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Chapter 5: Cargo Insurance Claims

Objectives:

1. To understand the concept of sue and labour and duties of the Insured
2. To Understand cargo claims procedure and claims documentation
3. To gain the ability to apply the concepts to a claim situation

Types of Losses

The Marine Insurance Act 1906 classifies two type of loss:

- (a) **Total losses**
- (b) **Partial losses.**

Total loss can be further sub-divided into:

Actual total losses

- Where the subject matter is totally destroyed
- Cease to be a thing of the kind insured
- Irretrievably deprived thereof

Constructive total losses

- Reasonable abandonment of the subject matter insured
- Deprivation of possession of ship or goods
- Damage to ship
- Damage to goods

Partial losses

Particular Average Loss

- Partial loss of a ship
- Partial loss of goods
- Partial loss of freight

Salvage

General Average

Sue and labour charges

Actual Total Loss

Absolute or actual total loss can be briefly summarized into following three categories:

1. Where the insured interest is destroyed entirely - e.g. cargo burnt or ship sunk.
2. Where the insured interest is so damaged by a peril insured as it ceases to be a thing of the kind insured. This is known as "loss of specie" e.g. potatoes so damaged as to be fit for use as fertilizer or cement which has solidified as a result of the action of seawater.
3. Where the assured is deprived irretrievably of his property by a peril insured against e.g. Cargo in a vessel that got stranded on a remote island which is inaccessible as a result of sea waves and actions and with no or very remote possibility of salvage.

Constructive Total Loss

The concept of constructive total loss, where the subject matter insured is effectively lost to the Assured, but is not actually destroyed, is unique to marine insurance. This concept is outlined within s60 of the MIA which defines as follows:-

Subject to any express provision in the policy, there is a constructive total loss where the subject matter is reasonably abandoned on account of its actual total loss appearing to be unavoidable, or because it could not be preserved from actual total loss without an expenditure which would exceed its value when the expenditure had been incurred.

There is a constructive total loss of cargo when the assured is deprived of the possession of his property when:

1. It is unlikely he will recover it. OR
2. The cost of recovery will exceed the value of the goods when recovered. OR
3. Where goods are damaged and the cost of reconditioning and forwarding to destination will exceed their value on arrival.

It is essential that "notice of abandonment" be given in a case of constructive total loss, except where it has been waived or notice would confer no benefit on an insurer. In practice, it is wise for the assured to always tender notice of abandonment, and by abandonment proprietary rights and liabilities are transferred.

The interest in the insured property is transferred from the Assured to the Underwriter, while notice of abandonment once tendered and accepted is irrevocable. If the Underwriter however realizes more on sales of cargo abandoned to him than he has paid on claims, the assured is not entitled to participate in any of the proceeds of the sale.

However in practice, the Insurer do not always accepts abandonment due to the addition liabilities that might be conferred on them through the acceptance of such notice of abandonment.

It then falls on the Assured to take proceedings to enforce his claim by the issue of a writ. The state of facts existing at the time when a writ is issued will then determines whether or not a constructive total loss has occurred.

Particular Average:-

Particular average is a partial loss or damage sustained through accidental causes which is borne by the interests to which the damage is occasioned as against the general average where all those interested in the adventure has to contribute to make good the loss.

In the adjustment of particular average loss on cargo insurance, consideration has to be given to the nature of that partial loss itself i.e. whether the goods arrived short-landed from the conveying vessel; total loss of apportionable parts; theft or pilferage; breakages and chipping of parts and/or damages (fresh water, sea-water, ship's sweat or condensation damage). Where there is a total loss of an apportionable part of the consignment or the proportion of the particular average is easily ascertainable in relationship to the total value of the consignment, then there is little or no problem in arriving at the amount of the loss as most cargo policies in use are invariably "value policies".

