



AN ANALYSIS OF LIFE INSURANCE LAW AND LIFEINSURANCE BUSINESS IN INDIA

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ABSTRACT

To build up an appropriate viewpoint of the ongoing debates on the Privatization and Globalization of the insurance sector is an analysis of the structure and pattern of development of the Insurance Industry in India. It plays a fundamental role in the market. This article lightens up on working consequences of the Life insurance Company and its full-scale monetary significance. In this Article author focus on the How insurance company came existence in India, development of Insurance Industry in India, Role of Private Players in India, Life Insurance Business Scenario after Privatization, Challenges faced by the Life Insurance Industry in India.

Keywords: Life Insurance business, Development, Globalization, Privatization.

INTRODUCTION

Insurance plays a vital role in the economy. According to the Epic Mahabharata, “one should not be distressed for what is inevitable and unavoidable”¹

Man is exposed to the various risks on person and interest, not just from the foundation but from his conception itself². It stated that if the man engaged in any business or Profession activity, he must face

many challenges against risks. So, to eliminate the risk of insurance has earned the place of pride as the financial source of industry and commerce. The term insurance defined in the Lucena case, “Insurance is a contract by which the one party in consideration of a Price (called the premium) paid to him adequate to the risk becomes security to the other party that he shall not suffer loss, damage, or prejudice by the happening of the specified to certain things which can expose to them”³.

According to the Author, life insurance is a professional service characterized by the involvement of the consumers in specific need, the variability of the products available, the policies and the consumer in every aspect of the transaction. It is more fondly referred to as life insurance in recent times ceased to be only a ‘Protection’ as ‘legacy’ for the family ad has already turned the investment outlet for human’s life. However, in a big sized commercial and industrial organization, life insurance facilitates operation by which many risks get transferred to the insurer. Life insurance gives an endowment of protection and investment which enhances the creditworthiness of the assured person because it can provide funds for the repayment in the event of death⁴.

DEVELOPMENT OF INSURANCE INDUSTRY IN INDIA

In India, insurance is a deep-rooted history. Its finds mention within the writing of Manu (Manusmrithi), Yagnavalkya (Dharmasastra) and Kautilya (Arthashastra).

¹ The Beginning (Life Insurance Compendium 1999-2000) (The Insurance Time, Calcutta, India)

² Burton v Islington Health Authority [1993] QB 204

³ Lucena v Craufurd (1806) 2 Bos & PNR 269 (Appendix 2.1)

⁴ Supra Note 1



The writer stated the pooling of resources that would be re-distributed in times of calamities like fire, floods, epidemics, and famine. There was probably a foresight to modern-day insurance ⁵.

The development and growth of the Insurance industry in India has skilled through three distinct stages: -

Pre-Independence Era of Indian Insurance

- Formation of the Insurance Industry in India:

Insurance law in India has its origins in the United Kingdom with the establishment of a British Firm. ⁶ In 1818 the advent of the life insurance business in India with the establishment of the Life insurance company in Calcutta ⁷. However, the company break down its target in 1834, 1829, the Madras Equitable has begun transacting the life Insurance business within the Madras presidency. In 1870 the enactment of the British Insurance Act and other last three decades of the nineteenth century, the Bombay Mutual (1871), Indians charged an additional premium of up to 20 % compared to the British ⁸. 1874 Oriental, and in 1879 the Empire of India started in the Bombay Residency. This era dominated by the foreign insurance officers that did good business in India, namely

Albert Life Insurance, Royal Insurance, Liverpool, and London Globe Insurance. The Indian offices set up for competition from Foreign Companies ⁹.

The First statutory measure in India to regulate the life insurance business was in 1912 with the Indian Life Assurance Companies Act ¹⁰. The First General Insurance Company “Triton Insurance Company Ltd” was promoted by British nationals in Calcutta. The first General Insurance Company established by an Indian was “Indian Mercantile Insurance Company Ltd” in Bombay in 1907 ¹¹. In 1914, the Govt of India started publishing returns of insurance companies in India ¹². After in 1928, the Indian Insurance Companies Act enacted to enable the government to collect graphical information about both life and non-life business transacted in India and by foreign insurers including, the provident insurance in 1938, with the view of protecting the interest of the insurance public and the earlier legislation consolidated and amended by the Insurance Act, 1938¹³ with the comprehensive provisions for the effective control over the activities of insurers.

