

# **CHANAKYA NATIONAL LAW UNIVERSITY**

**Nyaya Nagar, Mithapur, Patna-800001**

**(8<sup>th</sup> Semester)**

## **LAW OF INSURANCE**

**‘Course Module’**

**Academic Session- January –May, 2018**

**Course Teacher: Dr. Shaiwal Satyarthi**

### **Objectives:**

Insurance law is a subject of key import to individuals & the business sector. The aspiration of insurance is to compensate the aggrieved party, as far as money can, against loss arising from a variety of risks. Thus, when a person enters into an insurance contract he purchases for an agreed Premium, financial coverage from loss sustained due to the peril insured against. Insurance is omnipresent in the practice of law. In litigation, insurance often determines who gets sued and what they get sued for. In transactional law, insurance frequently constrains or induces deals. The importance of insurance for lawyers stems from the fact that insurance is the primary means by which companies and individuals deal with risks. Lawyers, of course, often make a living either by counselling clients about how to plan for risks or by serving clients whose risks have developed into losses. Just as good attorneys must understand insurance, good insurance arrangements must rely on attorneys. Lawyers are of fundamental importance to insurance, which is itself defined by a complex web of contract and tort law, statutory law and state regulatory law. This course will introduce students to fundamental principles of insurance law and regulation. The operational framework of insurance is provided by the general principles of contract. The insurance policy, being a contract, is subject to all the judicial interpretative technique of rules of interpretation as propounded by the judiciary, besides, the insurance idea has a compensatory justice component.

This course is designed to acquaint the students; pursuing B.A.LL.B five year program, with the conceptual and operational parameters, of insurance law.

### **MODULE- I**

#### **INTRODUCTION:**

- a) Definition, nature and history of insurance
- b) Concept of Insurance and law of contract
- c) Role of Insurance in globalized economy
- d) History and development of insurance in India

### **MODULE- II**

#### **GENERAL PRINCIPLES OF LAW OF INSURANCE:**

- a) Essential elements of insurance contracts.
- b) Formation of insurance contracts.

- c) Nature of insurance contracts
  - Contract of Aleatory
  - Contract of *Uberrima fides*
  - Contract of Indemnity
  - Contract of Wager
- d) Insurable interest
- e) Risk
- f) Assignment of Insurance policies
- g) Warranties & disclosures
- h) Double insurance & re-insurance
- i) Doctrine of Contribution and Subrogation

**To be completed before Surprise Test: Number of Lectures: 20**

### **MODULE- III**

#### **LIFE INSURANCE:**

- a) Nature & scope of life insurance
- b) Kinds of life insurance contracts
- c) Events insured against in life insurance with special reference to *Felo-De-Se*.
- d) Factors affecting risk in life insurance
- e) Persons entitled to payment under life insurance
- f) Settlement of claims

### **MODULE- IV**

#### **FIRE INSURANCE**

- a) Origin and Object of Fire Insurance
- b) Basic principles of Fire Insurance contracts.
- c) Nature, Meaning, significance of fire insurance.

**To be completed before Mid Semester Examination: Number of Lectures: 20**

### **MODULE- V**

#### **MARINE INSURANCE:**

- a) Nature and scope
- b) Classification of marine policies
- c) The Marine Insurance Act 1963
- d) Insurable interest, insurable value
- e) Marine insurance policy- condition- express warranties- construction of terms policy
- f) Voyage – deviation
- g) Perils of the sea
- h) Partial loss of ship and of freight, salvage, general average, particular charges

## **MODULE- VI**

### **INSURANCE AGAINST THIRD PARTY RISKS:**

- a) The Motor Vehicles Act, 1988 (Chapter XI)
  - Necessity for insurance against third party risk
  - Duty to give information as to insurance
  - limitations on third party's rights

