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PHÂN TÍCH GIẢI QUYẾT TRANH CHẤP HỢP ĐỒNG BẢO HIỂM: TRƯỜNG HỢP CÔNG TY CỔ PHẦN THƯƠNG MẠI VÀ VẬN TẢI BIỂN PHƯƠNG ĐÔNG VÀ TỔNG CÔNG TY BẢO HIỂM PETROLIMEX

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Tóm tắt

Ngành bảo hiểm và giải quyết tranh chấp hợp đồng bảo hiểm đang đóng vai trò ngày càng quan trọng trong xã hội hiện đại. Báo cáo này phân tích chi tiết chủ đề trên thông qua trường hợp tranh chấp giữa Công ty Cổ phần Thương mại Vận tải Phương Đông và Công ty Bảo hiểm Petrolimex. Thông qua việc phân tích trường hợp này, tác giả sẽ làm rõ bản chất của tranh chấp, khung pháp lý điều chỉnh hợp đồng bảo hiểm, và cơ sở lý thuyết của lĩnh vực bảo hiểm. Nội dung nghiên cứu tập trung vào các khái niệm chính như chuyển giao rủi ro, đối tượng bảo hiểm, và phạm vi bảo hiểm, đặc biệt là bảo hiểm thân tàu nhằm bảo vệ chủ sở hữu khỏi các thiệt hại về vật chất đối với con tàu và chiến lược được sử dụng để giải quyết tranh chấp hiệu quả. Qua nghiên cứu này, nhóm

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tác giả hy vọng sẽ cung cấp những hiểu biết có giá trị cho các cá nhân và doanh nghiệp đang tìm cách nâng cao nhận thức và cải thiện thực tiễn trong ngành bảo hiểm.

Từ khóa: bảo hiểm thân tàu, giải quyết tranh chấp hợp đồng bảo hiểm, nguyên tắc bồi thường

ANALYSIS OF INSURANCE CONTRACT DISPUTE SETTLEMENT: A CASE STUDY OF ORIENTAL SHIPPING AND TRADING JOINT STOCK COMPANY AND PETROLIMEX INSURANCE CORPORATION

Abstract

In the modern world, the analysis of insurance contract dispute settlement becomes crucial in the context of the increasingly important role of the insurance industry. This research explores this subject in more detail with a specific case involving Oriental Shipping and Trading Joint Stock Company and Petrolimex Insurance Corporation. Through this case study, we will explore the nature of the dispute, the legal frameworks governing insurance contracts, theoretical underpinnings of insurance, focusing on key concepts such as risk transfer, the object of insurance, and the scope of coverage, with particular emphasis on hull insurance, which protects shipowners against physical damage to their vessels, and the strategies employed for resolution. By doing so, we hope to provide valuable insights for individuals and businesses seeking to enhance understanding and improve practices within the insurance industry.

Keywords: hull insurance, insurance contract dispute settlement, indemnity

1. Introduction

The insurance industry plays a pivotal role in the global economy, providing essential mechanisms for risk management and financial protection. As businesses and individuals navigate an increasingly complex landscape of risks—ranging from natural disasters to economic uncertainties—the reliance on insurance contracts has grown significantly. However, disputes often arise between insurers and insured parties due to differing interpretations of policy terms, exclusions, and the scope of coverage. These conflicts can lead to protracted legal battles, arbitration, or negotiated settlements. Understanding how these disputes are resolved is essential for both insurers and insured parties to navigate the complexities of contract enforcement, policy coverage, and liability.

In this context, the analysis of insurance contract dispute settlement becomes crucial. Disputes may arise over various issues, including coverage interpretations, claim denials, or the extent of liability, necessitating effective resolution mechanisms. This study focuses on a specific case involving the Oriental Shipping and Trading Joint Stock Company and Petrolimex Insurance Corporation, highlighting the complexities and challenges inherent in the dispute settlement process. By examining this case, we aim to uncover the underlying factors that contribute to disputes in insurance contracts and evaluate the methods employed for their resolution.

Understanding the dynamics of insurance contract disputes not only sheds light on the operational challenges faced by insurers and insured parties but also emphasizes the importance of clear communication and comprehensive policy drafting. Moreover, it underscores the necessity for robust regulatory frameworks and effective dispute resolution mechanisms to foster trust and stability in the insurance sector. This analysis will contribute to the broader discourse on risk management and insurance, providing insights that are vital for practitioners, policymakers, and scholars alike.

