

ADVOCACY



TMV's Lokmanya Tilak Law College's

QUARTERLY eMAGAZINE

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Articles invited for the next issue, interested candidates can mail your articles on
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FOREWORD

Dear Readers,

I am delighted to share the maiden issue of our eMagazine known as "ADVOCACY" with all of you, which will provide insights on various legal aspects. The eMagazine is an attempt made by TMV's Lokmanya Tilak Law College to inculcate research habits and promote writing skills. This eMagazine democratically belongs to the students, i.e., to say "of the students, for the students, and by the Students and will contain write-ups written by students belonging to the courses offered by Tilak Maharashtra Vidyapeeth .

"ADVOCACY" is an activity by a student or group of students which aims to influence peers' decisions within their political, economic, and social rights and obligations towards society. In other words, someone's advocacy of a particular action or plan is their act of recommending it publicly.

Students from various disciplines, viz., Law, Medicine, Social Work, Management, Psychology, Political Science, Economics, and Languages, can advocate their views in this eMagazine.

Lack of legal awareness remains one of the biggest impediments to the development and smooth functioning of society. Law remains a significant subject for every human being in day-to-day life. Hence, legal literacy is one of the crucial goals of any democratic state.

Every citizen is a consumer in one way or the other. To encourage students and provide them knowledge on developing the literature, I would like to give few snapshots of consumer laws.

The Consumer movement in India started in 1966 from Maharashtra. After establishing the Grahak Panchayat in Pune in 1974, institutions for Consumer welfare were found in many States, and this movement continued to grow.

In December 1986, The Consumer Protection Bill was passed on the then Prime Minister Rajiv Gandhi's initiative and came into force nationwide after the President's signature. On 20th July 2020, an amendment in this law was made to make Customers more empowered and competent.

The Central Government has made several significant changes to the Consumer Protection Act. After enacting the new consumer law, the accountability of Companies and artists who advertise for them has become more than ever.

The Government has also included e-Commerce Companies under the Consumer Protection Act, 2019.

Indian Medical Association moves Supreme Court challenging Amendments to Ayurveda Regulations, alleges Ayurveda Doctors Performing Surgery will cause Critical Damage. The Supreme Court on Monday, i.e., 15th March 2021 sought the Central Government's response on a plea by Indian Medical Association (IMA) challenging the changes introduced to Ayurveda Regulations in 2020 by which Post Graduate Ayurveda Scholars have been allowed to perform modern Surgical Procedure. The IMA has challenged the verse of Indian Medicine Central Council (Post Graduate Ayurveda Education) Amendment Regulations 2020. The Regulations allow surgeries to be conducted by the ones who have done Post Graduation in Shalya Tantra (Surgery) and Shalaky Tantra (ENT issues).

As per Section 16 of the Vaccination Act of 1880, no fee shall be charged by any vaccinator except private vaccinator to the parents or guardian of any child for any of the duties imposed on the vaccinator by or under the said Act.

As Indian culture is imbued with festivals, one can be cautious enough while purchasing and consuming any of the food items.

Food adulteration is a heinous crime that has led to severe health conditions, and adulterated food is still being consumed in India which has made it mandatory to take action against those who are practicing food adulteration.

When any manufacturer sales, distribute, imports, or store any food article which is adulterated, he will be liable under Section 16 of the prevention of Food Adulteration (FA) Act, 1954 and with a fine of Rs.1000/- under Section.272 of Indian Penal Code (IPC) for selling of adulterated food or drink which are hazardous for health consumption. The punishment could also extend depending on the grievousness of the Act done by the manufacturers or vendor.

I would take this opportunity to congratulate and thank each one of you for all your efforts who participated in giving inputs for this issue. We are working together to give our students a platform to seek pleasure from writing. We hope this eMagazine will take students of Tilak Maharashtra Vidyapeeth a step further in their journey to research, explore and write.

