Insurable interest

Explain and discuss the impact of the Draft Insurable Interest Bill on the law of insurable interest in regard to <u>either</u>:

a) Life insurance

<u>or</u>

b) Property insurance (other than marine insurance).

Insurable interest is associated with an individual who gets a direct impact either regarding financial or any other kind of loss, in the event the risk covered occur. Hence, an individual who is not directly affected by the occurrence of a peril insured, cannot be said to have an insurable interest. Therefore, the state enacts laws and policies that will guide on the implementation and interaction between its citizens and the insurance companies, to ensure that there is the elimination of any kind of exploitation between the two parties.[1] Hence, the current bill has outlined provisions that explore the insurable interest aspect, which determines the legibility and validity of a claim. The contract of life insurance protects the insurer in case of his or her death, incapacity to perform former duties, injury, and ill-health as the insured events.[2] This paper will discuss the impacts the narrated insurable interest bill has on the insurable interest of a life insurance.

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[1]Robert Merkin, *Merkin Colinvaux's Law of Insurance* (9th edition, Sweet and Maxwell 2010)

[2] Peter Swisher, 'The Insurable Interest Requirement For Life Insurance: A Critical Reassessment' LFP 77.

The law stipulated in the insurable interest bill suggests that life insurance is void, unless if at the time of formulation of the contract, the insured ought to have an insurable interest on the subject covered. This ensures that all the claims compensated by the insurance companies are legal and no one benefits from an event in which he or she did not have a direct loss.[3] For instance, a father can underwrite his young son, since, the occurrence of the covered risk such as injury will have an immediate effect on the father. In the case, Lucena v. Craufurd, the insurable interest was defined as "if the event happens, the party will gain an advantage, if it is frustrated, he will suffer a loss." Additionally, it eliminates chances of cost-sharing, where an individual may avoid paying for his or her insurance plan, in the hope of benefiting from one paid by his or her friend as a benefactor.[4]

An individual's insurable interest exists if he or she is insured by a particular insurance company. The contract signed between an individual and the payment of the installments agreed validates the insurable interest of a person, in case the peril insured occurs. For instance, if a person covers himself on a life insurance plan and pays all his premiums, he or she can claim

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[3] Peter Swisher, 'The Insurable Interest Requirement For Life Insurance: A Critical Reassessment' LFP 77.

[4] Kai Liu, 'Insuring against health shocks: Health insurance and household choices' [2016] JHE 16.

compensation from the company, if he or she is injured to an extent, where they cannot continue with their regular duties or demises[5]. However, if an individual has not entered into a contract with an insurance firm, or fails to pay for the premiums agreed continuously, his or her claim becomes void. Hence, the insurance companies are only obligated to offer reimbursement to who have paid for their premiums.[6]

Additionally, insurable interest is considered valid if, such a person is, or considered to be a child or the grandchild of the insured party. This portion ties insurable interest to family ties. In this case, a parent will incur direct losses once his or her son is affected by the insured peril.[7] Additionally, a grandchild represents a tight bond between the two, hence, in case of the occurrence of the risk protected, the grandmother or father of such a child will incur direct losses either financially or emotionally. For instance, a parent can include his or her children in his beneficiary list, and in turn, cover the life of the grandchildren.[8] However, a person cannot insure a friend's child, regardless of the connection existing between the two parties. This act has facilitated the

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[5] Ibid.

[6] Emeric Fisher, 'The Rule of Insurable interest and the principle of indemnity: Are they measures of damage in property insurance' [1981] WMLS 23.

[7] Vijay Prashanth, *Necessity of Insurable Interest in Insurance Contracts: Corporate Law Case* (first edition, All India Reporter 2008).

