CHAPTER VI

GRIEVANCE REDRESSAL MECHANISM OF INSURANCE INDUSTRY
A. GENERAL

Grievance is a wrong or hardship suffered which is ground for a complaint. It is an expression of dissatisfaction by a customer on product or service offered by a manufacturer or service provider.¹

‘Grievance’ is the last word which a successful businessman wants to hear.² Grievances block development; hamper peace and hence a grievance without resolution leads to a conflict beyond control under normal circumstances.

Grievance Redress Mechanism is part and parcel of the administrative machinery of every business entity. No such entity can claim to be accountable, responsive and user friendly unless it has established an efficient and effective grievance redress mechanism.³

The insurance industry essentially being a service industry can exist and survive only if there is a customer. In this people-centric business where the customer expectations are ever rising grievances are bound to arise. And if customer has a grievance and that grievance is not satisfied it may lead to fall in the reputation of the insurance company and resultant loss of customer. Therefore, handling customer grievance is very important in insurance.⁴

To redress these grievances and to lubricate the insurance machinery grievance redressal mechanism has been provided for insurance disputes.⁵ The grievance redressal mechanism for insurance related dispute has been gathered hereafter.

¹ [www.ecgc.in/portal/pdf/Grievance%20Redressal%20Policy.pdf](http://www.ecgc.in/portal/pdf/Grievance%20Redressal%20Policy.pdf). Accessed on 21/1/14 at 6:00 P.M.
⁴ Ibid.
⁵ The grievance redress mechanism of an insurance company is the gauge to measure its efficiency and effectiveness. It also provides important feedback on the working of the administration of the company.
B. GRIEVANCE REDRESSAL CELL OF INSURER

1. Introduction

It is incumbent upon the insurers on continuous basis to have in place an independent and transparent grievance redress machinery to resolve grievances in conformity with Redress of Public Grievances Rules, 1998. Apart from this, Regulation 5 of the IRDA (Protection of Policyholders Interests) Regulations, 2002\(^6\), stipulate that every insurer shall have in place, proper procedures and effective mechanism to address complaints and grievances of policyholders efficiently and with speed.

So, every insurer must establish a ‘grievance cell’ at their office in order to address the grievances and problems of their policyholders.\(^7\) These in house grievance redress units are fully aligned with the IRDA guidelines on grievance redressal and have excellent setup to handle customer grievances.

The annual reports of the IRDA contain information about the number of grievances received by the public and private insurers, grievances settled and disposed and those pending with them. In order to improve grievance settlement mechanism in the industry, the IRDA appointed a Committee to Look into Grievance Redressal System of insurers and suggest modifications of the regulations for the protection of policyholders.\(^8\)

2. Characteristics

Insurance Companies are committed to resolve grievance in a cost effective and impartial manner. As a matter of fact, even before any difference of opinion between the insurer and insured graduates to a grievance to be resolved by ‘In-house

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\(^6\) IRDA is empowered to issue regulations under The IRDA ACT, 1999.

\(^7\) These grievance cells are also referred as in-house grievance units.

\(^8\) Some of the insurance companies have followed the above mentioned regulations to establish grievance mechanisms such as ‘Jald Rahat Yajna’, in addition to their own existing schemes.
Grievance Redressal Machinery’ the organization is required to provide credible arrangement for expeditious hearing of such difference of opinion and address the issues through negotiations, promptly and impartially.

Insurance companies look into and resolve the grievances of their prospective and existing customers who have any issue regarding their products and services before, during and afterwards. They track and monitor the complaints and coordinate to resolve the complaints within the time frame mentioned in the policy. An in-depth analysis of the complaint is done to identify the root cause of complaint and identify issues pertaining to products, process and system.\(^9\) They also conduct a trend analysis of the complaints received and give suitable directions to the various departments to heal the trouble.

However, if the in-house grievance redressal mechanism fails to resolve the grievance amicably or fails to respond to the insured within 30 days, the aggrieved insured has a right to make complaint for amicable resolution at industry level through ‘insurance ombudsman’ so as to get rid of the conflict of interest between insured and insurer. Apart from this, the IRDA has also established its own grievance cell at its headquarters for discontented insurance customers.\(^10\)

3. **Procedure**

   Every company has instituted an in-house grievance settlement procedure.\(^11\) And the policyholders who have a complaint against the insurer are required to first approach the Grievance/Customer Complaint Cell of the concerned insurer.

   (a) Every insurer shall have a Board approved Grievance Redressal Policy which shall be filed with IRDA.\(^12\) The system and procedure for receiving, registering

\(^9\) [www.policyholder.gov.in](http://www.policyholder.gov.in). Accessed on 12/1/14 at 10:00 P.M.

\(^10\) The IRDA as such has no appellant role to play in the grievance settlements made by the insurance companies but, only monitors the settlement of grievances by insurance companies.