With best wishes

Prof. (Dr.) K K Sri Rama Chandra Murthy
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LEGAL AID CAMP

Akash Kamble, LL.B 3rd Year



Tilak Maharashtra Vidhyapeeth's Social Work Department organizes a camp for 5 to 7 days every year for students. One day they seek the assistance of Law College to provide Legal Aid Services to their Camp Area. The object is to spread knowledge of the law to people of remote areas and villages. This year the camp was organized from 15th to 20th February, 2021 by the Social Work Department at Ghera Panvadi Purandar Taluka Pune District. On 17th February 2021 Law Department associated with Social Work Department to provide Legal Aid Awareness. Principal and Head of Department, Prof.(Dr.)K K Sri Rama Chandra Murthy Sir nominated Asst. Prof. Vidhya Shetty & Asst. Prof. Seema Patil and four students of LL.B 3rd year to participate in the Camp and provide the necessary Legal Aid Awareness on various topics to the villagers.

ABOUT GHERA PANVADI

Ghera Panvadi belongs to Pune Division. It is located 37 KM towards the East from the District headquarters of Pune. Khandala Taluka surrounds Panvadi towards the South and Haveli Taluka towards the West. There are seven Zilla Parishad schools in this village.

INFORMATION OF LEGAL AID CAMP

The teachers and students of TMV's Lokmanya Tilak Law College were greeted by the Sarpanch of Ghera Panvadi village Shri. Bapu Dhagare Patil.

Villagers of Ghera Panvadi were facing some issues relating to land disputes, for which our faculties and students provided the legal inputs and discussed the various legal provisions encompassing the same. The problem pertaining to 7/12 extracts was discussed. We provided information as to where they can file such matters regarding these land disputes and the rights of the villagers and discussed various measures to safeguard their interests in such issues. We also provided them with information regarding different Government Schemes which are exclusively available to the villagers focusing on the betterment of children and women, like:

1. Sukanya Samridhi Yojana (SSY), in which Government offers an investment cum savings scheme, especially for a girl child's parents. It is a long-term plan in which parents are encouraged to invest for their daughters.
2. Pradhan Mantri Matru Vandana Yojana provides money to help ensure the good health and nutrition of the recipients.
3. SWADHAR Gruh is the scheme for women in difficult circumstances and provides shelter, food, clothing, and care to marginalized women/girls in need.
4. The Mid-Day Meal Scheme wherein lunch is provided to the school children.

We also approached other social workers working in Ghera Panvadi, i.e., ASHA Workers who work for the development of that area and others who provide additional facilities to the villagers of Ghera Panvadi.

ASST. PROF. SEEMA PATIL briefly introduced health and reproductive laws to school girls and as well to ASHA workers.

She also provided information about constitutional remedies and also provided information about available Govt. Schemes like the Pradhan Mantri Matru Vandana Yojana (PMMVY), a maternity benefit programme offered by the Government of India under which a cash incentive of Rs. 5,000 is provided to pregnant women and lactating mothers.

The beneficiary has to register her pregnancy at the approved health facility within 150 days from the date of LMP (Last Menstrual Period), which needs to be entered in the MCP (Mother Child Protection) Card. After that, she can apply for availing maternity benefit at Anganwadi Centre or to ASHA/ANM within 730 days from the date of LMP.

ASST. PROF. VIDHYA SHETTY spoke about the principle of gender equality enshrined in the Indian Constitution in its Preamble, Fundamental Rights, Fundamental Duties, and Directive Principles, which empowers the State to adopt measures of positive discrimination in favour of women.

She also discussed some Acts which have special provisions to safeguard women and their interests like The Employees State Insurance Act, 1948 , The Plantation Labour Act, 1951, The Family Courts Act, 1954, The Special Marriage Act, 1954, The Hindu Marriage Act, 1955, The Hindu Succession Act, 1956 along with its amendment in 2005.

AKASH RAMESH KAMBLE LL.B 3rd year student gave information about right to health which included:

- (a) The provision for reduction of stillbirth-rate and of infant mortality and for the healthy development of the child.
- (b) The improvement of all aspects of the work environment and steps to promote women's industrial hygiene.
- (c) The prevention, treatment, and control of epidemic, endemic, occupational and other diseases.
- (d) The creation of conditions that would assure that all medical service and medical attention would be available in the event of sickness for women.