The Insurance Amendment Act, 1950 ¹⁴ revoke principal agencies. However, there were numerous insurance companies situated in India and day-by-day the level of

⁵ Insurance Regulatory and Development Authority of India

<https://www.irdai.gov.in/ADMINCMS/cms/NormalData_Layout> Accessed on 24th March 21

⁶ Ibid

⁷ Ibid

⁸ Wealthy Matters, “History of Life Insurance” <<https://wealthymatters.com/2013/05/23/history-of-life-insurance-in-india-2/>> Accessed at 24th March 21

⁹ Parveen Nagree – Mahtani, “Insurance Law & Regulation in India”

<http://www.nishithdesai.com/fileadmin/user_upload/pdfs/Insurance_Law_-_Regulations_in_India.pdf> accessed at 24th March 21

¹⁰ Indian Life Assurance Companies Act, 1912

¹¹ Supra Note 5

¹² Ibid

¹³ The Insurance Act, 1938

¹⁴ The Insurance Amendment Act, 1950



competition gone very high, and there were a lot of unfair trade practices. So, the Government of India agreed to nationalize the insurance business.

POST - INDEPENDENCE ERA OF INDIAN INSURANCE

- Nationalization of life Insurance

The Nationalization of life insurance is an important step in India's toward a socialist society. The Jawaharlal Nehru stated "Its objective will be serving the individual as well as the state. The goal of life insurance to spread rapidly all over the country and to bring a measure of security to our people"¹⁵.

The Life Insurance Business in India brought under state control through two Legislative Enactments. As a Primary Step toward the Life insurance Business, on January 19, 1956, the Management of the Life Insurance business approx 245 insurers of the company, and provident societies' operation in India taken by the Central Government.¹⁶

The Life Insurance Company formed in September 1956 by the Act¹⁷, granted LIC the exclusive privilege to conduct life insurance business in India.

The General Insurance business nationalized with effect from January 1, 1973, through the introduction of the

General Insurance Business (Nationalization) Act¹⁸. Under the provisions of the GIC Act, the shares of the current Indian General Insurance companies and endeavours of the other existing insurers were moved to the General Insurance Corporation to get the improvement of the general insurance business in India and for the regulation and control of such business¹⁹. The General Insurance Corporation established by the Central Government with the provision of the Companies Act²⁰ in November 1972, and it commenced business on January 1, 1973. Before 1973, there were a hundred and seven companies, including the foreign companies offering general insurance in India. These companies get merged into the four Subsidiary companies of GIC they are – the National Insurance Company Ltd, the New India Assurance Company Ltd, the Oriental Insurance Company Ltd, and the United India Assurance Company Ltd.²¹ General Insurance Corporation tackles mainly re-insurance business apart from aviation Insurance. It mainly deals with fire, marine, motor, and miscellaneous insurance undertaken by the four subsidiaries.

- Entry of Private Players

Since, the Nationalization of Life Insurance Business, the LIC held the monopoly within the Insurance sector in both the GIC and LIC played an important role within the

¹⁵ G. Prabhakara, "Life Insurance in a Decade Next", available at <http://www.niapune.com/.../Bimaquest/vol11-issue1/File-5_%20G.%20Prabhakara.Pdf > accessed 24th March 2021

¹⁶ Supra Note 5

¹⁷ The Life Insurance Corporation Act, 1956

¹⁸ General Insurance Business (Nationalisation) Act, 1972

¹⁹ Avinash Singh, "History of Insurance Legislation in India" <<http://www.manupatra.com/roundup/338/Articles/HISTORY%20OF%20INSURANCE%20LEGISLATION.pdf> > accessed on 25th March 21

