

# 3<sup>rd</sup> PARTY INSURANCE

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# What is Third Party Insurance?

- A third party insurance policy is a policy under which the insurance company agrees to indemnify the insured person, if he is sued or held legally liable for injuries or damage done to a third party. The insured is one party, the insurance company is the second party, and the person you (the insured) injure who claims damages against you is the third party.
- There are two quite different kinds of insurance involved in the damages system. One is Third Party liability insurance, which is just called liability insurance by insurance companies and the other one is first party insurance.

# **Salient Features of Third Party Insurance-**

- Third party insurance is compulsory for all motor vehicles. Third party risks insurance is mandatory under the statute .This provision cannot be overridden by any clause in the insurance policy.
- Third party insurance does not cover injuries to the insured himself but to the rest of the world who is injured by the insured.
- Third party insurance involves lawyers aid.

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- In third party policies the premiums do not vary with the value of what is being insured because what is insured is the 'legal liability' and it is not possible to know in advance what that liability will be.
- Third party insurance is almost entirely fault-based.(means you have to prove the fault of the insured first and also that injury occurred from the fault of the insured to claim damages from him).
- The third party insurance is unpopular with insurance companies as compared to first party insurance, because they never know the maximum amounts they will have to pay under third party policies.

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- Beneficiary of third party insurance is the injured third party, the insured or the policy holder is only nominally the beneficiary of the policy. In practice the money is always paid direct by the insurance company to the third party (or his solicitor) and does not even pass through the hands of the insured person.

# **Motor Vehicles Acts,1939**

Motor Vehicles Act,1939 (4 of 1939) consolidates and amends the law relating to motor vehicles. This has been amended several times to keep it up to date. The need was, however felt that this Act should, now interalia take into account also changes in the road transport technology, pattern of passenger and freight movements, development of the road network in the country and particularly the improved techniques in the motor vehicles management.

# **Motor Vehicles Acts,1988**

The Motor Vehicles Act,1988 which came into force on 1st July,1988 and which is divided into , 217 Sections and two schedules, makes it compulsory for every motor vehicle to be insured. The 1988 Act deals with compensation provisions. Sections 140 to 144 deal with liability with out fault in certain cases. (Ss. 145 to 164) deal with insurance of motor vehicles against third party risks.

# **Insurance Companies have been allowed no other defence except the following: -**

- Use of vehicle for hire and reward not permit to ply such vehicle.
- For organizing racing and speed testing.
- Use of transport vehicle not allowed by permit.
- Driver not holding valid driving license or have been disqualified for holding such license.
- Policy taken is void as the same is obtained by non-disclosure of material fact.



# **Legal defence available to the Insurance Companies towards third party:**

- The Insurance Company cannot avoid the liability except on the grounds and not any other ground, which have been provided in Section 149(2). In recent time, Supreme Court while dealing with the provisions of Motor Vehicle Act has held that even if the defence has been pleaded and proved by the Insurance Company, they are not absolve from liability to make payment to the third party but can receive such amount from the owner insured.
- The courts one after one have held that the burden of proving availability of defence is on Insurance Company and Insurance Company has not only to lead evidence as to breach of condition of policy or violation of provisions of Section 149(2) but has to prove also that such act happens with the connivance or knowledge of the owner. If knowledge or connivance has not been proved, the Insurance Company shall remain liable even if defence is available.

# **Nature and Extent of Insurer's Liability (section 147)**

According to the provisions of this section the policy of insurance must be issued by an authorized insurer. It must be as per requirements as specified in subsection (2). It must insure against liability in respect of death or bodily injury or damage to property of a third party. "Third party" includes owner of the goods or his authorized representative carried in the vehicle and any passenger of a public service vehicle.

# ***The policy of insurance must cover:***

## **1. Liability under the Workmen's compensation Act, 1923 in respect of death or bodily injury to any such employee-**

- (a) engaged in driving the vehicle, or
- (b) The conductor or ticket examiner if it is a public service vehicle.

## **2. Any contractual liability-**

- Section 147 has to be given wider, effective and practical meaning so that it may benefit various categories of persons entitling them to claim compensation from the insurer or the insured or both.

# **Liability in respect of damage to property**

**For damage to property of a third party under 1939 Act the limit of liability is Rs 6000 in all, irrespective of the class of the vehicle. Under 1988 Act the position as laid down by section 147 (2) in regard to liability is as under:**

- (i) For death or personal injury to a third party, the liability of the insurer is the amount of liability incurred, i.e. for the whole amount of liability.**
- (ii) For damage to property of a third party the liability of the insurer is limited to Rs. 6000 as was under the 1939 Act.**

# Conclusion

- Third party insurance protects the interest of a third party who becomes the victim of accident or injury .
- It is the duty of insurers to satisfy the judgments and awards against persons insured in respect of third party risks.
- The compulsory nature of third party insurance is justifiable as it makes the process more easy for the injured person to recover money from the insured.