

PGDM (Insurance Business, 2015-17)

Marine Cargo & Hull Insurance

Code:- INS-406

Trimester – IV, End-Term Examination, September-2016

Time allowed: 2½ Hours

Max Marks: 50

Roll No: _____

Instruction: Students are required to write Roll No on every page of the question paper, writing anything except the Roll No will be treated as **Unfair Means**. In case of rough work please use answer sheet.

Part-A

Attempt any 3 questions. Each question carries 5 marks. No answer should have more than Two Hundred Fifty words.

- A.1. In the commercial age of today marine insurance has become most important in the field of international trade. Discuss.
- A.2. (a) Differentiate between liner and tramp vessels and their relevance to the marine insurance.
(b) What is the relevance of a bill of lading in a marine cargo transaction?
- A.3. Before insuring a vessel the underwriter must assess the Physical hazard; Quality of Management and Moral hazard. Explain.
- A.4. Explain the transit clause of an Institute cargo clause, when insurance attaches and when it is terminated.
- A.5. In relation to marine insurance answer the following:
i) When is a marine adventure illegal under M I Act?
ii) When should insurable interest must be there?
iii) What is a valued policy?
iv) What is a warranty in Marine insurance law and what is the effect of its breach?
v) What are different types of loss under Marine insurance?

Part-B

Attempt any 2 questions. Each question carries 10 marks. No answer should have more than Six Hundred words.

- B.1. What is a Sales Turnover Policy and what the advantages of such a policy How would you arrive at rate of premium of a STOP explain with an example
- B.2. (a) There are various Trade clauses used for different commodities List down the various trade clauses used for which commodities
(b) What coverage is provided by Aircraft Hull & Liability Insurance?
- B.3. (a) The MV Samrat was insured under Institute Time Clauses – Hulls 1/10/83 for a sum of US\$10,000,000, with a deductible of US\$ 50,000. She was involved in a collision with another vessel, which resulted in the following:

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(i) Damages to MV Samrat which were US\$300,000 for repairs and Damages to another vessel caused by collision with MV Samrat: \$ 200,000.

(ii) MV Samrat's liability for the damages was agreed with the other vessel at 75% and 25% basis.

(iii) Demurrage charges to MV Samrat was \$ 100,000 and that of another vessel \$ 50,000.

(iv) Damages to cargo of MV Samrat arrived at \$50,000 and that of another vessel \$ 70,000.

Besides there were claims for personal injuries against MV Samrat were \$ 250,000 and damages to the quay wall for \$ 50,000.

Another vessel was also insured under ITC-Hulls for \$5,000,000 with deductible of \$30,000.

Calculate the liability of vessel A with detailed workings.

- (b) What are the carriers' obligations for seaworthiness of vessel as per Hague-visby rules and what are the various exceptions to liability of the carrier?

Part-C

Case Study: Compulsory question.

Carries 15 marks.

Three shipments of laminated truck flooring (hereinafter, "LTF") were sent from Malaysia to California via Singapore in the late spring and summer of 2009. The shipments belonged to the Mariya co (Insured Plaintiff) who insured them under All Risks (ICC-A) for their declared value against damage while in transit through underwriters represented by the Defendant, "Insurer".

At one point in the voyage, feeder vessels were used to transport the LTF between Malaysia and Singapore. At all material times it appears that it was known to the relevant parties arranging the transportation of the LTF that temperatures inside the holds of the feeder vessels could reach upwards of 45 degrees centigrade.

When the shipments arrived in California, the LTF was rejected by the end-purchaser due to damage to the LTF consisting of water staining and cracking and/or delamination of boards. The Plaintiff made a claim on their insurance policy, but coverage was denied by the Insurer. Accordingly, the Plaintiff commenced the legal action seeking coverage under the policy.

All parties agreed that the relevant policy of insurance was to be interpreted according to English law and usage.

