OPEN BOOK EXAMINATION **343**

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. X is an individual, non-Indian, non-citizen and non-resident of India and controls a group of organizations engaged in the financial sector located outside India. He intends to set up a life insurance company in India and after due diligence has decided to align himself with an Indian Company. The negotiated terms and conditions of the joint venture agreement are as under :

(*i*) The authorised capital of the company will be ₹ 150 crore and the issued and paid up capital ₹ 100 crore.

(*4 marks*)

(*ii*) The capital will be divided into equity and cumulative preference shares in equal measure. The Preference shares will carry a dividend of 8% p.a.

(*4 marks*)

(*iii*) The proposed insurance company will also issue 9 year secured debentures carrying an interest rate of 11% p.a. The issue will be of ₹ 25 crore, the whole of which will be subscribed to by the companies controlled by X.

(*4 marks*)

(*iv*) Two companies controlled by X will hold 30% and 25% of the issued equity shares of the proposed company.

(*4 marks*)

(*v*) The Indian Company, who is a partner in the joint venture, together with associated organisations will hold 45% of the proposed issued equity in the new company.

(*4 marks*)

(*vi*) Preference shares of the face value of ₹ 20 crore will be held equally by X and the Indian partners.

(*4 marks*)

(*vii*) The proposed insurance company will also carry out health insurance business in addition to life insurance business in India.

(*5 marks*)

(*viii*) It is agreed to between X and the Indian partners that the CEO of the proposed insurance company will be an expatriate (non-Indian) who will be in control of the insurance business.

(*5 marks*)

(*ix*) The Indian insurance company, when setup, proposed to appoint a British Citizen as the actuary.

(*5 marks*)

(*x*) The proposed insurance company plans to recruit a number of persons from the Indian market, train them in the marketing of insurance products and appoint them as agents for marketing of the policies.

(*5 marks*)

(*xi*) As part of the understanding between X and the Indian promoter, there is a proposal to invest 10% of the net premium every year in the group companies owned and controlled by X.

(*6 marks*)

On the basis of the above understanding, an application seeking registration of an Indian insurance company has been made to the Insuracne Regulatory and Development Authority of India. What will be the approach of the authority to this proposal ? Comment with the necessary explanations with respect to the relevant statutory provisions as applicable against all the points as mentioned above from (*i*) to (*xi*).

2. A is a horse-owner and races his horses. He has been racing horses, all of which are insured comprehensively by a general insurance company.

One of the insured horses which has won many races for A in the past, had of late, due to various factors including age, been on a losing streak and had lost at the recent three races and A had lost large amount of money because of this. Suddenly, this horse, which was insured for ₹ 25 lakhs, fell sick and died soon thereafter, the cause of death was indicated to be colic, a common killer disease of horses.

A made a claim on the insurance company for ₹ 25 lakhs and incidental expenses. The insurer after due enquiry passed the claim and paid to A the amount of ₹ 25 lakhs as claim.

One year after such payment was made, due to persistent newspapers reporting and on the basis of police investigation conducted in similar cases, it was noticed that some race horses which had become old and were losing races, were systematically killed by the owners through the help of a syndicate which had been retained by the owners. Y was arrested by the police in this regard as the main culprit who had poisoned the horses and enabled the owners to collect the insurance money. On examination, Y revealed the names of the horses that he had killed through poisoning and their respective owners. A was also included in the list. It was ascertained that death by electrocution could be disguised as death caused by colic.

On the basis of this investigation and report, the insurer who had paid ₹ 25 lakhs to A wants to reopen the claim.

Arising out of the above move, the followng issues arise for consideration which you are required to deal—

(*i*) Can the insurance company which had already taken due measures to ensure the acceptance of the claim, go back on its settlement and recall the case.

(*10 marks*)

(*ii*) As a responsible underwriter how would the insurer evaluate the risk facors while accepting the proposal for a cover ?

(*5 marks*)

(*iii*) Is moral hazard present in this case ?

(*5 marks*)

(*iv*) Can you estimate the damage compensation liability of A ?

(*10 marks*)

3. Describe the steps taken by the Indian insurance regulator to protect the interests of the policy-holders.

(*5 marks*)

4. Under international supervisory guidelines prescribed by the International Association of Insurance supervisors, one of the requisite parameters for a home regulator is to be operationally independent, transparent and accountable.

Does the Indian insurance regulator comply with this requirement ? Discuss.

(*5 marks*)

5. Do you agree to the proposition that life insurance in addition to being a provision for the benefit of an individual and his family also acts as a social and economic welfare product ? Elucidate.

(*5 marks*)

6. Do you agree with the statement that the roles played by a third party administrator and a surveyor in the matter of after-sales service of an insurance product are the same ? Discuss.

(*5 marks*)

——— o ———