\(^11\) [www.saiindia.gov.in](http://www.saiindia.gov.in). Accessed on 11/1/14 at 5:30 P.M.

\(^12\) The main purpose of the Grievance Redressal Policy is to place an appropriate mechanism whereby the customer who believes that he/she has been wronged by any act of the company is afforded a fair opportunity to redress his/her grievances.
and disposing of grievances and other relevant details along with details of turnaround times shall be clearly mentioned in the policy.\(^{13}\)

(b) Every insurer shall have a designated Grievance Officer of a senior management level to hear the grievances of policyholders. Senior Management would mean either the CEO or the compliance Officer.\(^{14}\)

(c) An insurer shall send a written acknowledgement to a complainant within 3 working days of receipt of the grievance. The acknowledgement shall contain the name and designation of the officers who will deal with the grievance. It shall also contain details of the insurer’s grievance redressal procedure and the time taken for resolution of disputes.

(d) Where the insurer resolves the dispute within 3 working days, it may communicate the resolution along with acknowledgement. Where the grievance is not resolved within 3 working days, an insurer shall resolve the grievance within 2 weeks of its receipt or reject the complaint and gives reasons for doing so.

(e) The insurer shall inform the complainant about how he/she may pursue the complainant, if dissatisfied. The insurer shall inform that it will regard the complaint as closed if it does not receive a reply within 8 weeks from date of receipt of response by the insured/policyholder.

(f) Any failure on the part of insurers to follow the above-mentioned procedures and time frames would attract penalties by the Insurance Regulatory and Development Authority.

(g) All insurers should publicize its grievance redressal procedure and ensure that it is specifically made available on website. It is also necessary for the insurers to have


in place the automated system that will enable online registration, tracking of status of grievances by complainants and periodical reports prescribed by IRDA.

(h) Insurers shall also have in place a system to receive and deal with all kinds of calls including voicemail, e-mail, relating to grievances from prospects and policyholders. The system should enable and facilitate the required interfacing with IRDA’s system of handling calls and e-mails.

However, if the policyholder do not receive a response from insurer within a reasonable time or are dissatisfied with the response of the company they may approach the grievance cell of IRDA.

C. GREIVANCE REDRESSAL CELL OF IRDA

1. General

The interest of policyholder is on top of the agenda of Insurance Regulatory and Development Authority. IRDA has established its own grievance cell at its headquarter for discontented insurance customers.  

These days IRDA is investing in to execute Integrated Grievance Management System (IGMS) through automation of the Grievance Cell for on-line registration of complaints. IGMS will act as a gateway for policyholders to register their complaints with the insurance companies first and if required these complaints can then be escalated directly to the IRDA Grievance Cell. With IGMS, you can also route your complaint.  

A complaint registered through IGMS will follow simultaneously to the insurers system as well as to IRDA repository.

A recent introduction by IRDA for the facilitation of policyholder is IRDA Grievance Call Centre (IGCC). IGCC acts as an additional and easily accessible

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16 [www.igms.irda.gov.in](http://www.igms.irda.gov.in). Accessed on 4/1/14 at 10:00 P.M.
17 Most companies barring a dozen are now integrated on the IGMS platform. The idea behind setting up the IGMS is to monitor the complaint and analyze their patterns.
channel for policy holders to lodge their grievances and also seek their status over phone/email. If need arises then investigations and inquiries are carried out by IRDA as well.18

2. Salient Features

The salient features of the Grievance Cell of IRDA have been gathered as under:

(a) The grievance redressal cell of the Insurance Regulatory and Development Authority oversee the complaints from policyholders.

(b) This cell plays a facilitative role by taking up complaints with the respective insurers for speedy resolutions.

(c) The Grievance cell of IRDA only entertains the cases of delay/non-response regarding matters relating to policies and claims. Here the complaints against Life and Non-Life insurers are handled separately.

(d) As IRDA does not carry out any adjudication, the insured are advised to approach the available quasi-judicial or judicial channels i.e., the Ombudsman, Consumer Forum or the Civil Court for complaints relating to claim/policy disputes.

(e) It only entertains complaints from the insured themselves or the complainant and no other beneficiary or interested person can approach it.

(f) Where the complaints are being sent through e-mail, complainants are requested to submit complete details of the complaint as required in the complaint registration form.20

18 www.bimadeals.com/insurance/insurance-info/newsteps-taken-by-irda-to-protect-policyholders. Accessed on 15/1/14 at 5:00 P.M.

19 The cell shall not entertain complaints written on behalf of policyholders by advocates or agents or any third parties.

20 www.irda.gov.in. Accessed on 5/1/14 at 6:00 P.M.
(g) A media campaign has been launched in order to educate policyholders and publicize the supreme regulator’s grievance redressal mechanisms.

