Theoretical Framework
CHAPTER V
THEORETICAL FRAMEWORK

The theoretical framework is to identify and label the important variables in the situation that are relevant to the problem defined. It logically describes the interconnections among these variables. The relationships among the independent variables, the dependent variables etc are elaborated. The elaborations in the theoretical framework address the issue of why or how we expect certain relationships to exist, and the nature and directions of the among the variables of interest.

5.1 Stages in TP claim

Figure 5.1

The diagram describes the process of 'Third Party Claim'.

The 'Third Party Claim' starts from happening of the incident for which a claim is lodged and ends with the payment of compensation to the injured. The 'Third Party Claim Process' involves various stages such as 'Claim Occurrence', 'Claim Reporting', 'Claim Processing', 'Claim Disbursement', 'Administrative and Legal functions' etc. The 'Third Party Claim Management' is a complicated and multidimensional process for the public sector insurance companies to handle.

The dependent variable 'Third Party Claim Management' is the primary interest to this research and depend on the independent factors classified as Police Department contribution, Insurance company contribution, Court/Lawyers contribution, IRDA/
Government contribution, Legal rules /Provisions contribution, Society at large Contribution, Hospitals and doctors contribution to TP claim problems factors and grouped under the heading 'Area wise factors' to have a convenient segment wise analysis. All the factors are interconnected and contributes to the 'Third Party Claim' process.

5.2 Factors Contributing to TP Claim Problems - Areawise

Schematic Diagram

Figure 5.2

All the above independent factors otherwise termed as 'Area-wise Factors' in the Schematic diagram influences the dependent factor 'Third Party Claim Management'.

And within each independent factors, ten contributing factors are identified and this attempt is made to extract more accurate informations on each factors contributing to 'Third Party Claim' problems. Each factors are interrelated and also each factor is interconnected with one another in the process of 'Third Party Claims'. Poor coordination between the said factors will affect the effective 'Third Party Claim Management'. The records prepared by each agencies have direct impact on the 'Third Party Claim
Process'. The insurance companies have no control on such records but unfortunately the insurance companies and the court have to depend on the records to process and settle the 'Third Party Claim'.

The records of each department plays a vital role in the processing of the 'Third Party Claim'. Hence its importance cannot be ignored. The various records involving different agencies determine the management of 'Third Party Claim'. Any inaccuracy or fallacy in records will directly affect the 'Third Party Claim' process and makes the 'Third Party Claim Management' a difficult and uncontrollable task for the insurance companies.

Agencies Involved in Third Party Claim Process

1. Road safety and maintenance has to be ensured by the State and the Union Ministry of road transport. Department of Road Transport and Highways, an apex organisation under the Central Government, is entrusted with the task of formulating and administering, in consultation with other Central Ministries/Departments, State Governments/UT Administrations, organisations and individuals, policies for Road Transport, National Highways and Transport Research with a view to increasing the mobility and efficiency of the road transport system in the country. The Department has two wings. 'Roads Wing' deals with development and maintenance of National Highway in the country and the 'Transport Wing' deals with matter relating to Road Transport.

2. The police (Including traffic wing) under the control of State Government has to implement the Road safety rules framed by the government and has to implement it in a strict manner and punish the offenders by way of penalties, Sending reports to court etc. The Police Dept in accident cases, has to file FIR and conduct investigation, keep records, communicate to the authorities and files case etc.

3. The society/public including vehicle owners and vehicle users like drivers etc must accept and follow the rules and must be careful in using the roads like not parking the vehicles in unauthorized places on roads, plying at limited speed, not using old and condemned vehicles, not using duplicate spares, not overloading the vehicles, not using goods vehicles to carry passengers, renewing the license and insurance policies etc.
5. The RTO office under the control of state government has to maintain the records of registration of vehicles like RC book, driving license particulars, permit particulars etc in a proper way.

6. The Tribunals /Court has to award compensation to the claimant /Punishment for offenders etc after proper hearing of all the parties facts and evidences put before them in a reasonable/justifiable manner and within a reasonable time. They should not exploit the defence less/ weak situation of the insurance company to award unjustifiable compensations and also should not deviate from the preamble, social welfare legislation. The court has to keep proper records and has to communicate the parties concerned and to deliver the judgement for compensations, Punishments etc.