Through this case study, we will explore the nature of the dispute, the legal frameworks governing insurance contracts, and the strategies employed for resolution, ultimately aiming to draw lessons that can enhance future practices in the insurance industry. By doing so, we hope to highlight the significance of effective dispute management as a critical component of risk management strategies, ensuring that the insurance system functions as a reliable safety net for individuals and businesses alike.

Moreover, in this context, the analysis of insurance contract dispute settlements offers valuable insights into the workings of the insurance industry. This study explores the theoretical underpinnings of insurance, focusing on key concepts such as risk transfer, the object of insurance, and the scope of coverage, with particular emphasis on hull insurance, which protects shipowners against physical damage to their vessels. By examining the structure and interpretation of insurance contracts, we can better understand the factors that lead to disputes and the mechanisms used to resolve them.

2. Theorectical framework

2.1. Concept and Object of Insurance

Insurance is a risk transfer mechanism where one party, the insured, pays premiums to another party, the insurer, to compensate for potential future losses (JoAnne et al., 2018). In essence, it provides financial security against specified risks. The central objective of insurance is to mitigate the impact of uncertain and potentially catastrophic events by distributing risk across a larger pool of policyholders. This way, individuals or companies can protect their assets and operations from events like accidents, natural disasters, or financial loss.

In accordance with Winward, in the context of marine insurance, the object of insurance is often related to ships, cargo, or liabilities associated with maritime operations. Hull insurance specifically covers damage to the ship's hull and machinery, protecting shipowners from the costs of repairs or total loss (Windward, 2024).

2.1.1. Concept of Insurance

Insurance is fundamentally a financial arrangement that provides protection against potential risks and uncertainties that can lead to financial loss (Investopedia, 2024). It is based on the principle of risk pooling, where individuals or entities contribute to a common fund to cover losses incurred by some members of the group. This concept is crucial in managing the unpredictability of life and the vulnerabilities associated with property ownership.

- Understanding Risk

Life and property are subject to various risks, including:

- Life Risks: These include the risk of death, disability (temporary or permanent), and illnesses that can lead to substantial medical expenses. The loss of a breadwinner not only impacts the emotional well-being of a family but also results in a significant loss of income, which can jeopardize the family's financial stability.

- Property Risks: Property can be threatened by various hazards such as fire, theft, natural disasters (like floods and earthquakes), and man-made incidents. Such events can lead to the complete or partial loss of property, affecting the income and assets of individuals or businesses.

- Mechanism of Insurance

Insurance operates on several key principles:

- Premium Payments: Individuals pay a premium to the insurance company in exchange for coverage against specified risks. This premium is determined based on the level of coverage, the type of insurance, and the associated risks (Investopedia, 2019).

- Insurance Contracts: An insurance policy is a legally binding contract that outlines the terms of coverage, including the sum assured (the amount payable in case of a claim), exclusions, and the claims process. The contract assures the insured that they will receive financial compensation for covered losses.

- Indemnity Principle: In general insurance, the principle of indemnity ensures that the insured is compensated only for their actual loss, preventing any financial gain from claiming insurance. This principle is vital for maintaining fairness and integrity in the insurance system.

- Types of Insurance

There are primarily two categories of insurance:

Life Insurance: This type of insurance offers financial protection to beneficiaries upon the insured's death or pays out in the event of disability. Products include term insurance, whole life insurance, endowment plans, and annuities. Life insurance not only provides coverage but can also serve as a savings or investment vehicle, benefitting the insured in their old age.

General Insurance: This encompasses all non-life insurance products, including health insurance, property insurance, motor insurance, and liability insurance. Each product addresses specific risks and needs, such as medical expenses or damages to property.

2.1.2. The Role and Importance of Insurance

The objects of insurance are multifaceted, reflecting its importance in personal and societal contexts:

- Financial Security

The primary objective of insurance is to provide financial security. By transferring the risk of loss to an insurer, individuals and businesses can protect their assets and livelihoods. This is particularly crucial in times of unforeseen events, where the financial burden can be overwhelming.

- Risk Management

Insurance serves as a vital risk management tool. It allows individuals and businesses to plan for the future with a degree of certainty, knowing that they are covered against potential losses. This aspect is especially important for businesses that rely on assets to generate income.

- Security

Insurance provides security policyholders. Knowing that they have financial protection in place allows individuals to focus on their lives and businesses without the constant worry of potential losses. This psychological benefit is often an overlooked but significant advantage of having insurance.

