# HISTORY OF INSURANCE LEGISLATION IN INDIA

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*Insurance business has been fast growing sector in India since Independence. The laws regulating the Insurance Sector came with the establishment of British entity Oriental Life Insurance Company in 1818 in Calcutta. But at that stage, subjects of Insurance were very limited.*

*In this paper, author has focused on step-by-step progresses brought in the field of Insurance sector. This started with the Ancient Historical and British times, where the British Companies and some other overseas companies were in the dominating positions.*

*In the 1956, Nationalisation of business sector started and all the companies relating of Insurance business was taken over by Central Government. The Life Insurance Corporation Act was enacted in the year 1956 with an exclusive business of Life Insurance.*

*In 1993, eight member committee under the Chairmanship of M.N. Malhotra, was formed to give recommendations for strengthening the regulatory system. The major recommendations were privatisation of Insurance Sector and setting up of Insurance Regulatory Authority. The Insurance Regulatory and Development Authority Act was passed with the aim to protect the interest of Insurance policy.*

*So, the concern of Legislature can be seen by their effective enactments regulating and promoting Insurance business in India. There is a rapid change in this sector after the Independence. Since Liberalisation and Nationalisation, the Insurance sector has been brought in a very controlled environment under the regulation of IRDA and other authoritative bodies.*

## 1. Introduction

The concept of insurance has been prevalent in India since ancient times amongst Hindus. Overseas traders practiced a system of marine insurance. The joint family system, peculiar to India, was a method of social insurance of every member of the family on his life. The law relating to insurance has gradually developed, undergoing several phases from nationalisation of the insurance industry to the recent reforms permitting entry of private players and foreign investment in the insurance industry. The Constitution of India is federal in nature in as much there is division of powers between the Centre and the States. Insurance is included in the Union List, wherein the subjects included in this list are of the exclusive legislative competence of the Centre. The Central Legislature is empowered to regulate the insurance industry in India and hence the law in this regard is uniform throughout the territories of India. The development and growth of the insurance industry in India has gone through three distinct stages.

## 2. Formation of Insurance Industry in India

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Insurance law in India had its origins in the United Kingdom with the establishment of a British firm, the Oriental Life Insurance Company in 1818 in Calcutta, followed by the Bombay Life Assurance Company in 1823, the Madras Equitable Life Insurance Society in 1829 and the Oriental Life Assurance Company in 1874. However, till the establishment of the Bombay Mutual Life Assurance Society in 1871, Indians were charged an extra premium of up to 20 per cent as compared to the British. The first statutory measure in India to regulate the life insurance business was in 1912 with the passing of the Indian Life Assurance Companies Act, 1912 (Act of 1912).[1] Other classes of insurance business were left out of the scope of the Act of 1912, as such kinds of insurance were still in rudimentary form and legislative controls were not considered necessary. General insurance on the other hand also has its origins in the United Kingdom. The first general insurance company "Triton Insurance Company Ltd." was promoted in 1850 by British nationals in Calcutta. The first general insurance company established by an Indian was "Indian Mercantile Insurance Company Ltd." in Bombay in 1907. Eventually, with the growth of fire, accident and marine insurance, the need was felt to bring such kinds of insurance within the purview of the Act of 1912. While there were a number of attempts to introduce such legislation over the years, non-life insurance was finally regulated in 1938 through the passing of the Insurance Act, 1938 (Act of 1938). The Act of 1938 along with various amendments over the years continues till date to be the definitive piece of legislation on insurance and controls both life insurance[2] and general insurance. General insurance, in turn, has been defined to include "fire insurance business"[3], "marine insurance business"[4] and "miscellaneous insurance business"[5], whether singly or in combination with any of them.

## 3. History of Insurance

### *3.1 Ancient Historical Times*

Insurance is as old as human society itself. The ancient origin of insurance is Emerigon, whose brilliant and learned Traite des Assurances, first published in 1783, is still read with respect and admiration. The result shows that insurances were known to the ancients such as Romans, Phoenicians Rhodians, although the business of underwriting commercial risks was probably not highly developed. The histories of Livy and Suetonius show that the contractors who undertook to transport provisions and military stores to the troops in Spain stipulated that the government should assume all risk of loss by reason of perils of the sea or capture and this was probably the first time when insurance process was known. There were friendly societies organised for the purpose of extending aid to their unfortunate members from a fund made up of contributions from all. These societies undoubtedly existed in China and India in the earliest times. The earliest traces of Insurance in the ancient Indian history was in the form of marine trade loans or carrier's contracts, which can be found in Kautilya's Arthashastra, Yajnyavalkya's Dharmashastra and Manu's Smriti. These works show that the system of credit and the law of interest were well developed in India. They were based on clear appreciation of hazard involved and the means of safeguarding against it.[6]

### *3.2 British-India Period*

Insurance in India without any regulations started in the nineteenth century. It was a typical story of a colonial era where a few British insurance companies dominated the market serving mostly large urban centres. Company started by Europeans in Calcutta was the first life insurance company on Indian soil.