(h) Another initiative in this direction is the launch of the Integrated Grievance Management System (IGMS), a platform to help customers lodge and track their complaints online.\(^{21}\)

3. Functioning

In the first step, policyholders who have complaints against insurers are required to approach the Grievances/Customer Complaints Cell of the concerned insurer. In case of lack of response from the insurer within a reasonable time or dissatisfaction from insurers’ response, they may approach the Grievance Cell of the IRDA. After this, where required, proper investigations are carried by IRDA and after that the matter is taken up with the company.\(^{22}\)

Once IRDA receives the complaint, the same is escalated to senior executives of the insurance companies. In this way, IRDA does not take action or pass order instead it forward it to your insurance company and it is up to the company to deal with the grievance.\(^{23}\)

IRDA only monitors the grievance redressal process of the insurance companies and gives appropriate directions for the protection of interest of policyholder. IRDA exercises no appellate jurisdiction over such disputes, it only guides the aggrieved customers to approach proper channel for redressal of their grievance.

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\(^{22}\) [Supra n.18.](Supra n.18.)

D. DIRECTORATE OF PUBLIC GRIEVANCES

1. Introduction

The Grievances of Public are received at various points in the Government of India, but, primarily there are two designated nodal agencies in the central Government who handle these grievances.

(i) Department of Administrative Reforms and Public Grievances

(ii) Directorate of Public Grievances

The Directorate of Public Grievances was set up in the Cabinet Secretariat with effect from 01/04/88, on the basis of a review of the public grievance redress machinery of Government of India carried out in 1987.24

Initially, it was set up to look into individual complaints pertaining to four Central Government Departments which were more prone to public complaints. But, subsequently, more departments having larger public interface were added to its purview and presently, the Directorate is handling grievances pertaining to 16 Central Government Organizations.25

It helps to obtain responses to unresolved grievances on matters relating to some Central Government Departments and Organizations. DPG can help you obtain a response and resolution on these grievances from department or organization.26

2. Course of Action

The course of action followed by a complainant to have his grievance redressed by Directorate of Public Grievances has been recollected as under:

(a) The Complainant should file a complaint giving details of his grievance along with copies of supporting documents. He should also furnish his

24 An officer of the rank of joint secretary to Government of India should be designated as Directorate of Public Grievances.
25 www.pgportal.gov.in/grm.aspx. Accessed on 7/1/14 at 3:00 P.M.
26 www.dpg.gov.in. Accessed on 4/1/14 at 6:00 P.M.
earlier attempts to have the grievance resolved through the grievance redress mechanism of the department.

(b) The complainant should also indicate whether he had filed any appeal against any previous decision of the organization or department before any court, tribunal or consumer forum.

(c) The complainant is required to state his own identity, postal address, e-mail address and telephone number at the time of lodging complaint.

(d) Once the complaint is filed, DPG will assess what aspect of your complaint fall within its purview and the gravity of the complaint.

(e) Depending upon the gravity of complaint, it may seek comments from the concerned department or organization or transfer the grievance to it requesting them to directly deal with the matter. This is normally done within 15 working days.

(f) When the DPG seeks comments, the department or organization is expected to examine the matter and give reply within six weeks and in any case not later than 3 months.

(g) After receipt of comments, DPG may if consider necessary, seek further information to ensure that the grievance is dealt with in a fair and objective manner by the department or organization.

Cases on which comments are sought are closed in DPG with the approval of Secretary (Coordination & Public Grievances) in Cabinet Secretariat of Government of India who heads DPG.27

3. Features

The main features of the Directorate of Grievances have been gathered here under:

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27 [www.dpg.gov.in/Home.aspx](http://www.dpg.gov.in/Home.aspx), Accessed on 30/1/14 on 8:00 P.M.
(a) It is an independent appellate body of a non-statutory character. It acts as a managerial system of government of India that offers optimum justice and fair dealing of unresolved issues.

(b) It investigates grievances selectively and particularly those where the complainant had failed to get redress at hands of internal machinery and hierarchical authorities.

(c) It is empowered to call for files and officers for discussion to see that the grievance handling has been done in a fair, objective and transparent manner.

(d) It is empowered to make suitable recommendations for consideration and adoption by the concerned Minister/Department which are required to be implemented within a period of one month.

(e) Most of the grievances received by DPG are related to inordinate delay in taking decisions, extending from several months to several years and refusal/inability to make speaking replies/order to the petitioner.

The mechanism of Directorate of Public Grievances is not functioning as per the mandate prescribed. Slackness in efficient functioning of Directorate of Grievances is identified as one of the prime cause of continuous delays. Thus, there is a need to initiate simple and workable systematic change to make the Directorate of Grievances more efficient, transparent and accountable.

