

PRINCIPLES OF INSURANCE & LOSS ASSESSMENT

PRESENTED BY:
CA. ANKIT GOEL
EXPERT FACULTY,
CEV IAF RVO



Contents of this Presentation

- Principles and legal concepts in relation to insurance of buildings & Plant & Machinery; contract of insurance; insurable interests; liability to insure; duties of the insurer and the insured
- Types of fire policies; reinstatement value, indemnity policies and policies for other perils; terms and conditions; perils, beneficial and restrictive clauses
- Value at risk, sum insured and condition of average, over and under insurance; provisions regarding inflation, depreciation, obsolescence and betterment; other provisions
- Preparation of claim for damages due to insured perils
- Obligations and rights of insurer and insured

CEW
IAAF
RVO





What is Insurance?

Insurance is a contract, represented by a policy, in which an individual or entity receives financial protection or reimbursement against losses from an insurance company.

It is an agreement between Insured and Insurer to compensate the losses suffered due to uncertainties in future, for a consideration called premium.

CEV
IAF
RVO





Principles of Insurance

- Utmost Good Faith
- Insurable Interest
- Indemnity
- Subrogation
- Contribution
- Proximate Cause
- Principle Of Loss Of Minimization

CEV
IAF
RVO





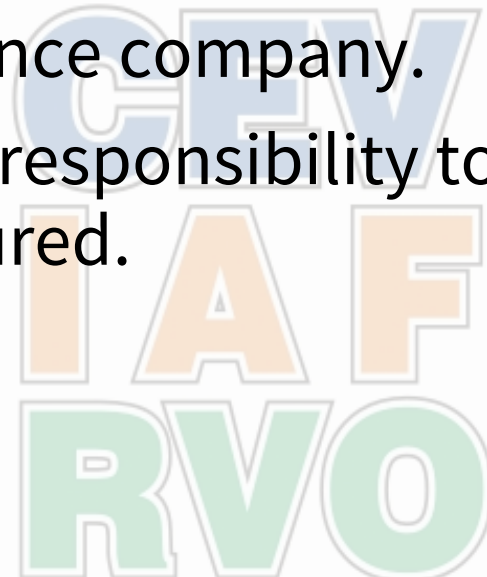
Utmost Good Faith

Utmost good faith is a common law principle.

The principle means that every person who enters into a contract of insurance has a legal obligation to act with utmost good faith towards the company offering the insurance.

A person must, therefore, always be honest and accurate in the information they give to the insurance company.

The insurance company also has a responsibility to act with good faith in all its dealings with the insured.

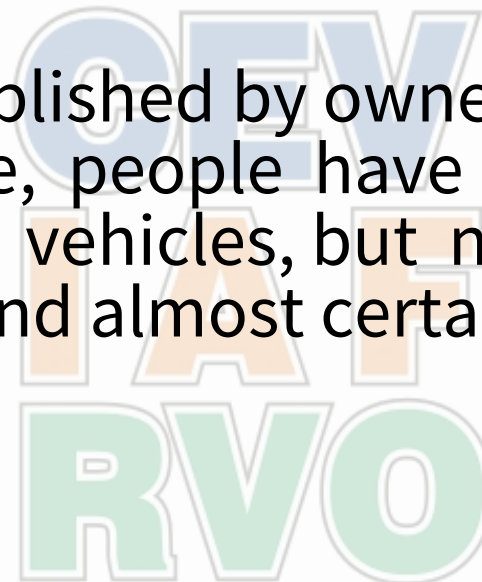




Insurable Interest

It exists when an insured person derives a financial or other kind of benefit from the continuous existence, without impairment or damage, of the insured object (or in the case of a person, their continued survival). A person has an insurable interest in something when loss of or damage to that thing would cause the person to suffer a financial or other kind of loss.

Typically, insurable interest is established by ownership, possession, or direct relationship. For example, people have insurable interests in their own homes and vehicles, but not in their neighbors' homes and vehicles, and almost certainly not those of strangers.