However, where cargo arrived in a damaged condition and could only be sold at a discount in the market, then the percentage of depreciation will have to be taken into consideration and in such an adjustment, the following is to be noted:

To arrive at the percentage of depreciation for a particular average adjustment, the "Gross Arrived Sound Value - GASV" should be compared with "Gross Arrived Damaged Value - GADV". This is the only means of obtaining a constant measure of depreciation irrespective of market fluctuations.

Also, whether the goods are damaged or not, the freight and landing charges usually remain unaltered, the amount of custom duty also remains the same which makes the system as the most equitable mean in the principle of indemnity under this section.

The following example will illustrate the points better.

Example: A consignment of goods is insured for US \$ 20,000

The goods are damaged, the GASV = US \$ 22,500;

The GADV = US \$ 17,500

The sale charges are US \$100.00 and survey fee US \$ 40.00

GASV = \$ 22,500

GADV = \$ 17,500

Depreciation = \$ 22,500 - \$ 17500 = US \$ 5,000 = 22.22%

22.22% of the Insured Value of US \$ 20,000 = US \$ 4,444.40

Sale Charge = 100.00

Survey Fee = 40.00

The amount of claim US \$ 4,584.40

From the above example, the original policy not only pays survey fee (including sue and labour and particular and special charges) but also the rights of subrogation relating to the cargo, since the original valued policy incorporates an agreement between insured and underwriter that the cargo value is the value stated in that policy i.e. valued policy.

General Average

The law of general average was probably best summed up by Lord Denning MR, in *Australian Coastal Shipping Commission v Green* [1971]:

It arises when a ship, laden with cargo, is in danger of being lost. If the master then, for the sake of all, throws some of the cargo, so as to lighten the ship, it is unjust that the owner of the goods so jettisoned should be left to bear all the loss of it himself. He is entitled to a contribution from the shipowner and the other cargo-owners in proportion to their interests. Likewise, if the master, for the sake of all, at the height of a storm, cuts away part of the ship's tackle (as in *Birkley v Presgrave*), or cuts away a mast (as in *Atwood v Sellar and Co*), or, having sprung a leak, puts into a port of refuge for repairs and spend money on them (as in *Svensden v Wallace Bros*), it is unfair that the loss should fall on the shipowner alone. He is entitled to contribution from the cargo-owners for the loss or expenditure to which he has been put. In all such cases, the act done by the master is called a 'general average act', and the loss incurred is called a 'general average loss'.

Particular Charge:-

Particular charge is expenses incurred by the insured or on his behalf for the safety or preservation of the subject matter insured. Provided these expenses are incurred before the arrival of cargo at destination and they are covered under a marine cargo policy. This is specifically covered under Clause 16.1 of the current sets of the Institute Cargo Clause as follows:-

"It is the duty of the Assured and their servants and agents in respect of loss recoverable hereunder to take such measures as may be reasonable for the purpose of averting or minimizing such loss and the Underwriters will, in addition to any loss recoverable hereunder, reimburse the Assured for any charge properly and reasonably incurred in pursuance of these duties".

Sue and Labour Charges:-

Sue and labour charges are also expenses incurred by the insured or his agents in attempting to avert or minimize a loss covered by the policy and in fact sue and labour charges could also be referred to as a particular charges described above because, they serve the same purposes with the exception that while particular charges are incurred following loss or damage to cargo, sue and labour charges may be incurred when loss is threatened or imminent but is avoided by the expenses incurred to that end.

Sue and labour charges are recoverable under the policy even where the underwriter has paid the full sum insured in spite of sue and labour charges incurred to avert the loss provided that they were reasonably incurred. It should be noted that the liability to pay sue and labour charges is not reduced in the case of under-insurance of cargo, unless there is special provision in the contract wordings. In addition, they are also payable if there would have been a claim under the policy but because of steps taken, the loss is reduced below the policy excess.

Once a loss has been prevented it would be difficult to establish whether it would have been a total loss because once it is minimised it becomes a partial loss. Underwriters would rather not become involved in a lengthy argument as to whether the loss prevented was total or partial and accordingly agree to pay special charges as though it was a partial loss.