E. CONSUMER FORUMS

1. General

The Consumer Protection Act, 1986, was enacted with an objective to provide simple, speedy and inexpensive redressal to the grievances of consumers. It covers

28 Poor work quality, non-accountability in every day performance of functions and failure to systematically review policies and procedure and introduce systematic changes are other important causes.

29 Supra n.25.
both the public and private sectors, and caters to grievances relating to all types of goods and services, unless specifically exempted by the Central Government. The Act establishes quasi-judicial authorities at the district, state and national levels to deal with consumer grievances.

Insurance is one of the services enumerated in the Consumer Protection Act, 1986 and falls within the purview of the definition of ‘services’ under Sec. 2(1) (0). Insurance being a prime component of financial services, any beneficiary under such contract is considered to be an “insurance consumer”. The consumer law provides protection to all affected consumer whose insurance services suffer from the deficiencies and defects.

The act however restricts the ambit and scope of the power of the consumer court to award compensation to the aggrieved policyholder. And, it is only when there is deficiency in the service rendered to him and he has suffered any loss or injury due to the negligence of the insurer that relief by way of compensation can be granted to him.

In other words, the consumer is entitled to relief under the act if and only if he establishes that he hired the service complaint of and that the service provided to him has a deficiency.

2. Characteristics

Consumer councils and forums are legislative authorities established by gazette notifications under the provisions of legislations enacted by the Central Government for protecting the interest of consumers.

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30 www.ncdrc.nic.in/1_1.htm. Accessed on 5/1/14 at 6:00 P.M.
31 See the Consumer Protection Act, 1986, Section 2(d).
32 Id; Section 20.
(a) The Consumer Protection Act, 1986 recognizes a three tier system of Consumer Councils— the District Forum, the State Council and the National Council. They have both original and appellate jurisdiction.

(b) The Consumer Councils are closer to the people, with reference to the territorial and pecuniary jurisdiction; as they are present at every district headquarter. Hence, a very exhaustive justice delivery mechanism is available to the people.

(c) The procedure followed by consumer forum is simple, cost effective, speedy and efficient, and the interference of courts is minimal.

(d) There is a wide range of issues and grounds from deficiency of services to unscrupulous exploitation of customer and unfair trade practices on which the consumer may seek protection under the law. Apart from it, the Consumer Courts also deal with disputes relating to settlement of claims like repudiation of claims, delay in settlement of claims, suppression of information relating to settlement of claims.

(e) The award is legally binding upon the parties. Only the Supreme Court of India has the appellate jurisdiction upon the awards granted by the National Consumer Redressal Council on the matters of legal interpretation and award granted by them.

(f) The Consumer Council is empowered to make compensatory award as well as impose penalty and punishment. The Council may also direct the service provider to remove the difficulties in delivering the services and pay compensation for losses suffered due to delay and deficiency in services.

33 Policyholders are recognized as consumers for any kind of dispute that arises during the enforcement of insurance contract, and hence, may seek protection under the consumer protection law.
The Consumer Councils are considered civil courts for all practical purposes and exercise the power of civil courts.

3. Case Law

The following examples provide a glimpse of the working of consumer councils and the Apex Court, while handling grievances of consumers under various grounds of insurance services that can be classified as deficiency of services:

- While repudiating the claims with a plea of suppression of material facts of the case does not amount to the deficiency of services, repudiation of claims without providing suppression of facts amounts to the deficiency of services.

- Repudiating the insurance contract on the basis of fraud does not amount to deficiency. In this case the insurance company has no obligation to refund the premium paid by the insured.

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35 LIC of India v. Ramakrishna Manikrao Pisodhkar, 2000 111 CPJ 363 (Maharashtra), See also LIC of India and another v. Vimla Verma, 2013 (2) DNJ (cc) 62; Law Finder Id # 492625, Ranjana Kar Mukherjee v. Senior Divisional Manager, Life Insurance Corporation of India, 2012(2) WBLR 341; Law Finder Id # 481591.

36 Mothilal Naik v. LIC of India, AIR 1962 SC 214, Usha Kumari Ranawat v. Senior Divisional Manager, LIC of India and another, 2011( ) ACJ 2505 (SC), New India Assurance Co. Ltd. And another v. State of A.P. and others, 2009 (78) AIC 280, Baljeet Kaur v. Life Insurance Corporation of India, Division Office Jeevan Prakash, Model Town Road through its Senior Divisional Manager, 2012 (2) RCR (civil) 237. See also Insurance Act, 1938, Section 45-Three conditions essential for application of Section 45 of the Act, (a) the statement must be on a material matter or must suppress facts which it was material to disclose, (b) the suppression must be fraudulently made by the policyholder, (c) the policyholder must have known at the time of making the statement that it was false or that it suppressed facts which it was material to disclose. Rao Saheb Mahadev Gayakwad v. LIC of India 2004(4) RCR (civil) 572; 2004 AIR (Karnataka)
Non-disclosure of facts relating to the insurance policy and risks covered under it amount to deficiency of services\(^{37}\), as good faith is an essential element of insurance contract.