Indemnity

Indemnity means a guarantee or assurance to put the insured in the same position in which he was immediately prior to the happening of the uncertain event.

The insurer undertakes to make payment of actual loss incurred by the insured, upto the sum insured.

The insurer agrees to pay no more than the actual amount of the loss.

CEV
IAF
RVO





Subrogation & Contribution

- Subrogation is a term describing a legal right held by most insurance carriers to legally pursue a third party that caused an insurance loss to the insured. This is done in order to recover the amount of the claim paid by the insurance carrier to the insured for the loss.
- Contribution: The principle holding that two or more insurers each liable for a covered loss should participate in the payment of that loss. Having paid its share of a loss, an insurer may be entitled to equitable contribution—a legal right to recover part of the payment from another insurer whose policy was also applicable.





Proximate Cause (Causa Proxima)

Principle of Proximate (i.e. Nearest) Cause, means when a loss is caused by more than one causes, the proximate or the nearest or the closest cause should be taken into consideration to decide the liability of the insurer.

Property may be insured against some but not all causes of loss.

When a property is not insured against all causes, the nearest cause is to be found out.

CEV
IAF
RVO





Principle Of Loss Minimization

Under this principle it is the duty of the insured to take all possible steps to minimize the loss to the insured property on the happening of uncertain event.

According to the Principle of Loss Minimization, insured must always try his level best to minimize the loss of his insured property, in case of uncertain events like a fire outbreak or blast, etc.

CEV
IAF
RVO



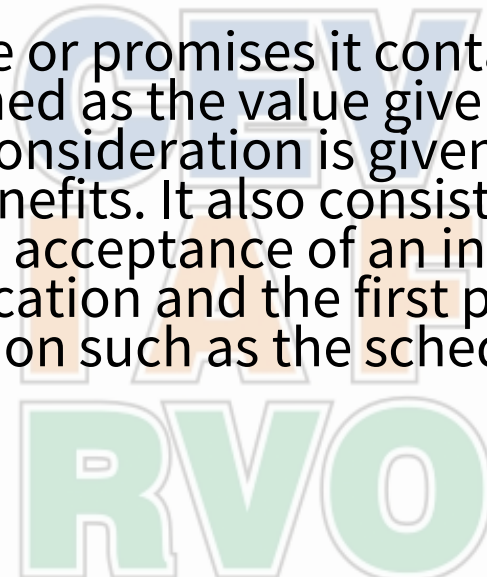
○ Legal Concepts of the Insurance Contract

Offer & Acceptance

To be legally enforceable, a contract must be made with a definite, unqualified proposal (offer) by one party and the acceptance of its exact terms by the other. In many cases, the offer of an insurance contract is made by the applicant when the application is submitted with the initial premium. The insurance company accepts the offer when it issues the policy as applied for. When an offer is answered by a counteroffer, the first offer is void.

Consideration

For a contract to be enforceable, the promise or promises it contains must be supported by consideration. Consideration can be defined as the value given in exchange for the promises sought. In an insurance contract, consideration is given by the applicant in exchange for the insurer's promise to pay benefits. It also consists of the application and the initial premium. This is why the offer and acceptance of an insurance contract are not complete until the insurer receives the application and the first premium. The Consideration clause also contains information such as the schedule and amount of premium payments.



○ Legal Concepts of the Insurance Contract

Legal Purpose

To be legal, a contract must have a legal purpose. This means that the object of the contract and the reason the parties enter into the agreement must be legal. A contract in which one party agrees to commit murder for money would be unenforceable in court because the object or purpose of the contract is not legal. Insurance contracts are always considered to possess a legal purpose.

Competent Parties

To be enforceable, a contract must be entered into by competent parties. With a contract of insurance, the parties to the contract are the applicant and the insurer. The insurer is considered competent if it has been licensed or authorized by the state(s) in which it conducts business. The applicant, unless proven otherwise, is presumed to be competent with three possible exceptions: Minors, Mentally infirm, etc.