²⁰ The Companies Act, 1956

²¹ Supra Note 8



development of the Insurance market in India and Providing insurance services throughout India. From 1991, onwards the Indian government introduced various reforms in the financial sector by the way of liberalization in the Indian economy ²². However, in 1993 the Government of India set up an eight-member committee chaired by R.N Malhotra, Former Governor of RBI to propose a recommendation for reforms within the Insurance sector ²³. The committee has submitted its reports in 1994 ²⁴. Two recommendations of the committee included the privatization of the insurance sector by permitting the entry of personal players to enter the business of life and general insurance and establishment of an Insurance Regulatory Authority ²⁵. Following the advice of the Malhotra Committee Report in, 1999, the Insurance Regulatory and Development Authority (IRDA) was enacted to manage and develop the insurance industry ²⁶. The key objectives of the IRDA “to provide for the establishment of an Authority to safeguard the interests of policyholders, to control, promote and to ensure orderly growth of the insurance industry ²⁷ and to amend the Insurance Act ²⁸, the Life Insurance Corporation Act, ²⁹ and the general Insurance Business (Nationalization) Act ³⁰. Today there are approximately 34 general

insurance companies including the ECGC and Agriculture Insurance Corporation of India and 24 Life Insurance companies operating within the country ³¹.

ROLE OF PRIVATE PLAYERS IN LIFE INSURANCE INDUSTRY IN INDIA

There is a Significant Change in Life Insurance Industry in India is opening up to Private and worldwide players. Life Insurance Corporation of India has dominated the Indian Life Insurance Market. The development of the Insurance Regulatory and Development Authority Act ³² clearly states the monopoly of LIC in the insurance sector. However, with the entry of the Private players, the competition becoming so intense. After the entry of Private Players, the market share of LIC has been considerably reduced. On 30th September 2013, 24 insurance companies are operating in the Indian insurance market and out of 23 are in the Private sector and 1 in the Public Sector ³³.

However, to end the monopoly of the LICI and to induce a spirit of competition amongst the various insurers and to provide a choice to the consumers were some main motives behind liberalization ³⁴

Effect of Liberalization and privatization in

²² Ibid

²³ Supra Note 5

²⁴ Supra Note 16

²⁵ Ibid

²⁶ Avinash Singh, “History of Insurance Legislation in India”

<http://www.manupatra.com/roundup/338/Articles/HISTORY%20OF%20INSURANCE%20LEGISLATION.pdf> accessed on 25th March 21

²⁷ Ibid

²⁸ Supra Note 7

²⁹ Supra Note 11

³⁰ Supra Note 14

³¹ Supra Note 5

³² The Insurance Regulatory and Development Authority Act, 1999

³³ Dr. Mool Chand, “Role of Private Players in Life Insurance Industry in India” <
“http://www.indianresearchjournals.com/pdf/IJMFS_MR/2014/June/15.pdf”> Accessed on 26th March 21

³⁴ Dr. Anshuja Tiwari and Babita Yadav, “Analytical Study on Indian Life Insurance Industry in Post Liberalization”

<http://www.scribd.com/doc/154661005/263-pdf> accessed on 26th March 21



the Life Insurance Industry:

The Journey of the Insurance Liberalization process in India is presently more than seven yearsold. There was an amendment to the Insurance Act,³⁵ LIC and GIC acts cover the entry of Private players and possibly the privatization of the public monopolies. There was an openingup of the insurance to the private sector including foreign participation which resulted in various challenges and opportunities.

Through, liberalization and Privatization insurance industry brought drastic growth in the Life insurance business. There is certainly positive development's expertise by the industry given as below³⁶:

- **Wide Scope of Products:** The Private sector insurance companies offer to provide a scope of new and innovative products for different segments of the Population with a vast variety of benefits like competitive premiums rates, rider options, maturity periods etc. Recently, consumers have more options to select the type of insurance as per their requirements.
- **Insurance Awareness:** with the increase in advertising budgets, insures now have greater reach to almost every corner of the country.
- **Insurance Penetration:** The Life insurance penetration in India has improved since Liberalization in 2000. Approximately from 2.15 % in 2001-02, it rose to 4.0 % in 2009-10. The huge expansion occurred of business, a wide range of innovative products, developments and effective use of new distribution has been settled by the

Private Life insurance players.

