

# Insurance Case at a Legal Forum

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In current times, following is not an uncommon scenario...

A claim has been repudiated after, an insurer, ensuring

- Repudiation is a rational and sound decision
- It is based on proper documentary evidence and not on hearsay/ circumstantial evidence
- It is not based on any twist / misinterpretation of words/ medical terms
- Intent to defraud has been established by proven non-disclosure
- 2-3 tiers of internal committees convinced of the veracity of the decision.

...and when you least expected it, you get a notice from a legal forum (consumer court/ ombudsman) asking you to explain/ represent the case

Such a complaint may relate to some (or more) grievance(s) against the insurer i.e.

- (a) any partial or total repudiation of claims by the insurance companies,
- (b) dispute with regard to premium paid or payable in terms of the policy,
- (c) dispute on the legal construction of the policy wordings in case such dispute relates to claims;
- (d) delay in settlement of claims and
- (e) non-issuance of any insurance document to customers after receipt of premium.

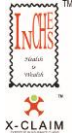
But, most cases at consumer court(s) and most, if not all cases at Lok Adalat/ Ombudsman pertain to non-payment of an insurance claim.

A review of cases reaching legal fora confirm that most repudiation cases pertain to a significant non-disclosure (that the insurer has a documentary proof of). Problem arises when claimant(s) attempt to downplay the alleged non-disclosure and demand intervention from legal fora.

No insurer will repudiate a case unless they were certain of the issue at hand. The million-dollar question is to convince the authority (Ombudsman/ Consumer court judges) of rationality of the decision taken. An insurer who is already facing pro consumer sentiments (more so in young life, tragic death) is not even allowed an expert witness to depose for them.

## **An opinion for a case that has reached a legal forum must be:**

1. Detailed w.r.t facts as claimed by the insurer
2. Should be supported by an external expert medical/ legal/ medicolegal opinion
3. The opinion should be in a jargon free lucid language
4. The opinion should cite credible references (both Indian and overseas)
5. Should justify the action taken (repudiation) in view of material presented.
6. Should anticipate most, if not all queries that are likely to arise and have answers ready.
7. Should also incorporate policy terms as and where relevant.



8. The team member who is to represent the case must be well versed with all the facts (especially medical ones) in such a way that he/she can convince the authority.

#### **Case in a court of law**

When a case is to be replied in a court of law, the opinion, painstakingly prepared by the legal team gets clouded by the time it is presented to the judiciary (akin to 3<sup>rd</sup> copy of a document). More so in a MACT / Motor liability case.

In such cases, the advocate who is representing the company, should be well versed with all the facts (especially medical ones) and should be able to present them in such a way that medical facts are explained in a jargon free, lucid - and vernacular language if needed to convince the decision-making legal authority.

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