CEV
RVO



○ Legal Concepts of the Insurance Contract

Aleatory - Adhesion

Insurance contracts are aleatory. This means there is an element of chance and potential for unequal exchange of value or consideration for both parties. An aleatory contract is conditioned upon the occurrence of an event. Consequently, the benefits provided by an insurance policy may or may not exceed the premiums paid. For example, an individual who has a disability insurance policy will collect benefits if she becomes disabled. However, if no disability strikes, benefits are not paid. Both insurance and gambling contracts are typically considered aleatory contracts.

Insurance contracts are contracts of adhesion. This means that the contract has been prepared by one party (the insurance company) with no negotiation between the applicant and insurer. In effect, the applicant “adheres” to the terms of the contract on a “take it or leave it” basis when accepted. Any confusing language in a contract of adhesion would be interpreted in favor of the insured. The purpose is to correct any advantage that may result for the party who prepared the contract. A policy of adhesion can also be described as one which the insurance company can modify.





Legal Concepts of the Insurance Contract

Unilateral

Insurance contracts are unilateral. This means that only one party (the insurer) makes any kind of enforceable promise. Insurers promise to pay benefits upon the occurrence of a specific event, such as death or disability. The applicant makes no such promise. In fact, the applicant does not even promise to pay premiums. The insurer cannot require the premiums to be paid. Of course, the insurer has the right to cancel the contract if premiums are not paid.

Conditional

An insurance contract is conditional. This means that the insurer's promise to pay benefits depends on the occurrence of an event covered by the contract. If the event does not materialize, no benefits are paid. Furthermore, the insurer's obligations under the contract are conditioned on the performance of certain acts by the insured or the beneficiary. For example, the timely payment of premiums is a condition for keeping the contract in force. If premiums are not paid, the company is relieved of its obligation to pay a death benefit.

Valued or Indemnity

Utmost Good Faith - Warranty - Representation - Concealment - Insurable Interest

Agent Authority: Express Authority, Implied Authority, Apparent Authority

Waiver

A waiver is the voluntary giving up of a legal, given right. If an insurer fails to enforce (waives) a provision of a contract, it cannot later deny a claim based on a violation of that provision.

Void/Voidable Contract

CEV
IAF
RVO



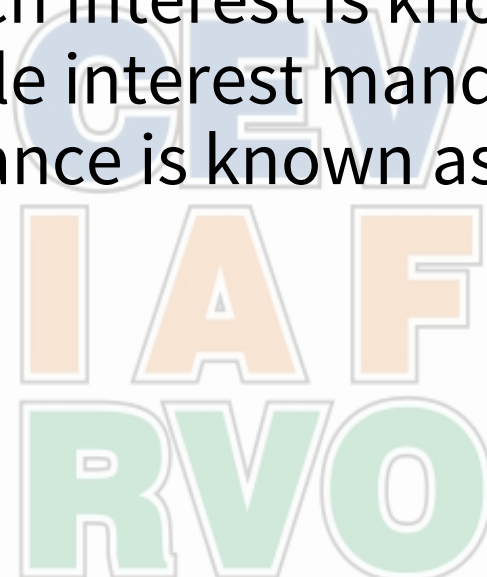


Insurable Interest

There are basically two types of insurable interest

- (1) Contractual
- (2) Statutory.

Where an insurance contract requires the existence of an insurable interest for effecting the policy, such interest is known as Contractual insurable interest while an insurable interest mandated by a particular statute dealing on insurance is known as Statutory insurable interest.