Bombay Mutual Life Assurance Society indicated the birth of first Indian life insurance company in the year 1870, and covered Indian lives at normal rates. 1930s was the last of the old-style crises in the Indian economy because it marked the beginning of the end of the colonial state and an acceleration of the pace of industrialisation as entrepreneurs moved their capital out of the countryside. Independent India reduced its vulnerability to external economic shocks by close control of foreign exchange and by promoting a massive change in the export schedule. Till the end of nineteenth century, insurance business was almost entirely in the hands of overseas companies.

### *3.3 Post-Independence Era of Indian Insurance*

The insurance business grew at a faster pace after independence. Indian companies strengthened their hold on this business but despite the growth that was witnessed, insurance remained an urban phenomenon. During Mrs. Gandhi's tenure (from 1966-1968), there was a split within the business community of protectionists and those who wanted more open trade. But what maintained the momentum was the commitment of two ministers, Ashok Mehta and Subramaniam towards liberalisation of the economy. This was seconded with high hope of getting increased foreign aid.

Deregulation actually helped the poorest in India as it would eventually create more employment and faster growth. Yet the intense fears of liberalisation in the lower middle class and among working class employees of the state sector pose serious risks in freeing the economy. It might be preferable to introduce liberalisation during an economic upswing when the risk of switching jobs is less traumatic. The three liberalisation episodes in Indian economic policy have followed clear cyclical patterns. Economic policy has swung broadly between controls and greater openness, with a tendency towards decontrolling larger and more important segments of the economy.

### *3.4 Nationalisation of the Insurance Business in India*

On 19th January, 1956, the management of life insurance business of 245 Indian and foreign insurers and provident societies then operating in India was taken over by the Central Government. The Life Insurance Corporation (LIC) was formed in September 1956 by the Life Insurance Corporation Act, 1956 (LIC Act), which granted LIC the exclusive privilege to conduct life insurance business in India. However, an exception was made in the case of company, firm or persons intending to carry on life insurance business in India in respect of the lives of "persons ordinarily resident outside India" provided the approval of the Central Government was obtained. The exception was however not absolute and a curious prohibition existed. Such company, firm or person would not be permitted to insure the life of any "person ordinarily resident outside India", during any period of their temporary residence in India. However, the LIC Act left outside its purview the Post Office Life Insurance Fund, any Family Pension Scheme framed under the Coal Mines Provident Fund, Family Pension and Bonus Schemes Act, 1948 or the Employees' Provident Funds and the Family Pension Fund Act, 1952. The general insurance business was also nationalised with effect from 1st January, 1973, through the introduction of the General Insurance Business (Nationalization) Act, 1972

(GIC Act). Under the provisions of the GIC Act, the shares of the existing Indian general insurance companies and undertakings of other existing insurers were transferred to the General Insurance Corporation to secure the development of the general insurance business in India and for the regulation and control of such business. The GIC was established by the Central Government in accordance with the provisions of the Companies Act, 1956 (Companies Act) in November 1972 and it commenced business on 1st January, 1973. Prior to 1973, there were 107 companies, including foreign companies, offering general insurance in India. These companies were amalgamated and grouped into four subsidiary companies of GIC, *viz*. the National Insurance Company Ltd. (National Co.), the New India Assurance Company Ltd. (New India Co.), the Oriental Insurance Company Ltd. (Oriental Co.), and the United India Assurance Company Ltd. (United Co.). GIC undertakes mainly reinsurance business apart from aviation insurance. The bulk of the general insurance business of fire, marine, motor and miscellaneous insurance business is under taken by the four subsidiaries.

Nationalisation was accomplished in two stages; initially the management of the companies was taken over by means of an Ordinance, and later, the ownership too was taken by means of a comprehensive bill. However, it was only in 1956 LIC was nationalised, with the objective of spreading life insurance much more widely and in particular to the rural areas with a view to reach all insurable persons in the country, providing them adequate financial cover at a reasonable cost. And as of 2007, LIC is India's leading Insurance company, with 2000 branches, which probably is the highest number of branches across India insurance sector.

### *3.5 Liberalisation of Indian Insurance*

In 1994, insurance sector invited private participation to induce a spirit of competition amongst the various insurers and to provide a choice to the consumers.