- **Increased contribution in GDP:** the level of penetration which measures the percentage of a country's GDP in the Life Insurance which has a strong positive correlation to income levels. The saturation of markets in the developed economies has made the market more attractive for global insurance. Indian market is very beneficial for Insurance players are: Domestic and Foreign.

LIFE INSURANCE BUSINESS SCENARIO AFTER PRIVATIZATION

The Life insurance Business in India is growing quickly by opening up for Private and Foreign Players. The industry gives an impact on the competitive market forces. Apart from the Life Insurance business, there are around 22 Private sector life insurers, in that most are joint ventures between Indian groups and Global Insurance Giants.

Through Current Scenario³⁷ it has seen that after opening up Insurance in Private Sector, there are various private companies and joint ventures that have entered the field of insurance. Tata -AIG, Birla Sun Life, HDFC Standard Life Insurance, Reliance General Insurance, Royal Sundaram Alliance Insurance, Bajaj Auto Alliance, IFFCO Tokio General Insurance, INA Vysya Life Insurance, SBI Life Insurance. SBI Life Insurance has launched three products Sanjeevan, Sukhjeevan and Young Sanjeevan for the betterment of Humans to eliminate the risk and SBI has already sold

³⁵ The Insurance Act, 1983

³⁶ Supra Note 33

³⁷ Subbiah B, "Effect of Liberalization in Insurance Industry" <https://ezinearticles.com/?Effect-of->

Liberalisation-in-Insurance-Industry&id=3760856 accessed at 27th March 21



around 320 policies under its plan.

After the Privatization, the Indian Insurance Industry had captured by changing economic environment. There were changed in the Government policy and guidelines of the regulatory authority, and IRDA has played a very important role in the Insurance Sector. However, after the opening up of the sector for the private insurer, it broke the monopoly of Life Insurance corporation and bring severe competition throughout the market. With this competition, it turned out into innovative products, distribution channels and marketing in the industry. It stated that if there are appropriate strategy along with proper government support and with proper IRDA guidelines then India will get huge growth soon³⁸.

CHALLENGES FACED BY LIFE INSURANCE COMPANIES IN INDIA

The Insurance industry is facing an increase in competitive markets, which puts pressure on companies to become more efficient, enhance the technology related process and alter their business innovative techniques. There are most of the insurance companies are trying to enhance the work efficient and effective and reduce the claims leakage from the Market. With the increase, high competition in the market insurance companies needs to strengthen their investment strategies, corporate

infrastructure, and product lines.

In the Year 2011, the Life Insurance Industry brought a new commencement in India³⁹. During the period 2000-2008 the rate of economic growth in the Indian Life Insurance industry gained a grasp in the country. Private Sector insurers make progress into the country and the industry got a chance of market-driven competition compared to the time when the insurance business was dominated by only public sector insurers.

There are the following observations stated about the challenges faced by Life Insurance companies in India:

- Fewer insured Population in India: Most of the Indian Population are not fulfilling basic requirements. it stated that Life Insurance premiums contributed to less than around 2% of the country's GDP which is compared between around 5% to 10% in the developed countries⁴⁰.
- Low Penetration and the density Rates: There are low levels of Penetration and density of insurances implies that a large part of the population is still uninsured.
- Inadequate rural Participation and Life insurers slanted spotlight on Metropolitan Territories: Private life insurers are withdrawing from the rural areas, as it stated that the number of their offices has been falling in recent years. On the same side, the number of offices in the urban areas is increasing⁴¹. LIC has

³⁸ Jyoti Gajanan Hiremath, "A critical Analysis of Law relating to Life Insurance Business in India" <http://hdl.handle.net/10603/130702> accessed on 27th March 21

³⁹ India Infoline News Service, "Challenges in Life Insurance Industry"

https://www.indiainfoline.com/article/news-sector-others/challenges-in-life-insurance-industry-113111404029_1.html accessed on 29th March 21

⁴⁰ Supra Note 38

⁴¹ Saon Ray, Vaundhara Thakur, Kuntala Bandyopadhyaya, "India's Insurance Sector: Challenges and Opportunities



decreased the number of offices in the urban areas from the year 2016 to 2019, while in the rural areas the ratio has become constant⁴².