Repudiating the insurance claims without making proper enquiries and analyzing the terms of the contract amounts to deficiency of services. \(^{38}\)

Repudiation of claim based upon the conclusions made from a postmortem or other diagnostic reports vis-à-vis terms of the policy amounts to the deficiency of policy. \(^{39}\)

Refusal of agents of the LIC of India to receive the premium payment does not fall under the purview of deficiency of services. \(^{40}\)

Failure to pay the insurance claim amount to the nominee amounts to deficiency. \(^{41}\)

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\(^{37}\) United India Insurance Company Ltd. v. MKJ Corporation, 1996 III CPJ 8 (SC). See also, Life Insurance Corporation of India v. Shakuntala Bai, AIR 1975 AP 68, Shankar Soni v. LIC of India, Law Finder Doc Id # 485374, Branch Manager, LIC of India, Muhbaobnagar and others v. Mitta pally Rama Rao, Law Finder Doc Id # 506297. Insurance Act, 1938, Section 64(o). It is a fundamental principal of insurance Law that utmost good faith must be observed by the contracting parties- insurer must disclose all material facts to the insured at the time of entering into the contract of insurance.

\(^{38}\) LIC of India v. Nalini Joshi, 1994 CPR 465 466(NC), See also, United India Insurance Co. Ltd. v. Mrs. Janabal Maruti Lohar, 2006 (5) All LJ 195.

\(^{39}\) LIC of India v. Sushma Singh, 1994 1 CPJ 143 (NC), See also Life Insurance Corporation of India & ors v. Kunari Devi, 2010 (1) WBLR 609, LIC of India, Sec`bad and another v. Banavath kamlee, 2000 ( ) Andh LD (Cons Reporter) 96; Law Finder Doc Id # 505299, Sumitra Kaur and another v. New India Assurance Co. Ltd. and another, 2013 ( ) ACJ 2462; Law Finder Doc Id # 49459.


Delay in payment of claims due to pending litigation in the court does not amount to deficiency of services. However, delays in settlement without any acceptable reason amounts to deficiency of services.

Settlement of claims in a general insurance contract beyond 90 days amount to deficiency of service.

Failure to identify the insured amounts to deficiency in services.

Failure to pay insurance claim to the assignee amounts to deficiency. However, the assignee should have an insurable interest in the goods insured and the policy assigned to him, to claim redressal under the provision of deficiency.

Delay in the settlement due to the negligence or delay in submission of reports by the insurance surveyor, or delays in taking decisions on the basis of reports submitted amounts to deficiency.

Scaling down the insurance claims without a reasonable explanation, and the acceptance of a claim based upon reports of surveyors amounts to the deficiency. Payment of a claim less than the claim amount, based upon, sound reasoning is not classified as deficiency.

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43 Umedilal Aggarwal v. United India Assurance Co. Ltd., 1991 1 CPP 34(Raj).


Repudiating a claim under the motor vehicle insurance policies on the ground that the driver does not hold a valid driving license does not amount to deficiency of service.  

Policy not issued for want of information not supplied by the insured. No deficiency can be fastened on corporation for non-issue of policy.

F. OMBUDSMAN

1. Introduction

Insurance is a typical kind of service industry and it being different from other routine contracts sometimes requires insurance expertise to dispose of the complaints. This need led to passing of The Redressal of Public Grievance Rules, 1998, under which the Insurance Ombudsman was created.

The Insurance Ombudsman scheme was created by Government of India for individual policyholders to have their complaints settled out of the court system in a cost effective, efficient and impartial way. It is an expert in the area of insurance business. This institution is of great importance and relevance for the protection of interests of policyholders. This institution has helped in generating and sustaining the faith and confidence of the consumers and insurers in the system.

With a current complaint disposal rate of 74.70% as on 31/3/2012, the institution has given a good account of itself as an alternative Grievance Redressal Machinery in Insurance Sector.

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48 Sujata Chakraborty v. Life Insurance Corporation of India, AIR 2007 (NOC) 2159 (NCC).

49 The institution of Ombudsman was created by Government of India; vide a notification dated November 11, 1998 with the purpose of quick disposal of the grievances of the insured customers and to mitigate the problems involved in redressal of those grievances.

50 Supra n.21.

51 www.gbic.co.in, Accessed on 5/4/13 at 6:00 P.M.
2. Salient Features

The Insurance Ombudsman is empowered to receive and consider complaints in respect of personal lines of insurance from any person who has any grievance against an insurer.

