

# VEER NARMAD SOUTH GUJARAT UNIVERSITY SURAT

LL.M.( BUSINESS LAW GROUP) GROUP- C  
Papers as per CBCS and Semester System w.e.f. 2012-13

## **Semester 3**

**Total 24 credits**

C-105 Law & Social Transformation

C-106 Judicial Process

BLE-309 Law of Insurance-1 [General Principles of Insurance Law , schemes & New Dimensions]

BLE-310 Law of Insurance-2 [Insurance Laws ( Legislations) ]

BLE-311 Banking Law-1 [Banking system, Nature and Development]

BLE-312 Banking Law-2[Banking Laws ( Legislations) ]

## **Semester 4**

**Total 24 credits**

C-107 Doctrinal Research  
Non-doctrinal Research  
Clinical work  
Law Teaching

C-108 Dissertation

## **INSURANCE LAW**

### **Objectives of the course**

As early as in 1601 one finds an excellent exposition of the insurance idea expressed in these words of an Act of British Parliament "the loss lighteth rather easily, upon many than heavily upon few". The insured person transfers from his own shoulders to the insurers, who, in return for agreeing to assume a potential risk of loss receive a payment known as premium. The insurers rely on the probability that only some of the losses, they insure against will in fact occur within any given period. They calculate, therefore, that they will be left with a profit. The insurer, on the other hand, is better able to risk his capital in trade since he knows that certain events which he cannot control, such as fire, shipwreck, will not cause him to lose his investment.

The insurance idea is an old-institution of transactional trade. The age old form of insurance was the marine insurance. There is nothing like disaster to set men's minds to work. Consequently, in due course of time fire and life insurance, made their appearance. Within the last hundred years the insurance principle is being extended wider. Today one finds insurance cover for accidents, motor vehicles, glass, live stock, crop, burglary and various other disasters.

Insurance is a device not to avert risks, calamities and disasters; but to mitigate their rigours and financial losses. The function of insurance is to spread such loss arising from risks of life over a large number of persons.

The operational framework of insurance idea is provided by the general principles of contract. The insurance policy, being a contract, is subject to all the judicial interpretative techniques. Besides, the insurance idea has a compensatory justice component. This brings it in the arena of the law of tort as well. It is even suggested that a fully grown and developed law of insurance may, if not totally displace, decrease the significance of the law of tort.

This course is designed to acquaint the students with the conceptual and operational parameters of insurance law in the context of the development of the general principles of law and judicial interpretation to inform the students about the use of law for the establishment of "just" order in insurance and to develop the appreciative and evaluative faculties of the students.

For the convenience the entire content is divided into two papers Viz

Paper I : General Principles of Insurance Law , schemes & New Dimensions &

Paper II : - Insurance Laws ( Legislations)

### **Syllabus**

## **BLE 309 Credit 4**

### **Paper I : General Principles of Insurance Law , schemes & New Dimensions**

#### **1. Introduction**

- 1.1 Nature of insurance contract, various kinds of insurance, proposal, policy, parties consideration, need for utmost good faith, insurable interest, indemnity.
- 1.2 Insurance policy, law of contract and law of torts-future of insurance : need, importance and place of insurance
- 1.3 Constitutional perspectives - the Entries 24, 25, 29, 30, 47 of List 1 Union List; 23, 24, of List III.

#### **2. General Principles of Law of Insurance**

Definition, nature and history  
The risk - commencement, attachment and duration  
Assignment and alteration  
Settlement of claim and subrogation  
Effect of war upon policies  
Surrender , cancellation laps of policy , and renewal  
Nationalization , and disinvestment

#### **3. Insurance Against Accidents**

The Fatal Accidents Act, 1855  
Objects and reasons  
Assessment of compensation  
Contributory negligence  
apportionment of compensation and liability  
the personal Injuries (Compensation insurance) Act, 1963  
Compensation payable under the Act  
Compensation insurance scheme under the Act-Compulsory insurance.

