

## Terrorism Insurance - A Moveable Slugfest

### INTRODUCTION

The primary law regulating the insurance business in India is the Insurance Act, 1938 as amended from time to time. The insurance business comprises of various categories of insurance such as life insurance, general insurance, re-insurance etc. While common events like fire, theft, motor-vehicle accidents etc. are generally covered by insurance policies, certain extenuating circumstances like nuclear risks or losses arising out of a war or warlike situations are often deemed to be uninsurable risks by the insurance industry due to their unpredictable nature. While the criteria for deeming an event to be uninsurable squarely applies to acts of terrorism, terrorism is not excluded from the list of insurable events. With the rising frequency of terrorist attacks globally, terrorism insurance has become essential in order to safeguard oneself against any losses arising out of acts of terror.

### TERRORISM RISK INSURANCE POOL

Despite the unpredictable nature of terrorist acts, terrorism insurance as a concept evolved owing to the dire need to insulate life and property against the unbound destruction that ensues after terror attacks. The past few decades have seen a spate of ghastly terrorist attacks. While the 9/11 attacks rocked the USA, India has also witnessed a steady stream of terrorist attacks in the recent past. Before the 9/11 attacks, terrorism cover was included in insurance policies and no separate premium was charged. However, after the 9/11 attacks in the USA, as well as other major terrorist attacks around the world, the trend changed, and terrorism was

excluded from insurance policies or a higher premium was charged separately for providing terrorism insurance cover. While there was an unquestionable need to protect people from losses arising out of terrorism, insurance companies were weary of the risks that came along with it in wake of the ever-increasing frequency of terrorist attacks globally. Therefore, pooling of resources to form a common terrorism insurance regime became the only viable option.



Industry practice as well as territorial legislations require insurance companies to be re-insured. This facilitates more efficient business practices and also reduces risk and liability of insurers. However, following the 9/11 terror attacks in the USA, international re-insurance companies withdrew their terrorism insurance cover from the market due to catastrophic business losses. Therefore, a need was felt to create a framework to address the gaping hole in the insurance industry due to the withdrawal of the terrorism cover by international re-insurers. This need to stabilise the insurance industry and provide for much needed terrorism insurance cover

gave birth to the Indian Market Terrorism Risk Insurance Pool (“**IMTRIP**”). The IMTRIP has been formed under the aegis of the General Insurance Corporation of India (“**GIC Re**”) and constitutes non-life insurance companies that rely on the combined underwriting capacity of all the members to enable the members to provide terrorism insurance coverage. The terrorist attacks on the Taj Mahal Hotel in Mumbai which led to several high-stake insurance claims are a great example of the success of the IMTRIP. As per reports, claims of approximately Rs. 376 crore were settled by insurance companies and a significant portion of the claim was borne by the IMTRIP.

The liability of the insurer, in ordinary circumstances, is a legitimately calculable probability. Insurance companies also rely on actuarial data to understand their liability. However, when it comes to terrorism, the same is not true. Terrorist attacks have no perceivable pattern and therefore each attack is unique in terms of the potential damage that can be

caused by it, making risk calculation a big problem.

## **WHO NEEDS TERRORISM INSURANCE?**

As a matter of established practice, all corporate offices, manufacturing plants, industrial units etc. have insurance coverage for terrorism. This makes sense considering the stakes involved and the potential damage that would be suffered by such entities in the event of a terrorist attack. However, individuals have still not become used to the idea that they may also need terrorism insurance. Cities like Mumbai that have been subjected to multiple terrorist strikes make out a strong case for individuals to obtain terrorism insurance in respect of their property, travel etc. Most individuals in fact, remain unaware of the exclusion for terrorist attacks. Further, past trends have shown that while corporations have uniformly opted for insurance cover, small and medium business industries have not followed suit. It is speculated that this will happen sooner than later considering the frequency

of terrorist attacks and the inability of uninsured smaller businesses to cope with the insurmountable losses arising out of terrorist attacks.

## **GOVERNMENT PARTICIPATION**

Several countries globally have terrorism risk insurance pools for providing support to the insurance market in those territories. In some countries, an active role is played by the government in tandem with private players and therefore the terrorism insurance market is sustained with comparatively lesser burden on the taxpayer. However, IMTRIP is maintained by general insurance



companies in India and headed by the GIC Re without government involvement. While the beauty of the system created to support the insurance economy cannot be doubted, a thought must be spared to dissect the mechanics behind the framework within which the IMTRIP operates. The IMTRIP is an independently operating entity without any government intervention. Ergo, it does not have access to the kind of information/intelligence available with the government that would allow it to make well informed decisions regarding terror activity in the region and reduce its risk. Further, government participation in risk insurance pools also encourages insurers to participate in the pool, making government participation a much required and crucial element in terrorism risk insurance pools.

## **CONCLUSION**

The terrorism insurance industry is at a nascent stage. While the IMTRIP safeguards the Indian terrorism insurance market in the form of a collective consciousness whereby the industry itself has come together to tackle the mammoth problem of terrorism insurance, the need of the hour is legislative framework for guiding and streamlining the process of terrorism insurance which will mandate government participation in the terrorism risk insurance pool, provide for inclusive definitions of terrorism etc. With a legal spine to support itself and sufficient government

backup, the IMTRIP will be able to effectively  
douse the evils of terrorism while benefitting

both private players as well as the common folk.

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