(a) The complaint may relate to any grievance against the insurer, which could be:

(i) any partial or total repudiation of claims by the insurance companies,
(ii) dispute with regard to the premium paid, or payable,
(iii) legal construction of the policy wordings in case of disputes relating to claims,
(iv) delay in settlement of claims and
(v) non-issue of any insurance document to customers after receipt of premium.

(b) The ombudsman is empowered to act as a counselor and mediator as well as adjudicator in matters which are within his terms of reference.

(c) In case of Ombudsman, only the policyholder or his legal heirs or representatives have the right to file a complaint to settle their grievances.

(d) It is an inexpensive and time saving means of grievance redressal. The time it takes for settling dispute is as short as three months. In addition to it, it costs nothing as the services of the office of Ombudsman are free of charge and there is no need to hire an advocate.

(e) The Rule 13(3) (c) of the Insurance Ombudsman Redressal of Public Grievances Rules, 1998 imposes a restriction on policyholders and consumers of insurance services that the complaint on same subject matter

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which is pending before any other Court or Consumer Forum or Arbitrator is not acceptable.

(f) The Insurance Ombudsman cannot be approached directly. In case of Ombudsman a prior notice is required to be given to the insurer before a complaint is filed.53

(g) The Insurance Ombudsman is empowered to make an award when the value of claim including expenses claimed is not above Rs. 20 lakh. But, in light of existing inflation, the pecuniary jurisdiction of the Ombudsman needs to be increased to at least Rs. 50 lakh.54

(h) The Insurance Ombudsman has a territorial jurisdiction, and cannot go beyond their jurisdiction.55 The Insurance Ombudsman is located at 12 different places in the country, which are mostly big cities, and hence it is an expensive option for people from rural and semi urban areas of the country.56

(i) The award of Ombudsman is compensatory in nature-to meet the losses suffered by the party. The Ombudsman has a right to award ex-gratia payments but it cannot take punitive action.

(j) There is a requirement of mutual agreement between the complainant and insurer for enforcing the award or recommendations made by the Ombudsman. If the complainant does not agree, the award cannot be enforced.

54 www.moneylife.in/article/insurance-ombudsman-may-take-six-to-nine-months-for-grievance-handling/22217.html. Accessed on 5/1/14 at 4:00 P.M.
55 Apart from the regular hearing at the Centers, Insurance Ombudsman also holds outstation hearing within their territorial jurisdiction for convenience of complainants and speedy disposal of complaints.
56 Though complaints can be filed by availing the services of the postal department and private courier services, to cut down the expenses, the follow up at later stages becomes difficult.
(k) There is no provision of appeal from the award of the Insurance Ombudsman, his decision is final. But since the award is not binding on the policyholder, he can appeal against the order in the Civil Court or Consumer Court.

3. Working

As per the Policyholder’s Protection Regulations, every insurer shall inform the policyholder along with the policy document in respect of the Insurance Ombudsman in whose jurisdiction his office falls for the purpose of grievance redressal arising, if any, subsequently. So, an aggrieved person can make a complaint in writing, addressed to the insurance ombudsman of the jurisdiction under which the office of the insurer falls.

The Ombudsman will act as a counselor and mediator and arrive at a fair recommendation based on the facts of the dispute. If the insured accept this as a full and final settlement, the Ombudsman will inform the company which should comply with the terms in 15 days. However, if a settlement by recommendation does not work, the Ombudsman will pass an award within 3 months of receiving the complaint.

The award passed by the Ombudsman is a speaking award with the detailed reasoning. It is binding on the insurance company but not binding on the policyholder. Once the award is passed, the insured is required to accept it in writing and inform the insurance company within 30 days. The insurance companies are required to honor the award passed by Insurance Ombudsman within 3 months.

G. ARBITRATION ON QUANTUM

1. General

Arbitration, a form of Alternative Dispute Resolution (ADR), is a technique for the resolution of disputes outside the Courts, where the parties to a dispute refer it

57 The Consumer Protection Act, 1986; Rule 12(2) and (3).  
58 Supra n.21.  
59 Ibid.
to one or more persons (the “arbitrators” or “arbitral tribunal”) by whose decision (the “award”) they agree to be bound. It is a resolution technique in which a third party reviews the evidence in the case and imposes a decision that is legally binding for both sides and is enforceable.

These days, the use of arbitration clause in consumer contracts is on the rise – it is commonly found in consumer contracts for insurance policies, gift redemption offers, or home or car loans from finance companies. The speedy resolution mechanism offered via arbitration as compared to resolution of disputes by Civil Courts makes it a popular choice for Indian Insurance Industry.

In sectors such as insurance the use of arbitration clause has a history. Insurance offerings were once covered by tariffs and required that disputes (largely relating to quantum) be resolved via arbitration. Even as insurance offerings have been de-tariffed since 2007, it is customary to continue with the arbitration clause.\(^6^0\)

2. Important Features

Most of the insurance policies include an arbitration clause which prohibits parties from approaching courts for settlement before exhausting other alternative methods of dispute settlements.