#### **4. Property Insurance**

- 4.1 The Emergency Risks (Factories) Insurance
- 4.2 The Emergency Risks (Goods) Insurance
- 4.3 Policies covering risk of explosion
- 4.4 Policies covering accidental loss, damage to property

- 4.5 Policies covering risk of storm and tempest
- 4.6 Glass-plate policies
- 4.7 Burglary and theft policies
- 4.8 Live stock policies
- 4.9 Goods in transit insurance
- 4.10 Agricultural insurance

## **5. Insurance Against Third Party Risks**

The Motor Vehicles Act, 1988

Nature and scope

Effect of insolvency of death on claims of insolvency and death of parties, certificate of insurance

Claims tribunal; constitution, functions, application for compensation, procedure, powers and award

Liability Insurance

Nature and kinds of such insurance

Public liability insurance

Professional negligence insurance

## **6. Miscellaneous Insurance Schemes : New Dimensions**

6.1 Group life insurance

Salary Savings ,

6.2 Mediclaim, sickness insurance

6.3 Anti Money Laundering , Guide Line for Investors

**BLE 310 Credit 4**

## **Paper II : - Insurance Laws ( Legislations)**

### **1. Indian Insurance Law : General**

- 1.1 History and development
- 1.2 The Insurance At 1938 and the Insurance Regulatory Authority Act, 2000
- 1.3 Mutual insurance companies and cooperative life insurance societies
- 1.4 Double Insurance and re-insurance
- 1.5 Consumer Protection Act 1986

## 1.6 General insurance Business ( Nationalization) Act 2002

### **2. Life Insurance**

Life insurance Act 1956

Nature and scope

Event insured against life insurance contract

Circumstances affecting the risk

Amounts recoverable under life policy

Persons entitled to payment

Settlement of claim and payment of money

### **3. Marine Insurance**

3.1 Nature and Scope

3.2 Classification of marine policies

3.2.1 The Marine Insurance Act, 1963

3.2.2 Marine Insurance

3.2.3 Insurable interest, insurable value

3.2.4 Marine insurance policy - condition - express warranties construction of terms of policy

3.2.5 Voyage - deviation

3.2.6 Perils of the sea

3.2.7 Assignment of policy

3.2.8 Partial laws of ship and of freight, salvage, general average, particular charges

3.2.9 Return of premium

### **4. Fire insurance**

#### **Select bibliography**

Manual of Insurance law 14<sup>th</sup> ed. (2011) edited By Ravi Puliani , Bharat Law House Pvt . Ltd , New Delhi

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## **BANKING LAW [ I & II ]**

### **Objectives of the course**

A vitally important economic institution the banking system is deeply influenced by socio-political and economic changes. The emerging changes in India, particularly after the initiation of the planning process as an instrument of rapid economic development has moulded and affected the banking structure, policies, patterns and practices. A significant development in the banking system is diversification in banks financing. The commercial banks entered 'into the field of wide ranging financial assistance to industry, both large and small scale, requiring the need for social control of the banking system eventually leading to the nationalization of banks.

The conventional banking system, found to be deficient for planned developmental purposes, paved the way of developmental banking. The fag end of the last millennium witnesses influx of foreign banking companies into India and a shift in the banking policy as part of the global phenomenon of liberalization. The legal system is adopting itself into the new mores.

This course is designed to acquaint the students with the conceptual and operational parameters of banking law, the judicial interpretation and the new and emerging dimensions of the banking system.

For the convince the entire content is divided in to two papers Viz Paper I : Banking system, Nature and Development & Paper II : - Banking Laws ( Legislations)

### **Syllabus**

#### **BLE 311 4Cradit**

#### **Paper I BANKING LAW – I [ Banking System ,Nature and Development ]**

##### **1. Introduction**

1.1 banking system - Nature and development

1.2 History of banking in India and elsewhere-indigenous banking-evolution of banking in India-different kinds of banks and their functions.