- Economic Stability

Insurance contributes to the overall stability of the economy. By enabling individuals and businesses to recover from losses, it fosters resilience in the face of economic shocks. Insured entities are more likely to remain solvent and continue operations, which, in turn, supports employment and economic growth.

- Social Welfare and Risk Sharing

Insurance embodies the principle of social welfare through collective risk-sharing. By pooling resources, the losses experienced by a few are compensated by the contributions of many. This system not only supports those in need but also reflects a societal commitment to mutual aid and protection.

- Encouraging Responsible Behavior

It is evident that having insurance can encourage more responsible behavior among policyholders (The Geneva Association, 2022) . For instance, shipping company purchases hull insurance to reduce the financial burden if one of its ships were damaged due to an accident or negligence. The potential for huge financial losses might encourage the company to take shortcuts (eg. delay maintenance or skimping on crew training) in an attempt to save money in the short term. This proactive approach can lead to a reduction in the frequency and severity of claims.

In summary, insurance is a crucial component of modern life, providing essential financial protection against a wide array of risks. Its concept revolves around risk management, financial security, and the pooling of resources to mitigate losses. The objectives of insurance extend beyond mere financial compensation; they encompass peace of mind, economic stability, social welfare, and the encouragement of responsible behavior. Understanding these aspects is vital for individuals and businesses as they navigate the complexities of risk in their lives and operations.

2.2. Scope of Hull insurance

According to a report of Marlinblue, hull insurance is a specialized form of marine insurance that provides coverage for physical damage to a ship or vessel. As a critical component of maritime operations, hull insurance safeguards the significant investments made in ships, ensuring that shipowners can recover from financial losses resulting from various risks associated with marine activities (Marlinblue, 2024). The scope of hull insurance encompasses several key elements, which are essential for understanding its importance in the maritime industry.

2.2.1. Coverage of Physical Damage

The primary function of hull insurance is to cover the physical damage to the vessel itself. This includes damages caused by collisions, grounding, fire, explosions, and other perils that could result in financial loss. Hull insurance typically covers the cost of repairs or, in cases of total loss, the replacement value of the vessel. This comprehensive coverage is crucial for shipowners, as the financial implications of damage can be substantial, potentially jeopardizing their operations and investments.

2.2.2. Protection Against Liability

In addition to covering physical damages to the vessel, hull insurance often includes liability coverage for damages caused to third parties during maritime operations. This aspect is vital, as maritime accidents can result in significant liabilities, including property damage and personal injury. Hull insurance can provide a safety net against these unforeseen liabilities, protecting shipowners from potentially crippling legal costs and compensation claims.

2.2.3. Extended Coverage Options

The scope of hull insurance can be tailored to meet the specific needs of shipowners. Many insurers offer extended coverage options, such as protection against piracy, war, and terrorism. This customization allows shipowners to address unique risks associated with their operations, particularly in high-risk areas or during periods of geopolitical instability. By opting for extended coverage, vessel owners can enhance their protection and ensure comprehensive risk management.

2.2.4. Inclusion of Freight and Earnings

Some hull insurance policies may also include coverage for loss of freight and earnings due to the vessel being out of service for repairs following a covered loss. This aspect is particularly significant for commercial shipping operations, where downtime can lead to substantial revenue loss. By including coverage for lost earnings, hull insurance helps shipowners maintain financial stability and mitigate the impact of operational disruptions.

2.2.5. Regulatory Compliance and Financing

Hull insurance is often a requirement for regulatory compliance and obtaining financing for vessel purchases. Many financial institutions require evidence of adequate hull insurance before approving loans for ship acquisitions, ensuring that their investments are protected. Additionally, adherence to international maritime regulations often necessitates hull insurance, underscoring its importance in maintaining operational legitimacy.

2.2.6. Risk Assessment and Management

The process of obtaining hull insurance involves thorough risk assessment and management (Adam, 2023). Insurers evaluate various factors, including the type of vessel, its operational history, and the geographical areas in which it will operate. Through this assessment, insurers can establish appropriate premium rates and coverage terms, ensuring that both the insurer and the insured are adequately protected against potential risks.

2.3. Insurance Premium and Premium Compensation

2.3.1. Insurance Premium and Insured Value

The insurance company is defined as a specific amount of money that an individual or business periodically pays for the availing and maintenance of their insurance policy and coverage. Insurance premiums are paid on policies that cover a range of personal and commercial risks. If a policyholder fails to pay the premium, the insurance company has the right to cancel the policy. Once insurance policy takes effect, a premium will be charged by the insurer. This is also treated as the amount that individuals or businesses pay to keep the policy in force.