(i) To redress grievances through this method there needs to be an Arbitration Clause in the policy. Arbitration is available only if the insurance company has accepted its liability under the policy and the dispute is only on the quantum aspect.\(^6^1\)

(ii) Arbitration is a consensual forum. It can be availed only when both parties

\(^{60}\) A buyer struck with an unfavorable arbitration award can challenge it at the judicial level but the Court interference is limited to the grounds such as the award being against public policy, or if it is perceived as being made without application of mind.

\(^{61}\) Thus, if the company out rightly refuses or rejects the claim, then the option of arbitration is not available. In such outright denial of claims the policyholder can either got to the Civil Courts or the Consumer Forum.
agree to it. The insurer and insured must arrive at a consensus regarding the arbitration and its terms.

(iii) It is a non-legislative dispute resolution strategy for resolving disputes outside the usual court process. The procedure followed is simpler than court cases and there is no need to follow Civil Procedure Code/Evidence Act.

(iv) Arbitration is a speedy mechanism, in terms of time taken, economical one in terms of costs involved and still, in a way it is an in-camera mechanism where the apprehensions and misunderstandings of either party are kept close.

(v) It enables the insurance companies to retain their relationship with the insured and save its public image.

(vi) This process has full-fledged recognition under existing laws and the award is binding on both the parties.

3. Process

The arbitration clause of the policy clearly reads that either party who wishes to invoke arbitration should send a legal notice to the other party suggesting the name of the arbitrator he wishes to have. If the other party does not accept his choice of an arbitrator then each party proposes the name of one arbitrator each and then these two arbitrators would nominate the name of a third arbitrator. In such cases there is a panel of three arbitrators called the tribunal.\(^62\) The tribunal analyses the matter very clearly and arrives at a more precise order.

When the subject matter of the dispute is highly technical, arbitrators with an appropriate degree of expertise can be appointed. The technical aspect, exchange of

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\(^62\) The arbitrators appointed are either former judges from the high court or other lower courts or chartered accountants.
information and understanding of subject matter is lot more in-depth and thorough in the process of arbitration.

The arbitration award needs to be executed within 30 days of the verdict of the arbitration. Section 34 of the Arbitration Act provides the opportunity to either party to appeal against the arbitration award in the high court. However, the grounds for appeal are very limited. It has been experienced that the arbitration award are reasonably respected by the Insurance companies.63

Sometimes the arbitration proceedings may also extend for long periods of time due to various reasons. Delays and costs are the two major drawbacks of the arbitration in insurance sector. Also as arbitrator is appointed by the companies, during settlements they may have an inclination towards the companies; if the arbitration is appointed with the consent of the consumer, the company may not abide by the word of the arbitrator and there is a possibility for the dispute to end in litigations. Moreover, the arbitrators are generally unable to enforce interlocutory measures against a party.64

But despite these lacunas, today arbitration has become more popular method of dispute resolution. The assistance of agents may also be taken to solve disputes through arbitration.

H. LOK ADALATS

1. Introduction

Lok Adalat literally means “People’s Court”. It is a court for the people, by the people and of the people themselves. It is a special kind of people’s court in which

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63 www.magusadvisors.com/uploads/news/20121031-075015arbitration-is--available--if-the--insurer--has--accepted--its--liability.pdf. Accessed on 12/1 14 at 12:00 P.M.
64 www.en.wikipedia.org/miki/Arbitration. Accessed on 7/1/14 at 5:00 P.M.
disputes are solved by direct talks between the litigants. In Lok Adalat, the procedural and perfunctory requirements of the proper court are done away with, and the cadaverous remains are fleshed out with flexibility and amenity in settlement, and this lends the Lok Adalat the characteristics of people friendliness.

It is a mode of redressing grievances and delivering justice but it has nothing in common with the adjudicating machinery. In fact, Lok Adalats originated from the failure of the Indian Legal System to provide fast, effective and affordable justice. The evolution of this movement was a part of strategy to relieve the heavy burden on the courts with cases pending disposal. The Supreme Court has been promoting this forum as a part of an alternative disputes redressal mechanism to reduce the high pendency of cases in the subordinate courts.

The pendency of the cases poses great difficulties to the judiciary and to the people who que up in the hope of getting justice. Lok Adalat is a boon to litigant public where they can get their disputes settled fast and free of cost.

2. Characteristic Features

The characteristic features of Lok Adalat have been explained hereunder:

(a) Lok Adalat is a forum where cases pending in the court of law or at pre-litigation stage are settled or compromised amicably by way of hearing before arbitration panels. It is a win-win system where all the parties to the dispute have something to gain.

(b) It is an economical method of dispute resolution. No court fee is payable. If any court fee is paid, it will be refunded.

