

CONTRACT OF INDEMNITY AND CONTRACT OF INSURANCE: A STUDY IN INDIAN SCENARIO

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ABSTRACT

Contract of insurance and contract of indemnity are the species of a same genus. All contracts of insurance are not contracts of indemnity. But all general insurance contracts are contracts of indemnity under section 124 of Indian contract Act is questionable one. In this paper, I proposed that the section 124 and 125 of Indian contract Act are applied to contract of insurance (except life insurance) also. Insurance and Guarantee are the species of a same genus .i.e., indemnity or in other words the contract of insurance and the contract of Guarantee are the development on contract of indemnity. Similarly, the doctrine of Subrogation has been introduced to carry out the fundamental rule that of indemnity. Every contract of Insurance, except life assurance, is a contract of indemnity and no more than an indemnity. Under English Law, the word “indemnity” carries a much wider meaning than given to it under the Indian Act. Under English law, a contract of insurance (other than life insurance) is a contract of indemnity. Life insurance contract is, however, not a contract of indemnity, because in such a contract different consideration apply. A contract of life insurance, for instance, may provide the payment of a certain sum of money either on the death on a person or on the expiry of a stipulated period of time (even if the assured is still alive) Indian Contract Act does not specifically provide that there can be on implied contract of indemnity.

KEYWORDS: *Contract, Indemnity, Insurance. Liability*