SHIVAM RAJESH KUMBHAR LL.B 3rd year student gave information about PCPNDT Act.

He highlighted a few points from the Pre-Conception & Pre-Natal Diagnostic Techniques Act 1994 (PC-PNDT). He provided information that the Act was formulated in 1994 specifically for pre-natal diagnostic techniques (invasive procedures), and centers were termed as genetic clinics. When the Supreme Court of India in 2001 gave a verdict on a petition filed by an NGO that ultrasound clinics should be brought under the Act, the Government added the term ultrasound clinic everywhere along with the genetic clinic. Most of the problems were faced as a result of this addition.



SACHIN BHANUDAS SHINDE, LL.B 3rd year student, gave information about reproductive health. A woman's reproductive system is delicate and complex in the body. It is essential to protect it from infections and injury and protect the same from long-term health problems. He made the women aware that taking care of themselves and making healthy choices can protect them and their loved ones. Protecting your reproductive system also means having control of your health if and when you become pregnant. He also informed them that women's health and women's reproductive health are high priorities for the Child Development Centre's Division of Reproductive Health.

SHANKAR RAMCHANDRA GOGAWALE LL.B 3rd year student gave information about child care and rights of the Girl Child and gave a brief idea about the following:

- Victims of Discrimination.
- Right to Life.
- Right to Education.
- Right to Health.
- Right to Protection.
- Sexual Abuse and Exploitation.

It was a very enriching experience for all of us to be a part of the Legal Aid Camp. The Camp made us transcend from the classroom to the practical world.

POSITION OF CAB DRIVER UNDER NEW LABOUR CODE

Zeba Mahamud Chaudhari, BA.LL.B 4th year

Labour is incorporated in various entries under List III of Seventh Schedule of the Indian Constitution. Therefore both, the State legislature & Central legislature can make laws relating to them. Presently more than forty Labour Laws exist in India, hence there is much confusion and overriding concurrent laws.

Presently on 23rd September 2020, the Government passed three labour codes:

- The Industrial Relations Code Bill, 2020,
- The Code on Social Security Bill, 2020, and
- The Occupational Safety, Health and Working Conditions Code Bill, 2020.

Along with the Code of Wages passed in 2019, these three Bills stated above have consolidated into various labour laws and four comprehensive Codes.

Due to these Codes, the confusion is eliminated. Also, there is less complexity, and an increase in ease of compliance, and increased accountability and transparency.

The present Government has merged forty-four Labour Acts into these four comprehensive codes for simplifying the process and law relating to it, so that the objective to ease of doing business in the country could be increased. These Labour codes have 411 clauses and 13 schedules affecting every person working in India and every employer.

Santosh Gangwar, the Union Labour Minister, said that the bill should provide a healthy and safe environment for the workers and employees.

Code on Social Security for Unorganized Workers, 2020

The Code on Social Security, 2020 for the first time in Indian law, attempts to define platform work outside of the traditional employment category. Union Minister said that the Code would replace a maximum of nine social security laws, including the Employees' Provident Fund Act, Pension Scheme, and others. The Code is for those working in the unorganized sector, such as migrant workers, gig workers, and platform workers under its range. The fixed -term worker and regular workers would enjoy equal benefits.

Key Points

Under this new bill, Section 2(35) defines a gig worker as a person who participates in a work arrangement and earns from such activities outside of a traditional employer – employee relationship. Section 2(61) defines a platform worker as someone engaged in or undertaking platform work. Section 2 (86) describes an unorganized worker as a home-based, self-employed, or waged worker in the unorganized sector. However, unorganized workers and gig workers, and platform workers have been separately defined under the Code. Unorganized workers are the whole set, and gig worker are sub sets.

Platform work, in the general sense, is defined as a work arrangement outside of a traditional employer- employee relationship. The organization or individual uses an online platform to access other organizations or individuals to solve specific problems or provide specific services or any other activity that the Central Government may notify in exchange for payment.