The higher the risks linked to the individual or business, the higher will be the premium for insurance. Premiums can be paid through monthly, semi-annual, or annual installments. In some cases, customers can also opt to pay the full amount upfront for the entire policy term before coverage begins.

Total insured value is a critical term in property insurance, particularly in commercial property policies. The Total Insured Value represents the sum of the full value of the insured’s covered property, business income values, and any other covered property interests. It is used to explain the total amount of insurance available in a single loss on a commercial property policy. Total insured value is typically calculated by adding the property value, business interruption value and the value of any other property at the location. It’s typically used for larger commercial property insurance policies and can be calculated on a single location basis or across multiple locations. For blanket commercial property insurance policies the total insured value is often used to establish the limit of liability for the policy based on the location with the largest total insured value which becomes the limit available and across all locations.

2.3.2. Compensation for Partial Loss

As Insuranceopedia defines, a partial loss refers to any loss or damage to the insured property that does not result in complete destruction or irreparable damage, which means it does not prevent the property from performing its function nor does the damage exceed the coverage limit of the insurance policy (Insuranceopedia, 2024). In the case of a partial loss, the insurance company will reimburse the cost of repairs required to restore the property to a condition substantially the same as it was before the loss occurred. There are two types of partial loss: partial average loss and general average loss. In the context of property insurance, a partial loss occurs when a portion of the insured property suffers damage, but the entire structure remains functional. This type of loss falls under the category of "particular average loss," which refers to damage to a specific item or part of the insured property due to an insured peril.

Partial loss claims are applicable when the insured property can be repaired or restored to its pre-loss condition. The primary goal in such cases is to bring the property back to a state similar to its original state before the incident occurred. This may involve repairs, replacements, or restoration work, depending on the extent and nature of the damage.

It is important to note that partial loss claims are distinct from total loss scenarios, where the insured property is deemed irreparable or completely destroyed, requiring a different claims process and potential compensation.

2.3.3. Compensation for Total Loss

In the realm of insurance, a total loss refers to a situation where a property or asset is destroyed beyond repair without any value left. As the fundamental purpose of insurance is to restore the claimant to their pre-loss condition, the policyholder is compensated with an amount equivalent to the value of the insured property, depending on coverage limits and the validity of the claim.

Total loss is categorized into two main types: actual total loss and constructive total loss. An actual total loss occurs when the property is totally destroyed, such as when a fire completely consumes a house and makes it no longer habitable. On the other hand, a constructive total loss happens when the property is not entirely destroyed but is rendered non-functional. This situation may arise when the cost of repairs exceeds the property’s insured value.

For example, consider a car insurance policy. If a policyholder's car crashes into a barricade and bursts into flames, or suffers significant damage from another type of accident, the insurance company will assess the damage. If the cost to repair the car to its pre-loss condition exceeds its book value, the insurer will declare it a total loss. Typically, if repair costs exceed a certain percentage, such as 80% of the vehicle's value, it is classified as a total loss.

Before paying out the actual cash value or replacement cost to the policyholder, the insurance company takes several factors into account, including the vehicle's pre-loss condition, age, cause of the accident, mileage, structural integrity, and any other applicable deductions. Once the policyholder receives compensation for the total loss or the vehicle is written off, the title of the vehicle will be transferred to the insurance company (Agribank Insurance Company, 2018).

2.4. Compensation Sanctions

Compensation sanctions refer to measures that are implemented to ensure that a party responsible for causing harm or damage compensates the affected party. This concept is particularly significant in the realms of international relations, economic sanctions, and legal frameworks. A compensation is considered to be reasonable when the fair market value of economic benefits received for the performance of services, reflecting the amount that would typically be paid by a comparable enterprise under similar circumstances.

When evaluating the reasonableness of compensation, all types of compensation provided by a relevant tax-exempt organization in exchange for services are taken into account. An economic benefit is not regarded as compensation for services unless the organization offering the benefit explicitly states its intention to treat it as such at the time the benefit is provided. A tax-exempt organization is considered to have clearly indicated this intent only if it supplies written documentation that is contemporaneous with the transfer of the economic benefits in question..