In the Trial Court insurer alleged that exclusion of Inherent vice applied and the cargo owner alleged carriers negligence in the care and handling of cargo

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At the end of the day, Cullen J. Trial Judge found that the loss was covered under the policy of insurance, stating that the proximate cause of the damage was the more heat in the holds of the feeder vessels than the surrounding natural environment.

*The heat and equilibrium moisture content which the cargos were exposed to in the holds were significantly different and more extreme than those in the surrounding **natural environment**, which is why... they dried dramatically and repeatedly... In that I see a meaningful distinction between the cargos at bar and [other cargo in prior inherent vice cases], because in the [prior inherent vice cases] it was a situation where the [other cargo]... simply interacted with the surrounding **natural environments** they were exposed to in the normal course of their voyage. In the case at bar, on the other hand, the environments the cargos interacted with were abnormally and unnaturally amplified in the hold...*

*I conclude, in the case at bar, the damage leading to the loss claim was not due to the inherent vice or nature of the cargos, as pleaded by the defendants, but rather was caused by the fortuity of being put in holds which substantially altered the **normal environment** to which the cargos would be exposed between Malaysia and Singapore.*

The insurer moved to Court of Appeals against the judgment This case was like the **Noten** case which related to a shipment of leather gloves in a container In the Noten case the lower court also held in favor of cargo owners but in the Court of Appeals this was reversed in favor of the insurer on the basis that the loss was due to pre-shipment staining caused by moisture in the leather gloves The Court of appeals held that moisture was already within gloves prior to loading and that during transit the moisture in gloves escaped and was carried to container roof by the war air rising in the container The moisture laden air then condensed and fell on the gloves(stowed in cartons) resulting in the gloves being stained No fortuity occurred and damage to gloves was not due to external cause but was natural occurrence

Further, where was the fortuitous event in this case? There was no accidental loss, but only a loss that was bound or even certain to happen given the nature of the LTF **while on the known voyage in question**. The temperatures within the holds of the feeder vessels were not abnormal in that they were more extreme than expected. In fact, it appears that the temperatures were exactly those in which all parties arranging the voyage knew would be present at all relevant times. The temperatures could only be considered as extreme or different when compared with the general, surrounding environment; but the cargo was never intended to be transported in the surrounding environment.

Had this been a case where the Insured had adduced evidence to establish that the temperatures in the holds of the feeder vessels were substantially beyond what was to be expected in the ordinary course of the carriage concerned, it might then have been said that the cause of the damage to the flooring was fortuitous, subject to the significance to be attached to the moisture absorbed while the flooring was awaiting shipment. That was, however, not the case the Insured sought to prove at trial. It would seem, for that obvious

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reasons, no evidence about the conditions to be expected was adduced, and it seems to me improbable that evidence of that kind ever existed, particularly when the environmental conditions in which the damage occurred were apparently the same in all three of the feeder vessels involved.

In any event, the damage to the flooring was, as far as the evidence goes, caused by the escape of moisture absorbed prior to the commencement of each shipment in conditions that were not established to have been other than what was to have been expected in the ordinary course of voyages from the two Malaysian ports to Singapore at the time that the three shipments were transported. The cause of the loss was, in that sense, internal to the flooring. As such, the loss has not been shown to have been caused by a fortuitous occurrence external to the flooring; rather, on the evidence adduced, it was attributable to the nature of the subject matter of the insurance. It cannot be said that it was a fortuity that the cargo was loaded into vessels where the environmental conditions were significantly different than the ambient conditions without it having been established that the difference was other than what was to be expected for the subject carriage. If the conditions were not significantly inconsistent with the ordinary incidents of the carriage, this case becomes indistinguishable from *Noten*.

It follows that I come to a different conclusion than did the trial judge as to whether the evidence established that the loss was caused by a fortuitous occurrence. In my respectful view, it did not.

Q1 Identify the issues in this case

Q2 Analyse evaluate and conclude each issue with the support of leading cases and clauses