The gig economy is a free market system where temporary positions are common and organizations hire independent workers for short-term commitments. In short, the term 'gig' means a job or work for a specified or short period of a time.

Significance of Platform Work

- Platform work promises workers to flexibility and ownership over the delivery of work.
- Necessary for delivery of essential services as seen during a pandemic.
- Employment intensive sector.
- Growth for the sector due to the fast pace of urbanization.
- Development of rural areas.

Due to lack of unemployment entry into a platform, work-sharing and food delivery require a vehicle as their asset. Thus, to enter into the work, workers rely on intensive loan schemes facilitated by aggregator companies. This results in dependence on platform companies, driven by financial obligation, thus rendering flexibility and ownership.

Santosh Gangwar, the Union Labour Minister, mentioned that the Code talks about the platform where companies employing gig can make provision for one or two percent of their profits for their work's social security needs.

The Code has considered the interest of many migrant workers, gig workers, and unorganized sector workers and has also ensured operational freedom to manufactures.

Work to bring new employment reforms created with the changing technology like platform worker or gig worker into the ambit of social security has been done in the Social Security Code. To make a national database for unorganized sector workers, all these workers' registration would be done on an online portal and self-certification through a simple procedure.

The most important thing about the Code is that getting a job or to grab an opportunity for this generation becomes simple because all the establishments having twenty or more workers must inform or report about their job vacancy position through an online portal.

Provision of "Social Security Fund" for forty crore unorganized workers along with gig and platform workers like cab drivers will help Universal Social Security coverage.

Issues with the Code

- Platform delivery people can claim benefits, but not labour rights.
- This does not allow them to go to court to demand better and stable pay or regulate the algorithms that assign the task.
- This also means that Government or court cannot put platform companies for lapses, choice of pay, work of hours etc.
- Benefits with no guarantees.

Conclusion

With the population over 1.3 billion and a majority of them below the age of 35, relying on the gig economy, it becomes essential to hand -hold this sector and help it grow. We need policies and processes that clarify the industry and should define functions. The Code has considered the interest of many migrant workers, gig workers, and unorganized sector workers and has also ensured operational freedom to manufactures. Work to bring newer forms of employment created with the changing technology like platform worker or gig worker into the ambit of social security has been done in the Social Security Code. But there are no guarantees for better and more stable days for platform workers, even though they are meant to be the future of work.



SUPREME COURT'S DIRECTIVE ON CCTV INSTALLATION IN POLICE STATIONS

Sudhanshu Pathak, BALLB 4th Year

In its recent decision, the Supreme Court of India ordered all States and Union Territories to ensure that closed-circuit television, or CCTV cameras, with night vision and audio recording, to be installed in every police station of the country. All the cameras installed should be equipped with night vision and must necessarily consist of audio and video footage. The video and audio recordings have to be retained for 18 months for evidence if needed.



The affidavit of compliance to be led by all States and Union Territories and [the] Central Government shall clearly indicate that the best equipment available as of date has been purchased. To ensure that no part of a police station is left uncovered, it is imperative to ensure that CCTV cameras are installed at all entry and exit points, the main gate of the police station, all lock-ups, and outside washrooms other places the court ruled. In India, the police authorities are empowered with some special powers to investigate and collect evidence by the Code of Criminal Procedure, 1973. But at the same time, it should be noted that these powers can be misused easily, and the innocent may suffer because of this, which the law of our country impliedly rejects. One of the main objectives of criminal procedure in India is that no innocent person shall be victimized. So, the Human Rights Commission and Courts of the country can ask for CCTV footage from stations while dealing with complaints against the police relating to custodial torture and deaths, which is a very positive step in the road to achieving justice in India.

