

**Non-Disclosure:** may arise when the insured is silent in general about material facts because the insurer has not raised any specific enquiry. It may also arise through evasive answers to queries raised by the insurer. Often disclosure may be inadvertent (meaning it may be made without one's knowledge or intention) or because the proposer thought that a fact was not material.

In such a case it is innocent. When a fact is intentionally suppressed it is treated as concealment. In the latter case there is intent to deceive.

**Misrepresentation:** Any statement made during negotiation of a contract of insurance is called representation. A representation may be a definite statement of fact or a statement of belief, intention or expectation. With regard to a fact it is expected that the statement must be substantially correct. When it comes to Representations that concern matters of belief or expectation, it is held that these must be made in good faith.

#### **Fraud**

A policy of insurance may be called in question at any time within three years from the date of issuance of the policy or the date of commencement of risk or the date of revival, of the policy or the date of the rider to the policy, whichever is later, on the ground of fraud:

The insurer shall have to communicate in writing to the insured or the legal representatives or nominees or assignees of the insured the grounds and materials on which such decision is based.

The term "Fraud" has been defined and specified as follows:

The expression "fraud" means any of the following acts committed by the insured or by his agent, with the intent to deceive the insurer or to induce the insurer to issue a insurance policy:

- (a) the suggestion, as a fact of that which is not true and which the insured does not believe to be true;
- (b) the active concealment of a fact by the insured having knowledge or belief of the fact;
- (c) any other act fitted to deceive; and
- (d) any such act or omission as the law specially declares to be fraudulent.

#### **c) Insurable interest**

The existence of 'insurable interest' is an essential ingredient of every insurance contract and is considered as the legal pre-requisite for insurance. Let us see how insurance differs from a gambling or wager agreement.

##### **1. Gambling and insurance**

Consider a game of cards, where one either loses or wins. The loss or gain happens only because the person enters the bet. The person who plays the game has no further interest or relationship with the game other than that he might win the game. Betting or, wagering is not legally enforceable in a court of law and thus any contract in pursuance of it will be held to be illegal. In case someone pledges his house if he happens to lose a game of cards, the other party cannot approach the court to ensure its fulfillment.