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65 [www.monthlyarticle.blogspot.in/2009/12/lok-adalat.html/m=1](http://www.monthlyarticle.blogspot.in/2009/12/lok-adalat.html/m=1), Accessed on 15/1/14 at 6:00 P.M.
67 [www.indianlawyer.blogspot.in](http://www.indianlawyer.blogspot.in), Accessed on 21/1/14 at 11:00 A.M.
(c) Lok Adalat is deemed to be civil court for certain purposes. It has certain powers of civil court.

(d) The award made by the Lok Adalat is deemed to be the decree of a civil court and is final and binding on all parties and no appeal lies before any court against its award. It can be executed in a court.

(e) The proceedings of Lok Adalat are simple. The Code of Civil Procedure and Indian Evidence Act are not applicable to the proceedings of Lok Adalat.

(f) The award can be passed by the Lok Adalat only after obtaining the assent of all the parties to dispute.

(g) Lok Adalat is a blend of all three forms of traditional ADR: arbitration, mediation and conciliation.

3. Working

The working of Lok Adalat is very simple and shorn of all legal formalism and ritual. The Lok Adalat is presided over by a sitting or retired judicial officer as the chairman, with two other members usually a lawyer or social worker. It has the jurisdiction to settle, by way of effecting compromise between the parties, any matter which may be pending before any court as well as matters at pre-litigative stage. Such matters may be civil or criminal in nature.

The Lok Adalat Bench shall attempt to resolve the dispute helping the parties arrive at an amicable solution and once it succeeds in doing so, the award passed by it shall be final which has as much force as a decree of civil court obtained after due contest. It can take cognizance of matters involving not only those persons who are
entitled to avail free legal services but of all other persons also, be they are women, men, children or even institutions.68

It has been revealed by the experience of Lok Adalat that it is easier to settle money claims because in most of such cases only quantum alone may be in dispute. The success of Lok Adalat in expeditious disposal of Motor Accident Claims has made it very popular in the insurance sector also. These days Lok Adalat has become an ideal mechanism of grievance redressal preferred by both the policy holder and insurance companies.

I. CIVIL COURTS

Besides the Grievance Redressal Cells, the institution of Ombudsman and Consumer Forum, a dis-satisfied policyholder could further knock the doors of justice by way of litigation. He can approach the ordinary civil courts and avail the litigation mode of resolution of disputes, as in any other civil case.

The mechanism of civil courts is lengthy, cumbersome and expensive. Insurance disputes keep lingering for decades in civil courts. Moreover the civil courts do not have the expertise or specialization to deal with such disputes.

J. REVIEW

Insurance Industry is essentially a service industry and in the present day competitive market, the consumer expectations are ever rising and accordingly, dissatisfaction from the standard of services rendered by the insurance companies is also at rise.

Alive to this situation, the Government and the Regulator have taken a number of initiatives. These initiatives include institution of Insurance Ombudsman, in 1998 and Protection of Policy Holders Interest in 2002, through the IRDA Act, 1999.

68 www.legalserviceindia.com/articles/lok_a.htm, Accessed on 13/1/14 at 10:30 P.M.
Despite the fact that insurance industry has got a lot of legislation, rules, regulations, for formal grievance redressal, the mechanism is not satisfactory and effective enough to cope with ever increasing volumes of grievances turning into complaints and finally in legal disputes.

The in-house grievance cells of insurance companies have failed to win over the trust of policyholders where as the grievance cell of IRDA has no adjudicatory powers. It can only monitor and supervise the dispute resolution mechanism of insurance companies with a power only to give directions to the respective companies.

Regarding the institution of Ombudsman, there is little evidence that it is actually helping the policyholders. They are mostly established in big cities, and hence are an expensive option for people from rural and semi-urban areas of the country. There is no provision of appeal from the award of Ombudsman and moreover, its award is not binding. On top of that, there is a pecuniary ceiling over their power that is of Rs. 20 lakhs.

On the other hand, Consumer Forums, though having a wider geographic spread, pecuniary limits and greater area of adjudication, lack the expertise that is required in insurance matters. Here, insurance is taken as any other financial service and not as a specialized one. Moreover, the awards passed by them are not governed by the basic principles of Insurance and Law of Contract.69

Similarly, the Arbitration process though effective, is very sparingly used in the insurance industry while mediation and conciliation mechanisms have been hardly used. On the same line, the system Lok Adalat has also not been put to extensive use as yet by the insurance industry.

69 Supra n.3.
In light these state of affairs, it is essential to establish a statutory, comprehensive, effective, independent Grievance Redressal Authority (GRA), which can provide justice to all the insured’s, insurer’s and intermediaries of Insurance Industry. The GRA may be given comprehensive jurisdiction to cover complaints from all types of insured regardless of any financial limit.\textsuperscript{70}

\textsuperscript{70} Ibid.