Salvage Loss:-

Salvage loss may occur when part of or the whole goods is sold short of destination in circumstances which would probably justify a claim for constructive total loss and this therefore makes it difficult to distinguish between constructive total loss and salvage loss.

While CTL is defined in the MIA 1906, the salvage loss is not defined in the Act or specifically mentioned in the current sets of the Institution Cargo Clauses (1982) and therefore has no legal warrant for salvage loss or its mode of adjustment and settlement.

This requires flexibility on the part of the underwriter and each case is treated according to the circumstances of the loss and in most cases an amicable settlement will have to be reached.

Salvage loss could be incurred where a vessel that suffered serious damage also resulted in serious damage to the cargo and landed at a port of refuge (where the vessel is undergoing repairs) short of destination and the cost of reconditioning and/or re-forwarding is substantial while the possibility of better price for sale at the port where the cargo is lying is relatively high. Therefore the best solution might be for all parties concerned to affect an immediate sale short of destination rather than to incur expenses where it is likely that the ultimate net market value of the damaged goods at destination will be a loss.

Marine Cargo Claims Adjustment

Before a cargo loss could result into a legitimate claim from underwriter, the assured must be able to prove that he has an insurable interest in the policy and that he has exercised an utmost good faith in dealing with the underwriter.

It should also be remember that marine insurance contract is rooted in the principle of indemnity- (though not a strict, but a commercial indemnity) and hence the Underwriter's rights of subrogation against the negligent third party (ies) responsible for the loss after the settlement of the loss.

The cargo loss adjuster must be a marine expert who thoroughly understands the local laws and legislation, the Marine Insurance Act, 1906, the particular provision of the contract (the cargo policy) and the Rules of practice of the Association of Average Adjusters.

The terms, conditions, clauses, warranties and the cover provided by the policy has to be examined vis-à-vis the nature and the circumstances of the loss in determining whether the loss falls within the scope of cover provided by the policy. The first consideration here is whether the loss has been proximately caused by a peril insured against, and if so, then the manner in which they are to be indemnified.

Basis of Adjustment

The adjustment of claim in marine cargo policy is controlled by the followings:-

Marine Cargo Policy: The interpretation of the conditions under the marine cargo policy based on the general rules of policies interpretation as follows:

- Warranties expressly incorporated into the policy.
- Handwritten words endorsed/stamped on the face of policy.
- Type-written endorsements incorporated into the policy.
- Printed or Stamped clause impressed on or attached to the policy.
- Marginal printed clauses.
- The body of the text of the policy

It is important to remember that the "expressed warranties" in a marine policy has to be literally compiled with and they take precedent over whatever else is in policy that maybe inconsistent with them.

Claims Documentation

The document necessary to support a claim will depend largely on the type of the claim and also in some cases the nature of the subject-matter insured. However, before a claim can be presented, the onus of proof lies with the assured even though ownership may shift from one party to the other depending on the nature of the claim.

The supporting documents for any claim can be categorized into four classes namely:

- Evidence of loss,
- Evidence of Value,
- Evidence of Shipment, and
- Evidence of interest

Therefore the following are the important local documents required for the purpose of verifying marine claims:

1. Detailed Statement of claim
2. Original policy or Certificate of Insurance
3. Copy of Suppliers Invoice, including packing specification and weight-notes.
4. Original Bill of Lading or Air Waybill or any other contract of carriage.
5. Clean Report of Inspection (CIR), Custom Duties Payable/Paid, and Bill of Entry.
6. Ship's or Airline's Short-landing/Discrepancy Certificate(s).
7. Photo copies of Import Tally Sheets.
8. Photo copies of stamped Customs Bill of Entry.
9. Landing account or weight note issued at Port of discharge, copy of joint survey reports in respect of damages noticed whilst cargo is still on board.
10. Road Delivery Waybills.
11. Approved Surveyors' report on the condition of cargo at final warehouse.
12. Non-production letter
13. Copies of correspondence exchanged with the Carrier, Bailees and other third parties responsible for the loss.