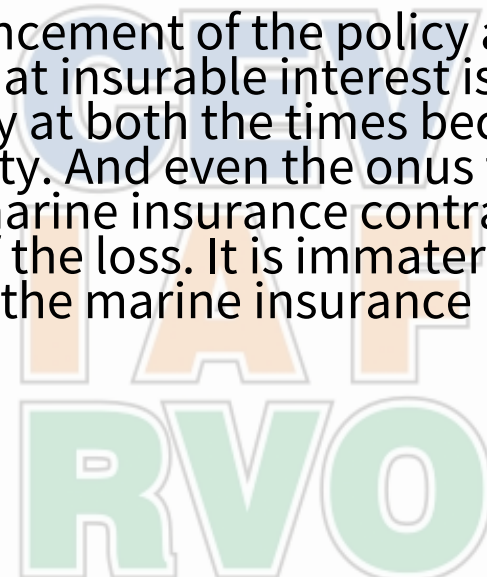




Time or duration of insurable interest

The time when the insurable interest must be present varies with the nature of the insurance contracts. The question is whether insurable interest should exist at the time when the contract is formed or should it also continue to exist until it is discharged but as we have seen in life insurance the presence of insurable interest is necessary at the commencement of the policy although it is not necessary afterwards, not even at the time of occurrence of risk. So it should be there in life policies at the time of taking the policy it need not exist at the time when the loss take place or even when the claim is made under the policy. Life insurance contracts are not strictly speaking contracts of indemnity.

In fire insurance it's required both at the commencement of the policy and at the time when the risk occurs. In a sense, therefore it may be said that insurable interest is doubly insisted upon in fire insurance. The insurance interest is necessary at both the times because it is treated as a personal contract and also a contract of indemnity. And even the onus that the fire was intentional is on the insurer not on insured. In a marine insurance contract the presence of insurable interest is necessary only at the time of the loss. It is immaterial whether he has or does not have any insurable interest at the time when the marine insurance policy was taken.





Insurable Interest in Life

Every man is presumed to have an interest in his own life and he is not required to show at any point that he had some particular interest in the continuation of his life.

As regard spouses are concerned, it is generally believed and accepted that a wife has an insurable interest in the life of her husband and vice versa.

Apart from husband, wife or any other close relative, any person, who has a legal right to derive maintenance from a person, can take a life insurance policy on the life of the latter without any proof of insurable interest.

Another set of relations which acquire insurable interest for effecting a life insurance, are relations which originate from contractual transactions. Therefore a creditor has an insurable interest in the life of the debtor to the extent of his interest and where the debt has been guaranteed by a surety, then on the life of the surety too.

RVO



Insurable Interest in Goods

- Legal Ownership
- Goods in Transit (Bailor)
- Marine Insurance
- Lessor/ Lessee

CEV
IAF
RVVO





Duties of the Insurer

- Duty to defend the insured
- Duty to gain the insured's cooperation
- The insurer's duty of good faith and fair dealing – Policy Provisions
- The duty to settle claims – Follow fair claim settlement practices
- Privacy Protection
- Pay Benefits
- Risk Assessment
- Reserves for Policy claims

CEV
IAF
RVO





Duties of the Insured

- Obligation To Pay Premiums
- Requirement Of Notice Of Loss
- Provide Proof Of Loss to the Insurer
- Cooperate with Insurer
- Disclose material Information
- Avoid concealment & misrepresentation
- Avoid Collusion
- Keep Your Information Current
- Minimise exposure to risk



CEV
IAF
RVO





Types of Fire Policies

- **Agreed Value Policy**

In this policy the value of the subject-matter is agreed upon at the time of taking up the policy. The insurer agrees to pay a pre-determined amount if the subject-matter is destroyed or damaged by fire.

The principle of indemnity is not applicable to this policy. The agreed value may be more or less than the market value at the time of loss. These policies are generally issued for those goods or property whose value cannot be determined after their loss or damage. These goods may include works of art, jewellery, paintings, etc.

- **Specific Policy**

Under this policy the risk is insured for a specific sum. In case of loss of property, the insurer will pay the loss if it is less than the specified amount.