**Agencies and Records Involved in TP claim Process**

**Figure 5.3**

<table>
<thead>
<tr>
<th>Police Records</th>
<th>FIR, CHARGESHEET, PANCHANAMA, COURT INTIMATION, CASE FILE ETC</th>
</tr>
</thead>
<tbody>
<tr>
<td>Hospital Records</td>
<td>ACCIDENT REGISTER, CASE SHEET, DISCHARGE, WOUND CERTIFICATE ETC</td>
</tr>
<tr>
<td>RTO Records</td>
<td>DL, PERMIT, RC BOOK PARTICULARS, FITNESS REGISTERS ETC</td>
</tr>
<tr>
<td>Insurance Co Records</td>
<td>POLICY COPY, CLAIM INTIMATION LETTER, INVESTIGATION REPORT ETC</td>
</tr>
<tr>
<td>Court Records</td>
<td>VAKALATNAMA, FIR, AWARD, INTIMATIONS, EVIDENCE COPY, PLAINT ETC</td>
</tr>
<tr>
<td>Govt Records</td>
<td>VOTERS ID, MV RULES, RATION CARD, DEATH CERTIFICATE, PAN CARD ETC</td>
</tr>
<tr>
<td>Claimants Records</td>
<td>PETITION, AGE, INCOME, QUALIFICATION, INJURY, HEIR PROOF ETC</td>
</tr>
</tbody>
</table>
7. The IRDA, the regulating authority for insurance sector has to monitor and issue necessary circulars and orders to regulate the business.

8. The Hospital has to issue wound certificate, maintain accident register, issue disability certificates, Post mortem certificates, Medical bills etc

9. Insurance company issues the policy for TP cover, it has the liability to pay TP claim based on court's decision subject to the law in force. Maintain records and contest the case for TP claims.

10. The union government legislature has to monitor, frame rules and regulations to control and regulate relevant issues of insurance business.

Not only several agencies and records are involved but also many persons in different capacities are involved in the TP claim process. Hence management of TP claim becomes highly complicated. Integration, coordination and also the monitoring the authenticity of the individuals involved is almost an impossible task for the insurance companies.

**Persons Involved in TP claim Process**

*Figure 5.4*
The respondent insurance company has the onus to prove that there exist false/wrong informations in the records with proper evidence that will stand in the court of law. Even if there exist evidence, in most of the cases the insurance company will not succeed because of the view that 'Third Party Claim' involves 'Social Welfare Concept' and the courts are liberal in awarding compensations and also 'The Pay and recover clause' is used by the court to award compensation. Which in most of the cases the insurance company has no means to recover the claim later. Each and every person involved in 'Third Party Claim' has his own perception and have their own way of approach to the problem and consistency and coordination cannot be expected and this subsequently affect the 'Third Party Claim Management'.

The figure 5.4 shows the agencies, records and the persons involved in 'Third Party Claim Process'. Each component in the 'Third Party Claim Process' has its own importance. Hence, the relationship with one factor to the other cannot be ignored. The agencies, the persons involved and the records to be produced in 'Third Party Claim' cannot be isolated and the coordination is inevitable for effective management of 'Third Party Claims'.

The 'Third Party Claim' related problems, in the view of insurance company can be classified as 'Administrative' and 'Legal Problems'.

Problems in TP claims Management

The Factors influencing the dependent variable TP claim management is subdivided into administrative and legal issues which are the independent variables for an in depth and thorough understanding of the study.

Figure 5.5
The independent variable 'Administrative Problems' of the insurance company in 'Third Party Claim' process include 'Premium collection issues', 'Monitoring the mandatory TP cover', 'Contesting ability', 'Dealing with courts', 'Fraud prevention and control', 'High corruption rate', 'Poor statistical records', 'Poor integration and cooperation with other related departments', 'Procedural problems etc'. The administrative problems exist in public sector insurance companies are also the important factor that affects the 'Third Party Claim Management'.

The independent variable, 'Legal Problems' faced by the insurance company in 'Third Party Claim' process are like some of the provisions of the Sections in the M.V. Act 1988 like 163 B, 170, 163A, 149(4) etc are in favour of the claimants, no period of limitation, no fixation of jurisdiction, unlimited and unjustified compensation awarded, burden of proof liability, poor contesting ability etc. The ineffectiveness in dealings with legal matters in public sector insurance companies are also an important factor that affects the 'Third Party Claim Management'.

5.3. Corrective Steps to Improve TP claims Management

For clear understanding the dependent variable 'Steps to improve Third Party Claim Management' is divided into two factors called "Internal Steps to improve" and "The Overall Steps to Improve".

Steps to Improve Third Party Claim Management Issues

Figure 5.6

The 'Internal Steps to Improve' represents the factors which are within the control and means of the insurance companies and the factors are like prudent underwriting, proper claim reporting system, safe and effective filing and recording system, fool proof Investigations, having proper insurance settlement policy/Manual, monitoring and
contesting cases, proper training and instructions to staffs, coordination with various agencies, grievance redressal to policy holders, preventing and controlling corruptions at office level etc. This steps are controllable factors and otherwise called as internal factors, where the insurance company can initiate Action without external dependence or help.

The 'Overall Steps' that can be taken in general, to improve the TP claim related problem. The steps are classified where the insurance companies individually have little control or no control. They are like net working of all agencies, maintenance of risk pool, amending M.V. Act to plug the loopholes, uniformity of compensation by courts, research on road safety and insurance, separate courts and police wing, rating of insurance companies and clients, additional cess on fuel as an alternate to insurance, improvement in road conditions etc.

Proper Management of 'Third Party Claim' requires both internal and overall improvement factors to be implemented to achieve the required results.