One of the primary functions of documentation is to note the physical existence of the property insured at the inception of the risk and these documents also assist in demonstrating the cause and probable place or time of loss, to determine extent of liability.

The following are description of the documents mentioned:

1. Insurance Certificate or Policy

This document enables underwriters to trace receipt of the declaration in their record and also confirms the insured value of the goods and the conditions of cover.

It also fulfils an important function in proving the claimant's right to the proceeds of any claim which may be due from insurer.

2. Bill of Lading:

This document is usually issued by shipowner or charterers acknowledging receipt of the goods for shipment. It also states the conditions of carriage, the marks, numbers and quantity of cargo shipped. It is also a document of title and is a negotiable document. If the goods are damaged or insufficiently packed, prior to the vessel sailing, a note of the defect is made on the Bill of Lading.

3. Shipper's Invoice

This document contains a detailed description of the goods sold and serves as evidence of value. It enables the adjuster to identify the actual consignment with the description of the goods insured. This document also provides the necessary quantity and prices essential for the calculation of claim for partial loss.

4. Packing List:

This document provides the precise content of each package or carton and will often reveal the weight and information which is useful to the underwriter both for claims and subrogation purpose.

5. Survey Report:

All cargo insurance policies contain instructions as to where to apply for survey in event of loss, usually application for survey is made to the Lloyd's agent at the port of discharge or directly to the underwriter who will appoint a surveyor to attend to the loss.

In all cases, where the consignment is of a high value, joint survey is usually held with the representative of consignee, the insurer and the carrier's agent.

The fees charged by a surveyor will be borne by the party who has instructed him. But generally, a cargo claim will include a report giving the required information, and if as a result a claim is payable, the fees incurred will be added to the claim and form as special charges. The surveyor cannot be an expert in all commodities and may need to appoint a specialist for certain cases, also he may need to consider particular problems regarding the area in which the loss occurred so as to ensure that delay and further deterioration do not occur. They also assist in salvage and/or restoration works and where necessary the sale goods in damaged condition.

A survey report should state the following facts:

- The nature and cause of the damage,
- The percentage of depreciation,
- Recommendations for restoring and/or sale of damaged goods.
- The sound values (gross arrival) on date of sale,
- The name of vessel, voyage, date of arrival and transshipment (if any)
- The date of discharge,
- The date of delivery to consignee's warehouse
- The date of application for survey,
- The date of survey,
- Delay (if any) and reasons for delay
- Documents relating to all expenses of the sale of damaged goods.
- Custom duties paid and any rebate due or allowable on the damaged goods.
- Special observation during the survey,
- Name and signature of surveyor, date and place of issue of the survey report.

Guidelines for cargo survey report:

For a cargo surveyor report to be useful, it must not be prejudicial and/or biased for or against the interest of either party and must contain all the cogent and necessary information to help the Cargo Loss Adjuster in arriving at an equitable settlement.

Furthermore, the report should be able to pinpoint and ascertain the area or place where the loss actually occurred in order for the Underwriter to know where to direct his efforts in pursuing his subrogation rights. Most important, the ability, the repute, the honour and integrity of the Surveyor most not are in doubt or in question.

The following guideline should be observed when preparing cargo survey report:

1. Form: The Lloyd's standard survey report form or any other standard form approved for use in the marine market by the underwriters.
2. Prompt Report: The need for urgent report to claims adjusters and underwriters cannot be over-emphasized. Preliminary report is often necessary and telephone details of preliminary findings should be recorded.

3. Delay: Where there has been delay, the surveyor should obtain the consignee's explanation for the delay.

4. Joint Survey: Ship's agent is expected to be represented when it has been established that damage was noted during discharge of cargo from vessel. The ship's agent should endorse the report for carrier to accept liabilities.