Types of Fire Policies

- **Average Policy**

If the 'average clause' is applicable to a policy, it is called Average Policy. Average clause is added to penalise the insured for taking up a policy for a lesser sum than the value of the property. The compensation payable is proportionately reduced if the value of the policy is less than the value of the property.

- **Floating Policy**

A floating policy is taken up to cover the risk of goods lying at different places. The goods should belong to the same person and one policy will cover the risk of all these goods. This policy is useful to those businessmen who are engaged in import and export of goods and the goods lie in warehouses at different places. The premium charged is generally the average of the premium that would have been paid, if specific policies would have been taken for all these goods. Average clause always applies to these policies.





Types of Fire Policies

- **Comprehensive Policy**

A policy may be taken up to cover up all types of risks, including fire. A policy may be issued to cover risk like fire, explosion, lightening, burglary, riots, labour disturbances etc. This is called a comprehensive policy or **All Risk Policy**.

- **Consequential Loss Policy**

Fire may disturb the work in factory. Production may go down while the fixed expenses continue at the same rate. A policy may be taken up to cover up consequential loss or loss of profit.

The loss of profit is calculated on the basis of loss of sales.





Types of Fire Policies

- **Replacement Policy**

The underwriter provides compensation on the basis of market price of the property.

The amount of compensation is calculated after taking into account the amount of depreciation.

When Re-instatement clause is there, there will be no deduction for Depreciation

- **Fidelity Insurance**

Fidelity policy protects your business from financial losses in the event of a breach of trust by an employee

CEV
IAE
RVO





Reinstatement Value

The principle of indemnity inspires this definition, according to which, the 'cost' of reinstatement of the property will be the 'cost' which would have been incurred if the property is reinstated at the same place where it existed before the loss. This 'cost' will exclude:

- Any cost of modification
- Cost of transfer to other location
- The positive cost differential or reinstating the property at another place

CEV
IAF
RVO





Conditions of getting a claim

- There must be actual loss
- Fire must be accidental and non-intentional

Other Concepts:

- Compulsory Upgradation
- Optional Upgradation

CEV
IAF
RVO



○ Standard Fire and Special Perils Insurance Policy

The Standard Fire & Special Perils (SFSP) Insurance, designed to cover loss or damage to Buildings, Plant & Machinery, Tools, Instruments and accessories, Furniture, Fixtures and Fittings, Electrical Installations, Stocks in trade including work in progress, etc. due to Fire and Act of God perils.

CEV
IAF
RVO

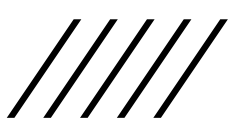


○ Standard Fire and Special Perils Insurance Policy

Package Insurance, covering following perils:

- a) Fire
- b) Lightning
- c) Explosion / Implosion
- d) Aircraft damage
- e) Riot, Strike, Malicious damage (RSMD Perils)
- f) Storm, Tempest, Flood, Inundation, Hurricane, Cyclone, Typhoon and Tornado. (STFI)
- g) Impact by any Rail/ Road vehicle or animal belonging to third parties
- h) Subsidence / Landslide including rockslide.
- i) Bursting and / or overflowing of water tanks, apparatus.
- j) Leakage form Automatic Sprinkler Installation.
- k) Missile Testing Operation.
- l) Pollution or contamination resulting from any of the above perils
- m) Any insured peril resulting from pollution and contamination.
- n) Bush Fire

CEV
IAF
RVO



○ Standard Fire and Special Perils Insurance Policy – Add on covers

1. Architects, Surveyors and Consulting Engineers Fees (in excess of 3% claim amount)
2. Removal of Debris (in excess of 1% claim amount)
3. (A) Deterioration of Stocks in Cold Storage premises due to accidental power failure consequent to damage at the premises of Power Station due to an insured peril
(B) Deterioration of stocks in cold storage premises due to change in temperature arising out of loss or damage to the cold storage machinery(ies) in the Insured's premises due to operation of insured peril
4. Forest Fire