ENTITLE M E N T OF MATERNITY BENEFITS TO SURROGATE MOTHER

Shamli Palarpwar, BA.LL.B 4TH YEAR

Dr. B. R. Ambedkar propagated the concept of maternity benefits to Indian women. India witnessed its first Maternity Benefits Act in the Province of Bombay back in 1929. Dr. Ambedkar debated in favour of the bill to be passed, stating that the cost of the compensation should be borne by the Government as well as the employer and that it should apply only to factories since the hardships faced by women in factories is much higher than in any other sector that employed women in the era. Nature has bestowed the beautiful capacity to procreate a life within women, and every woman cherishes the experience of motherhood. Unfortunately, some women, due to certain physiological conditions, cannot give birth to their offspring. The desire for motherhood leads them to search for alternative solutions, and surrogacy presents itself as the most viable alternative.

The maternity benefits regulation in India is principally governed by the Maternity Benefits Act, 1961("Maternity Benefits Act") and the Employees State Insurance Act, 1948. Several other labour laws regulate this area, including The Factories Act, 1948, The Building and other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996, and etc.

- **Surrogacy**

Surrogacy is a process in which a woman agrees to carry a baby for somebody else, like two homosexual people, a single person, or a couple who cannot conceive. Today, many women opt for reproduction through the surrogacy method due to various reasons (health, infertility, etc.).The woman carrying the baby is called a 'surrogate mother,' and the woman opting for this method is called a 'commissioning mother.' Just like an adopting mother, a woman employee who commissions surrogacy, i.e., a commissioning mother, is entitled to maternity leave of 12 weeks from the date of handing over the child under the Maternity Benefit Act.

Surrogacy in India is legal and regulated under the 'National Guidelines for Accreditation, Supervision and Regulation of ART Clinics in India, 2005' framed by the Ministry of Health and Family Welfare. The Surrogacy Bill, 2019 is currently pending in the parliament.

Legislations

The Maternity Benefit Act, 1961 was mainly enacted to maintain women's stability in employment in different areas like factories, mines, plantations and shops, and other different establishments employing ten or more persons, for specific periods before and after child birth, to provide for maternity and other benefits. The 44th session of the Indian Labour Conference had put forth a recommendation to elevate the period of maternity leave under the act from twelve weeks to twenty-four weeks for the benefit of the female employees. Then later during the 45th and 46th session of the ILC (Indian Labour Conference) this proposal for the enhancement of maternity leave was reiterated. Based on the constant requests and urge from ILC and other different quarters along with proper discussions with the stakeholders, it was finally decided to amend the Maternity Benefit Act, 1961. Certain provisions for maternity benefits can also be derived from the Indian Constitution. Article 15(3) empowers the state to frame such laws as may be necessary to provide "protective discrimination" to women and children, and maternity being an important aspect of a woman's life, the Maternity Benefits Act, 2017 (and the Maternity Benefits Act, 1961 before that) is a measure of such protective discrimination.

The Maternity Benefits (Amendment) Bill, 2017: Following are some of the major amendments that have been made to the act:

- The most important provision of the amendment is the increase in paid maternity leave duration from 12 weeks to 26 weeks. However, where a woman has two or more surviving children, she may only be entitled to 12 weeks of paid leave.
- The amendment also acknowledges the struggles of surrogate mothers and adoptive mothers to a certain extent. They may claim paid leave for 12 weeks starting from the day the child is handed over to them. However, this may only be claimed if the child is

below three months of age.

- The amendment also makes provision for “work from home” after the maternity leave of a period of 26 weeks is over. This may be on terms mutually agreed upon by the woman and her employer.
- The amendment makes it mandatory for all employers to inform the women employees of the benefits available to them under the Maternity Benefits Act.
- The amendment also obligates all employers, with 50 or more employees, to make provisions for creche facilities. The mother may visit the creche facility four times a day.