## **MODULE- VII**

### **INSURANCE REGULATION AUTHORITY (IRDAI) – ROLE AND FUNCTIONS**

**To be completed before End Semester Examination: Number of Lectures: 20**

**\*Note: Questions will be asked from all the modules in the End Semester Examination**

#### **Suggested Books:**

1. Murthy & K V S Sarma, Modern Law of Insurance, (Butterworth's Wadhwa Publications, Nagpur).
2. SV Joga Rao, MN Srinivasan's Principles of Insurance Law, Lexis Nexis Butterworths Wadhwa, Nagpur
3. Robert Merkin, COLINVAUX'S Law of Insurance, Sweet & Maxwell, South Asian Edition.
4. M. N. Sreenivasan, Law and the Life Insurance Contract, (Butterworth's Wadhwa Nagpur)
5. Mishra, M.N., Law of Insurance Principles and Practice, Radhakrishan Prakashan
6. Birds, John, Modern Insurance Law, Universal Publishing Co. (Latest Edition)
7. B.C. Mitra, Law Relating to Marine Insurance. Asia Law House, Hyderabad.

#### **Suggested Bare Acts:**

1. The Insurance Act, 1938;
2. The Insurance Laws (Amendment) Act 2015
3. The Insurance Regulatory Authority Act, 1999
4. The Life Insurance Corporation Act, 1956
5. The Marine Insurance Act, 1963
6. The Motor Vehicles Act, 1988 (Chapter XI)
7. The Consumer Protection Act, 1986

## Section 'A'

| <b>Sl. No.</b> | <b>Roll No.</b> | <b>Project Topic</b>  |
|----------------|-----------------|---|
| 1              | <b>1101</b>     | Nuclear Liability Insurance   |
| 2              | <b>1102</b>     | Credit Insurance  |
| 3              | <b>1103</b>     | Repudiations of Insurance contract  |
| 4              | <b>1104</b>     | Control of Public and Private Insurance companies                                     |
| 5              | <b>1105</b>     | Goods in Transit Insurance  |
| 6              | <b>1107</b>     | Surrender and paid up value of insurance policy                                       |
| 7              | <b>1108</b>     | Investment Issues of Insurance sector   |
| 8              | <b>1109</b>     | Disclosure and Representation under Marine Insurance                                  |
| 9              | <b>1110</b>     | Tax exemption and Insurance Policy  |
| 10             | <b>1111</b>     | State Control of Insurance Business   |
| 11             | <b>1112</b>     | Insurance Product Pricing   |
| 12             | <b>1114</b>     | Compulsory Insurance of Motor Vehicle   |
| 13             | <b>1115</b>     | Role of Proximate Cause in Marine Insurance   |
| 14             | <b>1116</b>     | Assignment of Insurance Policies: Studying the Issues Involved                        |
| 15             | <b>1117</b>     | The Insurance Law Contract as a Contract of Good Faith: A Critique                    |
| 16             | <b>1118</b>     | IRDA control over sectorwise distribution of Insurance Business                       |
| 17             | <b>1119</b>     | Forfeiture under Insurance Law  |
| 18             | <b>1120</b>     | Special Doctrines under Insurance Law   |
| 19             | <b>1121</b>     | Beneficiaries and Nominees: A study of the issues involved                            |
| 20             | <b>1123</b>     | Banks and the Insurance Business: The Indian Position                                 |
| 21             | <b>1124</b>     | Breach of Warranty, Conditions and stipulations                                       |
| 22             | <b>1125</b>     | The Concept of Reinsurance  |
| 23             | <b>1126</b>     | Life Insurance and Suicide: A Study of the Legal Position and Judicial Pronouncements |
| 24             | <b>1127</b>     | Fraud in Insurance Contracts: A study of judicial pronouncements                      |
| 25             | <b>1128</b>     | Challenges under the Insurance Act, 1938  |
| 26             | <b>1129</b>     | Burden of Proof in Insurance Law  |