If it is not possible for ship's agent to be present, a statement to this effect should be obtained. Sometimes independent surveyors are appointed by the ship's agents, especially following incident of major casualty to vessel and/or cargo. A joint survey for cargo and ship's interest is imperative. The two independent surveyors should produce a joint report.

5. Short delivery: Where part of the goods are short-landed or short delivered, the surveyor will investigate and queries ship's agent or master as to whereabouts of the undelivered part. They must be able to obtain or apply for a form of short-landing certificate from the ship's master.

6. Packing: If packing has been removed prior to survey, full details should be given. The adequacy of packing must be thoroughly investigated bearing in mind that the entire transit and the suitability of the packing for particular commodity. The surveyor will check and ensure that labels and instructions on the external packing are in compliance.

7. Cause of Damage: The opinion of surveyor is of special importance e.g. "machine casing cracked as though by dropping" or "machine casing bent inward – consistent with damage caused by forklift" or "damage consistent with insufficient or improper packing, improper stowage or cargo not properly secured inside containers etc.

8. Constructive Total Loss: When consignee is dissatisfied with the state of the cargo the surveyor should be able to provide relevant advice and recommendations and, if necessary, call in an independent expert.

9. Percentage of Depreciation: The surveyor must endeavour to reach an agreement with an authorized representative of the consignee regarding the extent of damaged and the percentage of depreciation, and have it confirmed in writing.

10. Salvage: A precise indication of salvage value should be given and provide assistance for speedy disposal of damaged goods by obtaining quotations from likely buyers. This is of particular importance where perishable goods are involved.

11. Independent Checks: Determine the arrival date of the vessel, discharge date and date cargo removed from port area. Investigate where he doubts the accuracy of the information given by the consignee. This assists the Loss Adjuster in reaching a conclusion regarding liability. It is the only means of verifying to what extent the claimant should be indemnified.

The purpose of a survey is to establish the cause of the loss or damage and to assess the extent of the damage. The success is dependent upon the experience and efficiency of the person undertaking the job; it is common that the surveyor needs to have a special

understanding of the characteristics or properties of the goods with which he is called upon to survey.

For small claims, it may be possible to dispense with the survey report, in such a case claimants will be expected to make available for examination, any correspondence or other similar evidence relating to the loss or damage in support of their claim. In cases of non-delivery or short-landing the intervention of a surveyor is usually unnecessary. In order to substantiate claims for shortage and non-delivery, claimants are expected to produce short-landing certificate from the shipping company or letter from port authority.

In addition, there are specific documents that are required to be submitted for the various classes of marine cargo claims.

Total loss of cargo:

- Documents of title i.e. full sets of "shipped" bills of lading endorsed over to insurers.
- Sets of invoice
- Account of charges along with the receipts (especially in cases of particular, sue and labour charges)
- Policy (in case of a single voyage) or certificate of insurance in cases of a floating or open cover).
- Letter of protest and copies of correspondence exchange with the carrier or the negligent party responsible for the loss.

All documents in the case of total loss will be retained by the underwriters after having paid a total loss; they are entitled to assume ownership of the lost cargo.

Particular average on cargo:

- Copy of the "shipped" bill of lading and shipping specification, if necessary giving full detail of quantities and measurement shipped.
- Invoice
- The packing list
- Port authority tally sheet or container inspection report.
- The way bills, if goods damaged or lost during inland transit.
- Survey reports.
- Short-landing or discrepancy certificate from the carrier or its agent.

- Accounts of sales, if goods sold.
- Protest letters or extract from log book, if necessary.
- Copies of correspondence exchanged between the assured or his agent against the negligent party responsible for the loss.
- Policy or the certificate of insurance (original copy).

Salvage loss on cargo:

- Surveyor's report
- Accounts of sales
- Full sets of the bills of lading unless the sales proceeds have already been collected on behalf of the assured
- Export invoices
- Packing List
- Protest letters
- The policy or the certificate of marine insurance (original copy)

Documentation of General Average Claim

The documents required as a result of a general average act on cargo are as follow:

General Average Deposit Receipt:

This is a receipt for money deposited as general average security. The document usually states the vessel's name, the value of hull and machinery casualty, marks and numbers of goods, provisional contributory value, percentage of deposit and the name of the average adjusters. There is usually a provision inserted thereon stating that refund if any, will only be paid on production of the original deposit receipt.