Assisted Reproductive Technologies (ART) Bill, 2008

- The bill mandated that a foreigner or foreign couple not residing in India or a non-resident Indian individual or couple seeking surrogacy in India appoint a local guardian who would be legally mandated to take care of the surrogate after pregnancy till delivery of the child to the foreigner or foreign couple or the local guardian. The commissioning parents or parents were legally bound to accept the child's custody irrespective of any abnormality that the child may have. The refusal to do so was deemed an offense. A surrogate mother was to relinquish all parental rights over the child. The birth certificate regarding a baby born through surrogacy was to bear the name(s) of genetic parents/ parent of the baby.
- The child born through surrogacy was presumed as the legitimate child of the couple or the single person. The case may be if the commissioning couple separated or got divorced after going for surrogacy. However, before the child's birth, then the child was to be considered the legitimate child of the couple.
- The bill did not allow the couple or individual to utilize the service of more than one surrogate at any given time.
- According to Section 10 of the Indian Contract Act, all agreements are contracts if they are made by the free consent of parties competent to contract, for a lawful consideration and with a lawful object, and are not expressly declared to be void. Therefore, if the surrogacy agreement satisfies these conditions, it is an

enforceable contract. Thereafter, under Section 9 of the Code of Civil Procedure, it could be the subject of a civil suit in a Civil Court for adjudication of all disputes related to the surrogacy agreement and for a declaration/ injunction as to the relief prayed for.

- It was mandated that one of the intended parents be a donor as well, since it would help develop a bond of love and affection with the child due to the existence of a biological relationship. It was also thought that the chances of child-abuse and neglect, often observed in cases of adoptions, would be reduced. In case the intended parent was single, he or she was supposed to be a donor to have a surrogate child. Otherwise, adoption was the method used to get the child if the biological (natural) parents and adoptive parents were different.

Surrogacy (Regulation) Bill, 2018

- Commercial surrogacy is banned, and altruistic surrogacy is allowed for Indian married couples who are infertile.
- The surrogate mother and the couple must be close relatives. However, the Bill does not define who the 'close relative' may be.
- A National Surrogacy Board and State Surrogacy Boards at the national and state levels must be set up to regulate the practice of surrogacy.
- The surrogate mother and the couple need eligibility certificates from the appropriate authority in order to proceed.
- The Bill only allows Indian couples to conceive through surrogacy. Foreigners, Non-Resident Indians, Overseas Citizens of India, single people, homosexuals, live-in couples, and married couples who already have a child are not allowed to avail of surrogacy except if they have a child who is physically or mentally challenged or is suffering from a life-threatening disease.
- For altruistic surrogacy, the woman's age must be 23-50 years, and the age of them and must be 26-55 years. The couple should be married for at least five years.
- The surrogate mother should be aged between 25 -35 years and can act as a surrogate mother only once.

- Any order concerning the child's parentage and custody to be born through surrogacy is passed by a Court of the Magistrate of the First Class.
- All surrogacy clinics shall be registered under this Act after the appropriate authority is satisfied that such clinics can provide facilities and maintain equipment and standards, including physical infrastructure and diagnostic facilities, as prescribed in the rules and regulations. These clinics shall maintain all records for the next 25 years.
- The Board shall be constituted by the Minister in charge of the Ministry of Health and Family Welfare who shall be the Chairperson, Secretary to the Government of India in-charge of the Department dealing with the surrogacy matter who shall be the Vice-Chairperson and three female Members of Parliament, out of whom two shall be elected by the House of the People and one by the Council of State as Members.
- There shall be a provision of a gestation period of ten months from the date of coming into force of this Act to protect existing surrogate mothers' wellbeing.
- The couple shall not abandon the surrogate child under any condition.

Conclusion

Between the years 2002 to 2018, India had become a hub for commercial surrogacy, and this practice was unregulated since there was no legislation governing surrogacy. However, commercial surrogacy was banned in 2018, and a lot of regulations were put in place. However, instead of banning an idea totally, regulations should be made so that the concept doesn't become exploitative or doesn't get misused. A woman should be saved from exploitation, but she should be the final decision-maker as far as her body is concerned. Instead of making surrogacy exclusive for infertile married couples, the State should ensure that everybody gets the chance to procreate, and those who help them in doing so get their due, financially or otherwise. A country's laws reflect the attitude of its people and every nation should aim to move forward with the times instead of going back in time by making regressive laws. The practice of surrogacy has been marred by many controversies and the issue of what should be allowed morally.