2.5. Asset Recovery After Compensation

In accordance with UN Convention against Corruption, asset recovery refers to the process of reclaiming and repatriating proceeds of corruption that have been transferred abroad back to the country of origin or their rightful owners (United Nations, 2004). Once a confiscation order is executed in the requested jurisdiction and no legal or political hurdles impede progress, the assets are typically directed to the general treasury or confiscation fund of that country, rather than being sent directly to the requesting jurisdiction. As a result, an additional mechanism will be needed to facilitate the return of these assets. Depending on the agreements and policies between the jurisdictions involved, the assets may be shared or partially returned while the remaining portion may be retained by the requested jurisdiction to cover costs associated with restraining, maintaining, and disposing of the confiscated assets. Assets can also be returned directly to victims through court orders (Meingast et al., 2023).

Concerns often arise regarding the accounting for property damage and related insurance claims when an entity experiences damage to insured assets. Financial losses due to property damage are a significant issue, and insurance serves as a crucial resource to assist in recovery after a consequential loss.

2.6. Termination of Insurance

Both insureds and insurers have the right to terminate an insurance contract, which means they can cancel the agreement before its expiration date. The broker could also decide to terminate his mandate. Thus, it is essential to understand the key aspects of this process and how to proceed correctly to ensure a smooth termination.

Another straightforward option is to terminate the insurance at the conclusion of the policy period. The insured typically need to provide written notice to the insurer, usually six weeks prior to the end of the period. However, it's important to verify the specific deadline outlined in your policy conditions or consult your insurer directly. For instance, a life insurance contract often requires a three-month notice period for termination. If the insured does not monitor the time limit carefully, the insurance may automatically renew at the end of the next policy period.

3. Analysis of the dispute

3.1. Overview of the Dispute Situation

3.1.1. Summary of the Situation and Causes Leading to the Dispute

29/6/2016, Phuong Dong Company purchased hull insurance for the Ngoc Son vessel from PJICO under Insurance Contract P16/0005 with an insured amount of 2,800,000 USD and the total insurance premium of 14,000 USD, which has been fully paid by Phuong Dong Company on time. PJICO has issued an Insurance Certificate P-16/0005 clearly stating the ship's value as 2,800,000 USD.

13/8/2016, Ngoc Son vessel suffered grounding in the Fuvahmulah island, Maldives region. Phuong Dong Company reported the incident, gathered all relevant documentation, and submitted a complete claim in strict accordance with the terms of the Insurance Policy to claim the insured amount of US$2,800,000 as stipulated in the insurance contract and certificate issued by PJICO.

PJICO confirmed that the incident involving the vessel Ngoc Son is covered under insurance policy P-16/0005 and the final indemnity for the hull shall be determined based on the actual value of the vessel at the time of loss, subject to a maximum of USD 2,800,000. Following the valuation and assessment of the vessel Ngoc Son, PJICO shall notify the insured of the final indemnity amount. The valuation process involved the collection of the following appraisal certificates: a valuation certificate for the vessel NS dated June 6, 2017, issued by English White Shipping Limited (Singapore); valuation certificate number 8817145/CT-BTCVALUE dated June 20, 2017, issued by BTCVALUE Joint Stock Company; valuation certificate number 6283/CT-VVFC/BAN2 dated June 28, 2017, issued by Vietnam Valuation and Financial Services Joint Stock Company (VVFC); and valuation certificate number CT546/17/TĐ dated September 20, 2017, for 'Spare parts, supplies, and fuel on board the Ngọc Sơn vessel', issued by Cuu Long Appraisal and Audit Joint Stock Company.

28/11/2017, PJICO sent a notification (Document No. 100/P/ĐNI/HHA/2017) to Phuong Dong Company stating that the actual value of the vessel Ngoc Son at the time of loss was USD 1,750,000; the value of spare parts, supplies, and materials purchased and provided by the ship owner was USD 156,531.41 and VND 1,582,900.621. The fuel supplied by the ship owner, amounting to USD 38,343.44, was excluded from the coverage and therefore not compensable. Due to a disagreement regarding the extent of the loss, Phuong Dong Company filed a lawsuit against PJICO with the People's Court of Dong Da District.

In the court, Phuong Dong Company asks for total indemnity of 2,800,000 USD according to the Insurance Contract and the interest of 10% a year (12.056.000.000 VND) due to the late payment of PJICO.