[8] Robert Merkin, *Merkin Colinvaux's Law of Insurance* (9th edition, Sweet and Maxwell 2010)

adoption of one insurance policy to cover or compensate any of the members of a family. It has significantly cut into the processes and costs incurred in covering separate members of a family and claiming for compensations of the insured, in case of the holder's demise or alterations in his or her body functions.[9]

Additionally, the insurable interest is considered binding if, the person insured is a civil partner or spouse, or lives with the first insured person. This policy legalizes the sharing of an insurance policy between partners. Hence, once two individuals are legally married, the spouse has an insurable interest and consequently can be compensated in the event that the peril insured against occurs. However, if there is the absence of the legal bond, one loses the insurable interest.[10] Thus, this policy helps to incorporate the married couples under one insurance cover, which will cater for any perils happening to either of them. Therefore, this reduces the overall costs incurred by couples and families in ensuring that their members are covered and guarded against any risks occurring in their life.[11]

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[9] Robert Merkin, *Merkin Colinvaux's Law of Insurance* (9th edition, Sweet and Maxwell 2010)

[10] Peter Swisher, 'The Insurable Interest Requirement For Life Insurance: A Critical Reassessment' LFP 77

[11] Kai Liu, 'Insuring against health shocks: Health insurance and household choices' [2016] JHE 16.

The insurable interest is valid if the individual under the cover is a member of the pension scheme of any other program and the insured person is a trustee in such a plan. This gives the next of kin the privilege of an insurance cover. This substantiates that, if an employee is a member of a pension saving group, he or she can nominate a trustee, who will have the privilege to claim the reimbursement of the savings garnered throughout the period, or the payment to compensate the defect caused to the insured in case the peril occurs.[12] For instance, an example of a teacher who has invested in a retirement benefit fund. If such an arrangement offers insurance package, the trustee or the next of kin selected has the insurable interest to claim on such savings, if the holder dies before his or her retirement session reaches. Thus, this ensures that such savings are reclaimed by the individuals mandated by the owner, rather than bring conflicts on who to inherit such savings or insurance money. Similarly, it also ensures that such funds and savings will be retrieved rather than go unused in the hands of the insurance companies or the pension schemes.[13]

Additionally, the insurable interest act has eliminated the possibility of adoption of policies that do not benefit the holder of an insurance contract. Hence, an individual cannot insure a risk that does not cause direct or indirect economic loss if it occurs. For instance, an individual can

[12]Robert Merkin, *Merkin Colinvaux's Law of Insurance* (9th edition, Sweet and Maxwell 2010)

[13]Ibid

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protect his life against death. This means that, once the individual dies, his next of kin will be compensated. This is because the passing of such an individual will have an economic impact on the dependents left behind. However, one cannot insure against himself against wear and tear of his or her clothes.[14] Such an occurrence will not prevent an individual from engaging in the day to day activities. Thus, this regulation helps in ensuring that the insurers incur significant costs, which are relevant and worth of their money. This eliminates chances of exploitation by the insurance companies, which would encourage such covers for their financial gains.[15]

In conclusion, the paper has discussed on the application and impacts of the insurable interest bill. Its main aim was to regulate the interactions between the insured and the insurance companies and to eliminate any forms of exploitation between the two parties. For instance, the act tries to define who possesses the insurable interests, and the individuals who can be delegated to benefits from the compensation. An insured can also have an insurable interest on the assured, if such a person is the child or grandchild of the insurance holder, or if such if the two are lawful couples. Additionally, one if an individual is a participant in a savings or pension plans, his or her trustees is also included as insurable interests. Finally, the insurer is said to possess an insurable

[14]Tony Steuer, *Questions and Answers on Life Insurance: The Life Insurance Toolbook* (2nd edition, Pearson 2015)

[15] English and Scottish Law Commissions, (2008) Report on insurable interest. [2008] vol1, ch 3.

interest in an individual if there is a possibility that the insured will incur economic impact if the insures peril occurs. Thus, this has provided the necessary guidelines on the interaction between the insured and the insurance company to promote smooth operation of the sector.

References

Emeric Fisher, ‘The Rule of Insurable interest and the principle of indemnity: Are they measures of damage in property insurance’ [1981] WMLS 23.

English and Scottish Law Commissions, (2008) Report on insurable interest. [2008] vol1, ch 3.

Kai Liu, ‘Insuring against health shocks: Health insurance and household choices’ [2016] JHE 16.

Peter Swisher, ‘The Insurable Interest Requirement For Life Insurance: A Critical Reassessment’ LFP 77.

Robert Merkin, *Merkin Colinvaux’s Law of Insurance* (9th edition, Sweet and Maxwell 2010).

Tony Steuer, *Questions and Answers on Life Insurance: The Life Insurance Toolbook* (2nd edition, Pearson 2015)

Vijay Prashanth, *Necessity of Insurable Interest in Insurance Contracts: Corporate Law Case* (first edition, All India Reporter 2008).