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| 27 | <b>1130</b> | Essential Tenets of Insurance Law  |
| 28 | <b>1131</b> | Reinsurance  |
| 29 | <b>1132</b> | A Critique on Actuaries, Surveyors, Loss Assessors and Brokers               |
| 30 | <b>1133</b> | Indemnity and Insurance: A Comparative Analysis                              |
| 31 | <b>1134</b> | Exclusion Clauses in Insurance Policies                                      |
| 32 | <b>1136</b> | A Comparative study of life insurance vis-à-vis non-life insurance contracts |
| 33 | <b>1137</b> | Unit-linked Insurance Policy   |
| 34 | <b>1140</b> | Civil Death in Insurance Contracts   |
| 35 | <b>1141</b> | Forfeiture and Surrender of life Insurance policy                            |
| 36 | <b>1142</b> | Can life Insurance policy be traded? Legal and Moral Implications            |
| 37 | <b>1144</b> | Nature and Scope of Fire Insurance   |
| 38 | <b>1145</b> | Marine Insurance Act: Problems and Perspectives                              |
| 39 | <b>1146</b> | A Critique on IRDA Act 1999  |
| 40 | <b>1147</b> | A Critique on Marine Insurance Act 1963                                      |
| 41 | <b>1148</b> | Procedure for subscribing Marine Insurance policy                            |
| 42 | <b>1149</b> | A Critique on Cargo Insurance  |
| 43 | <b>1150</b> | Fraud in Proposal/Claim Payment  |
| 44 | <b>1151</b> | Hull Insurance and its Relevance   |
| 45 | <b>1153</b> | A Critique on Maritime Perils  |
| 46 | <b>1154</b> | Assessment of Loss and Abandonment in Marine Insurance: A Critique           |
| 47 | <b>1155</b> | Types of Marine Insurance Policies and Its Usefulness                        |
| 48 | <b>1156</b> | A Critique on Yashaswini Health Insurance Policy                             |
| 49 | <b>1157</b> | A Critique on Travel Insurance   |
| 50 | <b>1158</b> | A Critique on Micro Insurance  |
| 51 | <b>1159</b> | A Critique on Postal Insurance   |
| 52 | <b>1160</b> | Professional Liability Insurance   |
| 53 | <b>1161</b> | A Critique on Employees State Insurance Corporation                          |
| 54 | <b>1162</b> | Motor Accident Claims Tribunal   |
| 55 | <b>1163</b> | Insurance Law: Essential Tenets  |

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| 56 | <b>1164</b>  | Risk and Insurance: A Relationship  |
| 57 | <b>1165</b>  | Fraud at the time of Proposal/Claim payment   |
| 58 | <b>1166</b>  | Crop and cattle Insurance: Law and Policy   |
| 59 | <b>1167</b>  | Burden of Proof in Insurance Disputes   |
| 60 | <b>1168</b>  | Insurance “service” and Consumerism: Studying the Judicial Trend                              |
| 61 | <b>1170</b>  | The Public Liability Insurance Act 1991   |
| 62 | <b>1171</b>  | Doctrine of Causa Proxima   |
| 63 | <b>1172</b>  | A Critique on Hull Insurance  |
| 64 | <b>1174</b>  | Critical Analysis of Insurance Laws (Amendment) Act 2015                                      |
| 65 | <b>1175</b>  | Interpretations of Clauses under Insurance Contracts  |
| 66 | <b>1176</b>  | A Critique on Foreign Exchange Management (Insurance) Regulation                              |
| 67 | <b>1177</b>  | A Critique on Motor Vehicle Insurance   |
| 68 | <b>1178</b>  | Third Parties Rights against Insurers   |
| 69 | <b>1179</b>  | Studying the Concept of ‘Premium’ and Risk  |
| 70 | <b>1181</b>  | ‘Seaworthiness’ and Marine Insurance Law  |
| 71 | <b>1182</b>  | Insurance covering Risk of Storm and Tempest  |
| 72 | <b>1183</b>  | Fraud at the time of Proposal/Claim payment   |
| 73 | <b>1185</b>  | Insurance Law: Essential Tenets   |
| 74 | <b>1186</b>  | Fire Insurance Contract   |
| 75 | <b>1188</b>  | Group Insurance: A Critique   |
| 76 | <b>1189</b>  | Employee's State Insurance  |
| 77 | <b>1190</b>  | Relationship between Insurance Law and Transfer of Property Law                               |
| 78 | <b>1191</b>  | Public Liability Insurance  |
| 79 | <b>11903</b> | Health (Medi-Claim) Insurance   |
| 80 | <b>11908</b> | Insurable Interest  |
| 81 | <b>11915</b> | Insurance Agents duties, responsibilities and liabilities towards Policy Holders and Insurer. |
| 82 | <b>11934</b> | Warranty, Conditions and Stipulations of Insurance Contracts                                  |
| 83 | <b>11966</b> | Interpretations of Clauses under Insurance Contracts  |
| 84 | <b>11949</b> | A Critique on Foreign Exchange Management (Insurance) Regulation                              |