OEV
IAAF
RVO



○ Standard Fire and Special Perils Insurance Policy – Add on covers

5. Impact Damage due to Insured's own Rail/Road Vehicles, Fork lifts, Cranes, Stackers and the like and articles dropped therefrom
6. Spontaneous Combustion
7. Omission to Insure additions, alterations or extensions
8. Earthquake
9. Spoilage Material Damage Cover
10. Leakage And Contamination Cover
11. Temporary Removal of Stocks Clause, e.g. taken for fabrication etc.
12. Loss Of Rent clause
13. Insurance Of Additional Expenses of Rent For An Alternative Accommodation
14. Start up Expenses

CEV
IAF
RVO



○ Standard Fire and Special Perils Insurance Policy – Significant Exclusions

a. Losses/ Expenses not covered:

- i. 5% of each and every claim subject to minimum of Rs. 10,000 resulting from Lightning, STFI and Subsidence and Landslide including Rockslide (AOG Perils)
- ii. Rs. 10,000 in respect of all other perils.
- iii. Expenses incurred on Architects, Surveyors' Consultant Engineers fees and Debris Removal in excess of 3% and 1% of claim amount respectively.
- iv. Loss of earnings, loss by delay, loss of market or other consequential or indirect loss or damage of any kind.
- v. If the building insured or containing the insured property becomes unoccupied and so remains for a period of more than 30 days.
- vi. Loss or damage caused to insured property by its own fermentation, natural heating or spontaneous combustion.
- vii. Loss or damage caused to insured property by its undergoing any heating or drying process.



○ Standard Fire and Special Perils Insurance Policy – Significant Exclusions

b. Perils not covered:

- i. War and allied perils
- ii. Nuclear and allied perils
- iii. Pollution or Contamination
- iv. Earthquake, Volcanic eruption or other convulsions of nature.
- v. 'Aircraft' damage arising out of pressure waves
- vi. Loss by theft during or after the occurrence of any insured peril
- vii. Riot, Strike or Malicious Damage losses arising out of:
 - a. total or partial cessation of work
 - b. Permanent or temporary dispossession resulting from order of the Government.
 - c. Permanent or temporary dispossession resulting from the unlawful occupation by any person.
 - d. Theft, larceny or omission by any person, in a malicious act.
- viii. Coastal or river erosion
- ix. Forest Fire
- x. Loss, or damage by spoilage resulting from the retardation of any process caused by operation of any insured perils

GEV
IAF
RVO



○ Standard Fire and Special Perils Insurance Policy – Significant Exclusions

c. Properties not covered:

i. Items like bullion or unset precious stones, any curios or works of art for an amount exceeding Rs.10000/-, manuscripts, plans, drawings, securities, obligations or documents of any kind, stamps, coins or paper money, cheques, books of accounts or other business books, computer systems records, explosives manuscripts etc. unless specifically declared.

ii. * Cold storage stocks due to change of temperature.

iii. Loss / damage/ destruction of any electrical and/or electronic machine, apparatus, fixture or fitting arising from over running, excessive pressure, short circuiting, arcing, self heating or leakage of electricity, from whatever cause (including lightning).

iv. * Loss / damage / destruction of Boilers, Economisers or other Vessels, machinery or apparatus in which steam is generated, by its own explosion/implosion.

v. * Caused by Centrifugal force (the outward force on a body moving in a curved path around another body)

Note : a) Some of the above exclusions (marked *) can be covered at an additional premium. Terms and conditions apply.



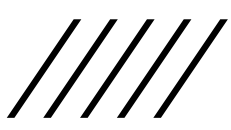
○ Standard Fire and Special Perils Insurance Policy – Add On Covers

In addition to the perils/ expenses covered, the proposer can opt to seek cover in respect of the following perils/ expenses at inception or during currency of the policy on payment of additional premium.