General Average Bond:

This is an agreement signed by owners of goods binding themselves to pay the general average contribution attaching to their goods and further agreeing to deposit a sum as security for this purpose. The general average bond is known as L.A.B.77 (Lloyd's Average Bond, 1977).

Underwriter's Guarantee:

This is a document completed by underwriters guaranteeing the payment of the amount of general average contribution properly payable in respect of the cargo. The form requires and stipulates that, if the consignee cannot or will not pay the amount due as stated in the bond, the underwriter will settle the amount.

Counter-Guarantee:

This is a guarantee prepared by the underwriter for the insured's signature to protect the underwriter if he pays under the guarantee amounts which are in excess of his liability under such over-payment will be recovered from the assured.

Valuation forms:

It is used for recording the arrived value of the cargo and other particular to assist the Average Adjuster. The receiver of goods should complete part A and B of the L.A.B. 77 as soon as he receives it and return it duly signed as soon as possible. The valuation part is to be detached and retained until delivery when the receiver can ascertain the conditions of the goods and complete the particulars of valuation and then send the form back to the average adjuster.

In addition to the above; the following specified documents are necessary for general average (cargo) claim documentation:

- Certified extract from general average adjustment
- Invoice
- Shipped bill of lading
- Policy or certificate of cargo insurance.

Sacrifice of Cargo:

Jettison is the commonest and most characteristic form of general average sacrifice. Concerning jettison of deck cargo, Rule I of the York-Antwerp Rules states that "no jettison of cargo shall be made good as general average, unless such cargo is carried in accordance with the recognized custom of the trade". The jettison of deck cargo will be allowed if the goods are stowed on deck according to the rules, and this will also apply to containers stowed on the decks of purpose built container vessels.

As jettison is one of the perils covered by marine cargo policy, the liability of the Insurer is direct to the Assured and the cargo owner can claim directly from the Insurer for the loss without waiting for the contributions of all other interested parties in the voyage in making good his loss. The Insurer is of course on settlement of such claim, is entitled to the rights of subrogation by recouping his loss from the general average contributions to be made by all those interested in the adventure. As the law of equity and the principles of general average demand that any amount made good in respect of the sacrifice shall itself contribute to the loss; the net loss to the insurer therefore will be the amount assessed as contributions to be paid by the cargo insured that was sacrificed as general average act.

Expenditure on Cargo:

The most common type of general average expenditure consists of port of refuge expenses and these expenses generally arise in consequence of an accident, sacrifice or other extra-ordinary circumstances which make it necessary for the ship to enter a port or place of refuge or to return to her port or place of loading.

The following expenses therefore are usually allowable in general average on the principle that the expenditure was in consequence of a general average act:-

- Cost of entering the port, i.e. inward port charges pilotage, port due, etc.
- Cost of discharging cargo, in order to effect repairs.
- Warehouse rent while repairs were being effected
- Cost of reloading cargo
- Outward port charges, pilotage etc.

Contributory Value on Cargo:

The amount assessed to extinguish the general average loss is termed the "contribution" while the value on which this is assessed is known as the "contributory value". Any amount made good in respect of general average sacrifice shall itself contribute to the loss as earlier explained, otherwise the interests making the sacrifices would be in a relatively better position by reason of being fully reimbursed for a loss which the other interests were bearing. The CIF (Cost, Insurance, Freight) value is usually the contributory value of cargo, if however, freight is payable at destination, and is at the risk of interests other than the cargo, such freight cannot be included in the contributory value.

