



WORLD WIDE CLAIMS SERVICES

THE ART OF CLAIMS HANDLING
**The secret of success in claims handling is knowing
how to say “ no” nicely !**

SECURE THE CLAIMS

There have been many reported cases of ships being sold/scrapped and Ship owners closing shop leaving behind unpaid claims. Even if a claim is good on merits, it will not be possible to recover it if the Ship owner does not exist or do not have any assets. Filing a suit and obtaining a judgment which cannot be executed is a waste of time and money. In such situations, there is no other alternative but to write off the recovery.

A Cargo Underwriter settled a claim for USD 88,000 under their Policy in respect of damage to a cargo of cement in Port Sudan. Recovery was initiated against the Ship owner based in Europe. Their P&I Club took over the claim handling and commenced negotiations. Some offers were made which were not accepted and the negotiations continued. In the meantime, the Ship owner ceased operations and the P&I Club expressed their helplessness to proceed further. They were not even in a position to honour the offer made earlier. Legal action against the Ship owner was ruled out as it was a single-ship Owner without any other assets.

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A vessel discharged a consignment of steel sections at Jebel Ali and sailed. When the consignee proceeded to take delivery, it was found that most of the cargo has suffered severe mechanical damages by way of indentation / cuts at varying lengths. Following a survey, the damage loss was assessed at about USD 200,000. It took about 7 months for the cargo Underwriter to process and settle the claim under the Policy. By the time the claim was taken up for recovery, the ship was scrapped and the Ship owner had ceased operations. In the absence of any recovery, the Underwriters had to write off the claim.

A vessel fully laden with general cargo grounded while approaching the discharge Port. All attempts to refloat the vessel failed. They managed to offload some of the cargo and the vessel subsequently sank with the balance cargo onboard. One cargo Underwriter had insured a consignment valued at USD 80,000 which was lost completely. The claim under the Policy was settled about 8 months after the vessel's sinking. When the claim was taken up for recovery, the ship's Managers advised that -

- The grounding of the vessel was due to "error of navigation", which is one of the immunities available to Ship owners under the Hague Rules.
- The Ship owner has ceased operations following the loss of the vessel which is the sole ship owned by them.

The first argument is a legal issue with the burden of proof on the Ship owner. As for the second point, the complications arising from such situation could have been avoided if initiative was taken immediately following the grounding to obtain security from the Ship owner/their P&I Club. There was a period of time between the grounding and sinking of the vessel when there were exchanges involving Owner's P&I Club / lawyers representing the Ship owners and Salvors / Cargo interests. During that time, the cargo interests could have attempted to obtain a suitable security to protect the eventual claim. The delay cost them dearly.

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These incidents emphasize the need for cargo interests to secure their claims with adequate guarantee especially when substantial sums are involved or when dealing with unreliable and/or one-ship Owners who are likely to disappear overnight. This should be done immediately rather than later. It usually takes a few months for cargo underwriters to settle claims under their policies and take them up for recovery. By that time, the ship may be sold/scrapped. It is therefore advisable to obtain adequate security from the Carrier immediately upon discharge and prior to its sailing. This calls for prompt assessment of the potential claim before the vessel's sailing.

It is advisable to have the security in the form of a guarantee from a reputed local bank. Letter of Undertaking from the Carrier's local Agent may also be considered if they are a well established reputed company. The wordings of the guarantee should be carefully wetted before accepting it.

Once such security is obtained and the claim is secured, it does not matter if the ship is scrapped or the Ship owner is no longer existing. The party who issued the guarantee will remain liable to pay.



Cricket and Insurance

It is said that anything under the sun can be insured. Tailor-made insurance packages can be made to suit everyone's needs. It is reported that for the recently concluded Indian Premier League, the Indian Cricket Board purchased insurance cover worth about USD 152 million to cover loss of revenue from sale of broadcast and other rights *if any of the matches fail to take off*. The policy covered various reasons including weather, civil strife, terrorist activity etc. *But the cover ceases the moment the first ball is bowled !* The objective of the cover is to prove that the Board has done

everything to ensure that the match takes place. The fact that the umpire allowed the match to begin and a ball is bowled is the proof that the Board has done its bit !

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News Letter

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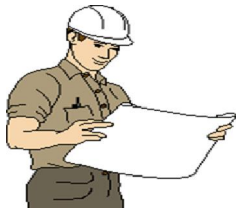


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CAPTAIN / ENGINEER / AGENT



*A **Captain** is a man who knows a great deal about very little. He goes on knowing more and more about less and less until finally he knows practically everything about nothing.*



*An **Engineer**, on the other hand, is a man who knows very little about a great deal. He keeps on knowing less and less about more and more until he practically knows nothing about everything.*



*A **Ship's Agent** starts out knowing practically everything about everything. He ends up knowing nothing about everything due to his association with Captains and Engineers.*

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