Perils:

- a) Loss/ damage/ destruction of the property caused by
- b) Deterioration of Stocks in Cold Storage premises due to power failure following damage due to an insured peril
- c) Forest Fire
- d) Impact Damage due to Insured's own Vehicles, Fork lifts and the like and articles dropped there from
- e) Spontaneous Combustion
- f) Omission to insure additions, alterations or extensions
- g) Earthquake (Fire and Shock). h) Spoilage material damage cover.
- i) Leakage and contamination cover. j) Temporary removal of stocks.
- k) Terrorism

CEV
IAF
RVO





Sum Insured

- a) Property can be insured on depreciated cost (**market value**) or replacement cost basis.
- b) In order to get better protection, insurance on reinstatement (replacement) basis is recommended. The sum insured selected should be adequate for **reinstatement**.
- c) In case the value of a property may increase due to factors like increase in prime cost, Exchange rate etc. during the currency of the policy, the corresponding sum insured may be increased up to 25% maximum by opting for the 'Escalation Extension'.
- d) Similarly, any reduction in sum insured during currency may be effected for which refund of premium will be allowed on short period basis.

First Loss Clause

Security Guard

Still Asset/ Live Asset

CEV
IAF
RVO



Over Insurance/ Under Insurance

OVER INSURANCE:

Over insurance can be defined as the situation where an insured has bought so much coverage that it exceeds the actual cash value (or the replacement cost) of the risk or property insured.

UNDER INSURANCE :

Underinsurance refers to inadequate insurance coverage held by a policyholder. While underinsurance may result in lower premiums paid by the policy holder, the loss arising from a claim may far exceed any marginal savings in insurance premiums.

OEUV
IAAF
RVO





Fire Claim Process

Immediate Steps to Follow:

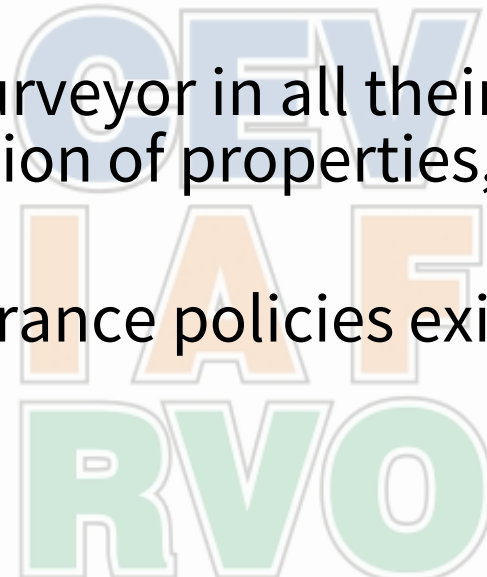
Inform losses or damages immediately to the insurance company so that a competent surveyor can come to ascertain the losses

Give the estimated figures of damages

Give full cooperation to surveyors by giving them all the necessary documents for assessment of the loss

Cooperate with the insurer or their surveyor in all their activities of entering the premises, taking possession of properties, sorting, removing, etc.; without prejudice

Give information about all other insurance policies existing on the properties at the time of loss





Common Documents required

- Duly certified copy of the insurance policy along with the schedule and endorsements
- Duly filled claim form
- Newspaper report on the incident, if there is any
- Photographs
- Previous claim experience



CEV
IAF
RVO





Common Documents required

In case of **fire claim**, here are some additional documents which are required:

Report submitted by the internal committee, which was constituted for investigating the cause of fire

Fire Brigade report

First Information Report (FIR)/Letter of intimation to the police station duly endorsed/Police Panchnama

Forensic reports on samples collected from the affected site

Final Investigation Report (FIR)

Metrological Report

In **Explosion Claims** (additional document)

Factory Inspector's Report

CEV
IAF
RVO





Questions?
Thank You!

- Please feel free to
 - write to me at ankitgoel@aaavaluation.in or
 - Call/ Whatsapp:
 - CA. Ankit Goel, Registered Valuer at 9811133226

CEV
IAF
RVO