It is of an utmost important to state here that in arriving at the contributory value, any loss or damage which has arisen during the adventure must be taken into consideration. Such a loss or damage could be a particular average or even an earlier general average act, whether it resulted from the same casualty or not, provided that all the casualties, incidents resulting in damage to cargo and general average acts occurred during a single voyage. In as much as the value and the benefits to the owner of goods that has been damaged during the voyage is reduced and the value saved thereof as a result of a general average is also reduced, it is therefore immaterial whether the damage occurred before, at the time of, or even after the casualty.

It is therefore the duty and it is imperative upon the cargo underwriter/loss adjusters to advise the general average adjusters of any particular average that either settled or outstanding as failure to do so would produce an incorrect apportionment of the general average contributions and the damaged cargo would be called upon to contribute more than what is a fair proportion of its own contribution. In cases where cargo has to be sold short of destination for one reason or another, the contributory value shall be the actual net proceeds of sales, plus any amount made good as general average.

Documentary Evidence for loss occurring at the port:

The following additional documents are required to substantiate marine cargo claims depending on particular circumstances and locality, especially if the loss is deemed to have occurred while the goods are in the custody of port authorities:

1. Vessel's agreed out-turn report
2. Extra Services Report
3. Notice of cargo landed damaged form.

Double Insurance

A large number of person can be interested in a single marine adventure such as the shipper, the consignee, the forwarding/clearing agents, the financier, etc and each can take up a policy to cover his interests as the only necessity is that the assured must have an insurable interest at the time of loss in order to be able to recover under his policy.

Such a peculiar circumstance could not be referred to as double insurance. Double insurance can only exist in a situation where "two or more policies" are issued on behalf of "one insurable interest" and the total sums insured exceed the indemnity allowed by section 32 of the Marine Insurance Act 1906.

Double insurance can occur in 2 ways:-

1. Intentionally:

This is rare in practice. The case, however may happen, when a bank refuses to accept policies unless provided by a particular sets of insurers, or alternately, refuses a certain security or where the position is made mandatory through legislation. It can also happen where there is a fraudulent intent.

2. Inadvertently:

This may happen in practice especially when an agent is covering under a policy the insurable interest of, say, a buyer, whereas the buyer himself insures his interest not being aware of the other policy issued on his behalf. If the total sum insured exceed the indemnity allowed by section 32 of the M.I.A. there would be a case of double insurance.

In such cases the assured can claim in any order he may think fit, provided that he does not recover more than indemnity, i.e. the full sum insured or the insurable value of the cargo. If the assured received more than indemnity, he holds the excess in trust for the insurer concerned.

Furthermore, if the double insurance has been affected inadvertently, the part of the premium corresponding to the excess over the insurable value may be recovered by the assured.

However, if a policy has borne the entire risk or if any claim has been paid on a policy in respect of the full sum insured, no premium is returnable in respect of that policy.

With the present technological know-how and rate of growth which affect virtually all aspects of human endeavours, such as with the advent of satellites which has made easy and highly sophisticated communication possible eliminating many of the problems faced by the early traders.

The world is now indeed a small place!

Tutorial Questions

1. List the common questions on a marine insurance claim form?
2. Explain the type of information they are designed to provide to the claim handler?
3. What are the key steps of the claims handling procedures? Describe any 2 of those key steps?
4. A Swedish merchant purchased a quantity of umbrellas CFR Port Klang, Malaysia, to be delivered in a container. The buyer covered the consignment by a Swedish insurance subject to the Swedish Marine Insurance Association conditions and Institute Cargo Clauses (A). The container was loaded on M/S Ming Glory and a bill of lading was made out and paid for under a bank commercial credit, but the container never arrived at its Gothenburg destination. It turned out that the seller had recalled all umbrellas due to a lack of quality and had ordered unloading of this container at loading port and was not disposed to repay the money.
 - A. What conditions apply to the shipment?
 - B. Had the risk attached so that the insurance was applicable?
 - C. Had the transport ended so that the loss was outside the insurance?
 - D. Is there otherwise any reason for refusal to pay insurance compensation?