In 1997, insurance regulator IRDA was set up as the need was felt:

(*a*) to set up an independent regulatory body that provides greater autonomy to insurance companies in order to improve their performance;

(*b*) to enable them to act as independent companies with economic motives;

(*c*) to protect the interest of holders of insurance policies;

(*d*) to amend the Insurance Act, 1938, the Life Insurance Corporation Act, 1956 and the General insurance Business (Nationalization) Act, 1972;

(*e*) to end the monopoly of the Life Insurance Corporation of India and General Insurance Corporation and its subsidiaries.

In the first year of insurance market liberalisation (2001) as much as 16 private sector companies including joint ventures with leading foreign insurance companies have entered the Indian insurance sector. Of this, 10 were under the life insurance category and six under general insurance. Thus in all there are 25 players (12 life insurance and 13 general insurance) in the Indian insurance industry till date.

## 4. Entry of Private Entities

Since 1956, with the nationalisation of insurance industry, the LIC held the monopoly in India's life insurance sector. GIC, with its four subsidiaries, enjoyed the monopoly for general insurance business. Both LIC and GIC have played a significant role in the development of the insurance market in India and in providing insurance coverage in India through an extensive network. For example, currently, the LIC has a network of 7 zones, 100 divisions and over 2,000 branches. LIC has over 550,000 agents and over 100 million lives are covered.

From 1991 onwards, the Indian Government introduced various reforms in the financial sector paving the way for the liberalisation of the Indian economy. It was a matter of time before this liberalisation affected the insurance sector. A huge gap in the funds required for infrastructure was felt particularly since much of these funds could be filled by life insurance funds, being long tenure funds.

Consequently, in 1993, the Government of India set up an eight-member committee chaired by Mr. R. N. Malhotra, former Governor of the Reserve Bank of India, to review the prevailing structure of regulation and supervision of the insurance sector and to make recommendations for strengthening and modernising the regulatory system. The Committee submitted its report to the Indian Government in January 1994. Two of the key recommendations of the Committee included the privatisation of the insurance sector by permitting the entry of private players to enter the business of life and general insurance and the establishment of an Insurance Regulatory Authority.

It took a number of years for the Indian Government to implement the recommendations of the Malhotra Committee. The Indian Parliament passed the Insurance Regulatory and Development Act, 1999 (IRD Act) on 2$^{nd}$ December, 1999 with the aim "to provide for the establishment of an Authority, to protect the interests of the policy holders, to regulate, promote and ensure orderly growth of the insurance industry and to amend the Insurance Act, 1938, the Life Insurance Corporation Act, 1956 and the General Insurance Business (Nationalization) Act, 1972".

**5. Conclusion**

Life insurance in India has a history of more than 100 years. It has grown significantly after independence under control of Central Government. Various acts were passed to ensure safety of the insured as well as insurer. LIC has provided with various plans to suit the needs of each and every individual. Insurance may play a vital role in helping growth of individual and economy. As there is no guarantee of life, life insurance would provide a moral as well as financial support for the family.

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1. This was based on the English Act of 1909.
2. Section 2(11), Insurance Act, 1938: "*Life Insurance Business*" means the business of effecting contracts of insurance upon human life, including any contract whereby the payment of money is assured on death (except death by accident only) and the happening of any contingency dependent on human life, and any contract which is subject to payment of premiums for a term dependent on human life and shall be deemed to include:

(*a*) the granting of disability and double or triple indemnity accident benefits, if so provided in the contract of insurance;

(*b*) the granting of annuities upon human life; and

(*c*) the granting of superannuation allowances and annuities payable out of any fund applicable solely to the relief and maintenance of persons engaged or who have been engaged in any particular profession, trade or employment or of the dependents of such persons."

**3.** Section 2(6A), Insurance Act, 1938: "*Fire Insurance business*" means the business of effecting, otherwise than incidentally to some other class of insurance business, contracts of insurance against loss by or incidental to fire or other occurrence customarily included among the risks insured in fire insurance policies.

**4.** Section 2(13A), Insurance Act, 1938: "*Marine Insurance Business*" means the business of effecting contracts of insurance upon vessels of any description, including cargoes, freights and other interests which may be legally insured, in or in relation to such vessels, cargoes and freights, goods, wares, merchandise and property of whatever description insured for any transit by land or water, or both, and whether or not including warehouse risks or similar risks in addition or as incidental to such transit, and includes any other risks customarily included among the risks insured against in marine insurance policies.

**5.** Section 2(13B), Insurance Act, 1938: "*Miscellaneous insurance business*" means the business of effecting contracts of insurance which is not principally or wholly of any kind or kinds included in Sections 2(6A), (11) and (13A) of the Insurance Act, 1938."

**6.** http://www.insurancemall.in/I-Opener/post/2008/03/Insurance-Trends-in-India.aspx, last visited on 4th September, 2010.