulator till date.

Avinash submitted his investigation report on 1st February, 2013. The main points in his report were that most of the purchase invoices were from parties who were non-existent. Also, the sales tax registration numbers on these bills were fake. He produced confirmation from sales tax authorities to support his findings.

On 15th February, 2013, New Horizon General Insurance company wrote to Excellent Polymers repudiating the claim. It quoted the relevant provision of the insurance policy that "if the claim be in any respect fraudulent or the damage be occasioned by any willful act all benefits under the policy shall be forfeited". It also complained to the insurance regulator alleging misconduct on the part of Pavitra Surveyors. However, it did not lodge any police complaint against Excellent Polymers for the alleged or attempted fraud. It however, confidentially circulated brief particulars of the claim among members of the general insurers association.

It is understood that Excellent Polymers is contemplating filing a suit against New Horizon General Insurance company for recovery of the loss mainly on the strength of the survey report and the fire brigade report.

Irrespective of the future outcome of the court case or the complaint against the surveyor, you as an insurance expert are required to comment on the following with reasons —

- (a) Is the repudiation of the claim by the insurance company justified ?
(15 marks)
- (b) Is the surveyor guilty of misconduct ?
(15 marks)
- (c) Is the insurance company legally and ethically right in not lodging a police complaint for the attempted fraud ?
(20 marks)

: 3 :

2. Kumar, holder of a life insurance policy for a sum assured of ₹10 lakh, died in an accident. The accident was widely reported in the press. Mrs. Sheela Kumar, his wife, was the nominee under the policy. Nayar, the agent who had canvassed the insurance, met Tandon, the Regional Vice-President of the insurance company and requested for a prompt settlement of the claim assuring that he will get the documentation completed by Mrs. Kumar. Nayar was a leading agent of the company. Tandon took an intimation letter from Nayar and instructed the accounts department to handover the receipted voucher and claim cheque to Nayar. Tandon, however, forgot to inform his action to Sharma the claims officer of the insurance company.

Nayar handed over the cheque, voucher and claim form to Mrs. Kumar stating that he will collect the documents next day. Since he did not turn up the next day, she mailed the claim form, discharged voucher and the policy bond to the insurance company. Sharma, who received the documents, not knowing the earlier action of Tandon, approved the claim and arranged for a cheque for ₹10 lakh to be mailed to Mrs. Kumar.

The insurance company wrote to Nayar intimating that the amount of ₹10 lakh will be recovered in installments from his agency commission. Nayar replied that such an action will be in violation of the agency law and agreement.

Answer the following questions stating reasons :

- (a) Can the company legally recover the money from Nayar ?
- (b) Can the company legally recover the money from Mrs. Kumar ?
- (c) Can the company legally recover the money from the children of Mrs. Kumar ?

(10 marks each)

3. Distinguish between 'nomination' and 'assignment' with an example.

(5 marks)

4. Distinguish between 'agent' and 'broker'.

(5 marks)

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: 4 :

5. State, whether the following statements are true or false :

- (a) Personal accident policy is a pure contract of indemnity.
- (b) Insurance covers speculative risks.
- (c) Insurance premium can be paid after the inception of the risk.
- (d) There can be liability policies with retro-active cover.
- (e) Contribution can be applied to benefit policies.

(5 marks)

6. Can an Indian insurance company invest its policy holders fund abroad ? Also, cite the relevant legal provisions.

(5 marks)

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