1.3 Multi-functional banks - growth and legal issues

Private Banks, National Banks and Foreign Banks

Cooperative Banks ( NABARD) Commercial Banks

1.4 Banking Organisations

1.5 Legal Aspects of banking operations

## **2. Social Control over Banking**

2.1 Nationalization

2.2 Evaluation : Private ownership, nationalization and disinvestment

2.3 Protection of depositors

2.4 Priority lending

2.5 Promotion of under privileged classes

## **3. Relationship of banker and Customer**

Legal character

Contract between banker and customer

Banker's lien

Protection of bankers

Customers

    Nature and type of accounts

    Special classes of customers - lunatics; minor, partnership, corporation, local authorities

Banking duty to customers

Consumer protection : Banking as service

## **4. Lending by Banks**

Good lending principles

    Lending to poor masses

Securities for advance

    Kinds and their merits and demerits

Repayment of loans : rate of interest, protection against penalty

Default and recovery

    Debt recovery tribunal

RBI Monetary and Credit Reserve Policy 2010-11

Cash Reserve Ratio (CRR) and Statutory Liquidity Ratio [SLR]

## **5. Recent Trends of Banking System in India**

5.1 New technology

5.2 Information technology

5.3 Automation and legal aspects

5.4 Automatic teller machine and use of internet

- 5.5 Smart card
- 5.6 Use of expert system
- 5.7 Credit cards
- 5.8 Global Banking Institutions

## **6. Reforms in Indian Banking Law**

- 6.1 Recommendations of committees : a review of chore committees –Tandan Committee ,  
Narashiham Committee , High Power Committee
- 6.2 The Banking ombudsman Schemes  
Nationalization Banking Scheme 1970 & 1980

## **BLE - 312 4 Credit**

### **Paper II Banking Laws ( Legislations )**

#### **1. Law Relating to Banking Companies in India**

- 1.1 Controls by government and its agencies
  - 1.1.1 on management
  - 1.1.2 on accounts and audit
  - 1.1.3 Lending
  - 1.1.4 Credit policy
  - 1.1.5 Reconstruction and reorganization
  - 1.1.6 Suspension and winding up
- 1.2 Contract between banker and customer : their rights and duties

#### **2. Deposit Insurance**

- The Deposit Insurance Corporation Act 1961: objects and reasons
  - Establishment of Capital of DIC
  - Registration of banking companies insured banks, liability of DIC to depositor
  - Relations between insured banks, DIC and Reserve Bank of India

#### **3. The Central Bank**

- 3.1 Evolution of Central Bank
- 3.2 Characteristics and functions
- 3.3 Economic and social objectives
- 3.4 The Central Bank and the State - as bankers' bank
- 3.5 The Reserve Bank of India as the Central Bank
  - 5.5.1 Organisational structure
- 3.6 Functions of the RBI
  - 3.6.1 Regulation of monetary mechanism of the economy

- 3.6.1.1 Credit control
- 3.6.1.2 Exchange control
- 3.6.1.3 Monopoly of currency issue
- 3.6.1.4 Bank rate policy formulation
- 3.7 Control of RBI over non-banking companies
  - 3.7.1 Financial companies
  - 3.7.2 Non-financial companies

#### **4. Banking operation and Negotiable Instruments**

- 4.1 Meaning and kinds
- 4.2 Transfer and negotiations
- 4.3 Holder and holder in due course
- 4.4 Presentment and payment
- 4.5 Liabilities of parties

#### **5. Banking Laws ( Legislations )**

- 5.1 Banking Regulations Act 1949
- 5.2 IDBI Act 1964 & 2003
- 5.3 NABARD ACT 1951 Gen Regulations
- 5.4 National Housing Banking Act 1957
- 5.5 Reserve Bank of India Act 1934
- 5.6 Small Industrial Development of India Act 1989
- 5.7 State Bank of India Act 1955
- 5.8 Cooperative Banks and Banking Regulation Act 1946
- 5.9 Banker Book Of Accounts Act 1891

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