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| 85                 | <b>119701</b> | Information Technology and Insurance Business                             |
| <b>Section 'B'</b> |               |   |
| 1                  | <b>1201</b>   | Life Insurance Policies: Lapse, Revival and Maturity                      |
| 2                  | <b>1202</b>   | Professional Indemnity Insurance  |
| 3                  | <b>1203</b>   | Functions and benefits of Insurance                                       |
| 4                  | <b>1204</b>   | Expanding the Field: New Types of Insurance Policies                      |
| 5                  | <b>1205</b>   | Double Insurance  |
| 6                  | <b>1206</b>   | Duty of Disclosure  |
| 7                  | <b>1207</b>   | Law relating to Insurance Contract  |
| 8                  | <b>1208</b>   | Utmost Good Faith   |
| 9                  | <b>1209</b>   | Contribution and Subrogation  |
| 10                 | <b>1210</b>   | Construction of Marine Insurance Policy                                   |
| 11                 | <b>1211</b>   | The Concept of Reinsurance  |
| 12                 | <b>1212</b>   | Fidelity Insurance  |
| 13                 | <b>1213</b>   | Effect of Will on life Insurance Policy Claim under various Personal Laws |
| 14                 | <b>1214</b>   | Loss and Abandonment  |
| 15                 | <b>1215</b>   | Right of Insurer on Payment   |
| 16                 | <b>1216</b>   | Standard Fire Policy  |
| 17                 | <b>1217</b>   | Fire Claims and Amount Recoverable  |
| 18                 | <b>1218</b>   | Non-Disclosure and Misrepresentation                                      |
| 19                 | <b>1219</b>   | Formation of Life Insurance Contract                                      |
| 20                 | <b>1220</b>   | Insurance ombudsman: A Critique   |
| 21                 | <b>1222</b>   | Employer's Liability Insurance  |
| 22                 | <b>1223</b>   | Insurable Interest in Life Insurance                                      |
| 23                 | <b>1224</b>   | Contractor's Risk Insurance   |
| 24                 | <b>1225</b>   | Consequential Insurance   |
| 25                 | <b>1226</b>   | Measure of Indemnity in Marine Insurance                                  |
| 26                 | <b>1227</b>   | Nature of Fire Insurance Contract   |

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| 27 | <b>1228</b> | Plea of Expiry of Insurance                                |
| 28 | <b>1229</b> | Role of Proximate Cause in Fire Insurance                  |
| 29 | <b>1230</b> | The Insured Perils in Marine Insurance                     |
| 30 | <b>1231</b> | Law governing Motor Insurance                              |
| 31 | <b>1232</b> | Insurance and Contributory Negligence                      |
| 32 | <b>1233</b> | Comparative study of Insurance Saving and Bank Saving      |
| 33 | <b>1234</b> | Insurance Law as a Tool of Risk Management                 |
| 34 | <b>1235</b> | Aviation Insurance   |
| 35 | <b>1236</b> | A Critique on Auto insurance                               |
| 36 | <b>1237</b> | Unit-linked Insurance Policy                               |
| 37 | <b>1238</b> | A Critique on Travel Insurance                             |
| 38 | <b>1239</b> | Civil Death in Insurance Contracts                         |
| 39 | <b>1240</b> | Exclusion Clauses in Insurance Policies                    |
| 40 | <b>1241</b> | Assignments of life policies                               |
| 41 | <b>1242</b> | Indian Marine Insurance Act: Problems and Perspectives     |
| 42 | <b>1243</b> | A Critique on Maritime Perils                              |
| 43 | <b>1244</b> | Body parts Insurance                                       |
| 44 | <b>1245</b> | Succession Law in life Insurance Policy Claim : A Critique |
| 45 | <b>1246</b> | Liberalization of Insurance Sector                         |
| 46 | <b>1247</b> | Insurance Intermediaries                                   |
| 47 | <b>1248</b> | Banks in Insurance Business: A Critique                    |
| 48 | <b>1249</b> | Insurable Interest and Life Insurance                      |

