

KS.17. Seaworthiness of Vessel in Marine Insurance

What every Banker, Exporter and Importer should know.

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- STRUCTURALLY SOUND
- STABLE AND BUOYANT
- EQUIPPED WITH WORKING PROPULSION AND NAVIGATION
- STOCKED WITH SAFETY GEAR
- OPERATED BY A COMPETENT CREW
- FIT FOR ITS INTENDED



Ships and vessels are large structures that have a very different building process than other modes of transport. They need to be built precisely, keeping safety standards in mind. A small error in the construction of a ship can lead to a major accident.

However, the safety of the ship and its ability to sail can be decided. This is where the concept of seaworthiness comes in.

It is one of the important concepts of **maritime law**. The term is also widely used by **marine insurance** or seaworthy insurance companies. Seaworthiness is a crucial factor in deciding the premium of marine insurance.

What is Seaworthiness in Marine insurance?

Seaworthiness is the concept that describes whether the ship or vessel has passed the security checks and tests to sail without any errors or issues. The seaworthiness verifies if the vessel has been assessed and maintained in accordance with maritime law.

A marine insurance policy describes the condition of the vessel for the voyage. A seaworthy vessel can withstand ordinary peril during transit and can safely transport its cargo and crew members to the destination.

During the ship's operation, small damages occur, which can be rectified or managed by the vessel owner without involving the insurance company. However, in major damage, insurance companies must ascertain the reason for the damage. They needed to verify that the ship was in a seaworthy state before the voyage.

However, if it is found that the **ship is not seaworthy**, then the **insurance company** is **not liable to pay** for the damage. Besides this, if it is assessed in investigation that the reason for damage or liability of crew members is due to the unsafe nature of the vessel. Then, in that case shipowners and operators are liable to pay a penalty.

How is Seaworthiness of Vessels Established at the Time of Marine Insurance Cover Claim?

Several areas help verify the seaworthiness of vessels when a marine insurance policy claim is made. These areas are listed under the Marine Insurance Act of 1906:

Before the start of the voyage, the ship and vessel must be in seaworthy state.

During any crisis or situation occurring in a port, the vessel or ship must be in a seaworthy state before entering the port area. The vessel must also be in condition to handle the motion of docking and berthing.

If the voyage has multiple segments, then the vessel must be seaworthy during each voyage segment.

The vessel must be able to handle the change of equipment or outfitting.

If the ship that is unworthy is sent for a voyage, then the insurance company is not liable to pay for any kind of damage or loss.

What are the Implications of Seaworthiness in Marine Insurance?

Safety and Compliance: Seaworthiness is important in marine insurance policy for safety and compliance reasons. A vessel or ship that is not seaworthy poses a major risk to crew members, cargo, and the environment.

As per maritime law, a vessel needs to be fit and ready to sail before the voyage. For the same reason, the seaworthiness of vessels is checked.

Financial Risks: An unseaworthy vessel has significant financial risk. If a vessel is found to be unseaworthy, the insurance company is not liable to pay for loss and damage.

The compensation will then be paid by the ship's owner. The compensation amount will cover damage to cargo, crew members, the environment, and more, which causes significant financial loss to vessel owners.

Coverage Assessment: Another implication of seaworthiness in a marine insurance policy is its coverage assessment. If the vehicle is seaworthy, it will help in getting the required coverage for the marine insurance policy.

At the time of issuing the policy, the insurance company crosschecks the vessel survey certification to ensure its seaworthiness. The surveyor issues the survey certificate.

What is the Breach of Seaworthiness In Marine Insurance?

Continuous monitoring of a vessel is mandatory to check its seaworthiness. If a vessel is found to be unworthy, it will be considered a breach of marine insurance policy. In that case, policyholders will need to face some consequences.

A breach of seaworthiness can lead to insurance companies denying compensation for losses or damage incurred during the voyage. The policyholder needs to pay out of their pocket for the repair expenses.

In that case, the policyholder can challenge the denial in court for the damage compensation. However, they need to ensure that they have enough evidence to prove that the vessel is seaworthy.

Preventive Measures to Be Taken by Policyholder to Ensure Seaworthiness?

There are different preventive measures available for policyholders to follow to maintain the seaworthiness of vessels. Some of these are:

Regular maintenance and inspection of vessels is necessary to maintain seaworthiness.

All the crew members and operators on the ship need to have proper training and skills to operate the vessel.

Besides this, ship or crew members should have proper procedures or plans in place to deal with emergency situations such as bad weather, equipment failure, and more that occur during the voyage.

Other than this, ship owners need to have advanced technology or navigation systems in place to mitigate the risk.

Crew members need to be trained in safety measures and techniques that minimise loss during emergency situations.

Lastly, it is crucial to review and update the risk management procedures from time to time to ensure they remain up to date.

Conclusion

Seaworthiness plays an important role in marine insurance policies. Business owners purchase marine open policies or cargo insurance to protect themselves from financial implications due to unanticipated situations.

However, if the vessel or ship is not seaworthy at the time of the voyage, the insurance company can deny the claim for coverage. Vessels need to be seaworthy before the voyage.

Besides maintaining seaworthiness, businesses need to consider purchasing a marine insurance policy.

Source :

Lloyds, Insurance Companies, National Insurance Academy, Hague Visby Rules, Rotterdam Rules, Merchant Shipping Act