- **Role of agents in Life Insurance Business:** There are some unsettled issues which stated that there is a restriction on commission paid to agents is declining the insurer's ability to attract the market. now-a-days the life insurance companies need to have the freedom to design compensation plans for the agents within the overall set of guidelines⁴³. According to the observation, the team needs to be perfectly trained to ensure customer maintenance. There was a disappointment on the part of agents influence the brand and the beat of agents is also connected to the lapsing of policies. This discloses the need to drive substitute channels of distribution⁴⁴.
- **Problem of Tariffs:** This problem is the biggest situation faced by the market. According to ICICI Lombard's Bakhshi. "The next big step is to declining the tariff plans in the market". for putting the target at the peak, the industry has to first reach the maturity level before the declining of tariff plans. Once this all procedure happens, underwriting procedure would be followed and it will be up to each player to ensure that each line of business is profitable⁴⁵.
- **Need of Uniform Insurance Laws:** there are three laws in the Life Insurance sector – Insurance Act 1938, LIC Act 1956 and the IRDA 1999. Consequently, there is a need of a comprehensive statute to fulfil the requirement in a better manner under the legislation.

SUGGESTIONS:

According to the observation, there is the following suggestion for the obstacles faced by the Life Insurance business in India and achieve the unique development in India.

- The insurers have to conduct the survey to target the people at the specific segments so the insurance can become more meaningful and affordable.
- After that, the insurers have to study the Risk assessment program for measuring the risk at a particular point in time.
- There should be Consumer awareness campaign held by the Insurance Company to solve the grievances of the people.
- All the insurance companies need to formulate the Government guidelines being referred to them by the aggrieved policyholders from time to time.
- All the Insurance Intermediaries, before obtaining the License or putting their license for renewal they should take the proper training to serve the policyholders.
- There should be proper economic development criteria that are used for mobilization of savings of people for particularly from the middle- and Lower-income groups.
- Government can encourage the growth of the life insurance industry by recognizing that partnership role in pension reform.
- The Government can influence the growth of the Life Insurance sector by encouraging a better understanding of financial planning through education. This training should be given by the college's professors and

⁴² http://icrier.org/pdf/Working_Paper_394.pdf accessed at 30th March 21

⁴³ Ibid

⁴⁴ Supra Note 38

⁴⁵ Ibid

⁴⁵ Shri Jagendra Kumar, "Product does not matter, Service does", The Journal of Insurance Institute of India: January-June 2008



schools.

- There should be proper facilitation of the IRDA, 1956, Insurance Law Act, 1938 and other related acts which empower the insurance sector in a better way.
- There should be Proper Regulation and Supervision which create a flexible system in the Market.
- There should be Proper Tax incentives where the policyholder can consume their needs in the long term.
- There should be new advanced technologies, new techniques to put the Life Insurance Business in the Growth position and also manage the efficient and effective techniques in the global market.
- There should be proper grounds for revision of the Insurance Act, 1938.

insurance sector is feared to influence the Possibilities of the LIC, the reports shows that the LIC keeps on ruling the area. Private sector insurance company also tried to increased their market share overall in the industry. Private life insurers provide the new business channels of advertising to the greater extent. Capital ratio of private life insurers was much better than the Life Insurance corporation to eliminate the big loss suffered by them. Lapsation portion of Private Insurers was higher than LIC and Overhauling of death claims was better in case of LIC as compared to Private life Insurers.

CONCLUSION

India is among the most encouraging arising insurance market in the world. The Significant drivers incorporate sound economic Fundamentals, a rising middle class income, an improving administrative system and rising risk awareness.

By the observation we can conclude that the entry of Private Players in insurance business needful and reasonable to improve the productivity of activities, accomplishing greater density and insurance coverage in the country and for a greater flow of long-term savings for long gestation infrastructure perfects. New players ought not to be treat as contentions to government organizations, yet they can enhance in accomplishing the goal of development of insurance business in India.

Despite the fact that Privatization of the