INSURANCE BROKERS UNDER THE AMBIT OF OMBUDSMAN ACT

Krutika Kishor Bhat, BA.LL.B 4th Year

An ombudsman is an official person appointed for redressal of complaints filed by the public against institutions such as banks, NBFC's, insurance companies, body corporates, etc. Ombudsman is also referred to as 'Public Advocate.' The cases referred to the ombudsman are usually of maladministration or violation of rights. He is a person of integrity and independence. This is an amicable way of settling disputes as the ombudsman must redress the complaints through mediation or recommendations. Similarly, an insurance ombudsman is a position created for the redressal of grievances of individual policy holders.

Insurance companies are regulated by Insurance Regulatory and Development Authority Act, 1999 (IRDAI), and further rules and regulations are made by the Union legislature in India. In exercise of the powers conferred by the Insurance Regulatory and Development Authority Act, 1999 and following The Redressal of Public Grievances Rules, 1998, the office of insurance ombudsman was established by the Central Government. The Ministry of Finance amended the Insurance Ombudsman (Amendment) Rules, 2021, which brought insurance brokers within the insurance ombudsmen's ambit.

The Act defines Insurance broker as a person who has been granted a registration certificate as an insurance broker by the concerned authority. Ombudsman offices hear cases against insurance brokers relating to non-payment of claims, repudiation or partial payment, premium payable, policy servicing.

Now, these insurance brokers have been brought under the ambit of ombudsman mechanism. After the amendment, the power to pass an award against the insurance broker has been granted to the ombudsman. Resultantly, the insurance ombudsman shall now receive and consider complaints relating to the deficiency in insurance services provided by insurers and matters arising out of violation of the provisions or rules of the Insurance Act, 1938 or the IRDAI Regulation, 2017 and violation of terms and conditions of the policy contract which was limited to disputes only.

Reasons for amendment

The committee headed by Lok Sabha member Raghurama Krishnaraju Kanumuru reported that 74% of the ombudsman's complaints were declared non-acceptable and non-maintainable, according to the 2017-18 annual report of the insurance regulator IRDAI. India has 17 insurance ombudsman centers that have many pending cases and do not have sufficient staff strength to timely dispose of complaints against insurance companies. The panel remarked that the Ombudsman Rules, 2017 are not sufficient to carry out the Insurance Regulatory and Development Authority Act's objectives, 1999 to protect policy holders' interest.

Position after the amendment

The amendment is a step forward to e-governance in the insurance sector. The amendment allows policyholders to file online complaints. It has enlarged the scope of complaints as well. It introduced ICT-enabled complaint redressal, which enables to lodge complaint select ironically. The status of lodge complaints can be tracked online.

Previously, complaints were heard in person, but considering the need of changing time during pandemic the amendment has also empowered the ombudsmen to undertake hearings in Video-conferencing mode.

The amendment strengthens the ombudsman selection process's independence and integrity and the independence and impartiality of the appointed persons while serving as ombudsmen.

After the amendment executive council of insurers, which administers the ombudsman mechanism, has been renamed the council for insurance ombudsman.

Qualification and Appointment of ombudsman

According to the laws laid down, an ombudsman shall be selected from the insurance industry, civil service, administrative service, or judicial service by the selection committee.

The committee shall be comprised of

- The Chairperson of the Insurance Regulatory and Development Authority of India is also the Chairman of the selection committee.
- One representative each of the Life Insurance Council and the General Insurance

Council from the Executive Council of Insurers.

- A representative of the Government of India not below the rank of a Joint Secretary.
- The selection committee will now include an individual with a track record of promoting consumer rights or advancing the cause of consumer protection in the insurance sector.

Hence, it can be said that the Insurance Ombudsman (Amendment) Rules, 2021 will strengthen the timeliness and cost-effectiveness of the mechanism. The amendment will remove the difficulties in the bureaucratic procedures involved in complaint filling and follow-up. Bringing insurance brokers within the preview of the ombudsman will help in addressing policyholder concerns effectively. It is better late than never kind of amendment.



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