PJICO maintains its position and requests that the Court accept the insured value of the vessel NS as determined by the court-appointed valuation, which is USD 1,779,000, and the value of supplies provided to the vessel at USD 156,531.41 and VND 1,582,900,621. PJICO agrees to refund the insurance premium for the excess amount of coverage, calculated as (USD 2,800,000 - USD 1,779,000) x 0.5% = USD 5,105, equivalent to VND 119,206,855. PJICO rejects Phuong Dong Company's claim for interest (Thuvienphapluat, 2019).

3.1.2. Parties Involved in the Case

- The Insured

Phuong Dong Company purchased hull insurance for the Ngoc Son vessel under Insurance Contract P16/0005 with an insured amount of 2,800,000 USD and the total insurance premium of 14,000 USD

- The Insurer

PJICO signed an Insurance Contract P16/0005 for Ngoc Son Vessel with a total value of 2,800,000 USD and insurance premium of 14,000 USD.

- Parties with related rights and obligation

Phuong Dong Company takes out loans at Agribank and VDB with Ngoc Son vessel as the collateral. To secure the obligations to repay the debt as stipulated in the Credit Agreement and Mortgage Agreement, the vessel NS must be insured under P&I and Hull policies throughout the period of operation and repayment, with VDB and Agribank as beneficiaries.

Phuong Dong Company, formerly known as NOSCO, is a joint-stock company in which Vinalines holds a 49% stake. As part of a domestic shipbuilding program of 32 vessels, Vinalines has provided a loan guarantee for the construction of the Ngoc Son vessel of Phuong Dong Company at VDB.

3.1.3. Content of the Dispute

- Background

- Insurance Contract: NOSCO (later renamed Phuong Dong Company) and P Insurance Company (PJICO) entered into a marine hull insurance contract for the Ngoc Son vessel, with a total insured value of $2,800,000.

- Vessel Loss: Ngoc Son Vessel suffered a total loss due to grounding and subsequent sinking.

- Dispute: The primary dispute lies in the amount of compensation to be paid by PJICO. Phuong Dong Company claims the full insured value of $2,800,000, while PJICO asserts that the actual value of the vessel at the time of loss was significantly lower.

- Key Points of Contention

- Valuation of the Vessel:

Phuong Dong Company argues that the insured value of $2,800,000 should be paid in full.

PJICO contends that the actual value of the vessel was closer to $1,750,000 based on various valuation reports.

- Additional Costs:

Phuong Dong Company seeks compensation for the cost of spare parts, supplies, and fuel on board the vessel.

PJICO disputes the inclusion of these costs in the claim, arguing that they are not covered under the insurance policy.

- Interest:

Phuong Dong Company is seeking interest on the delayed payment of the insurance claim.

PJICO has rejected this claim.

3.2. Analysis of the Situation and Court Decision Based on Legal Grounds

3.2.1. Delineation of Parties' Responsibilities

- Responsibilities of Oriental Shipping And Trading Joint Stock Company

Phuong Dong Company purchased hull insurance for the Ngoc Son ship from PJICO under Insurance Contract P16/0005 with an insured amount of 2,800,000 USD. The total insurance premium of 14,000 USD has been fully paid by Phuong Dong Company on time. Company PJICO has issued Insurance Certificate P-16/0005 clearly stating the ship's value as 2,800,000 USD. PJICO has issued Amendment Certificate No. E-16/DNI/HHA/2101/0005-01 dated July 5, 2016, which specifies the beneficiary rights for the Ngoc Son ship as follows:

In the event of a total loss occurring to the Ngoc Son ship within the scope of insurance liability, PJICO will pay the entire compensation amount to the beneficiaries, which are A branch of the Transaction Office and VDB branch in Hai Phong.

Therefore, as the insured party, Phuong Dong Company has the right to claim compensation when incidents occur with the Ngoc Son vessel. They have correctly followed the procedures for reporting the incident and filing a claim as per the insurance contract.

- Responsibilities of PJICO

As the insurer, PJICO has the obligation to compensate the insured when an incident occurs within the scope of insurance based on the actual value of the ship at the time of the damage, not the value agreed upon in the contract. PJICO is responsible for conducting the appraisal of the insured asset's value and paying for the appraisal costs.

According to the provisions of Article 29 of the Law on Insurance Business regarding the time limit for paying insurance money or compensation: When an insured event occurs, the insurance company must pay the insurance money or compensation within the time limit agreed upon in the Insurance Contract (Vietnam National Assembly, 2022). Therefore, PJICO is also responsible for paying interest accrued due to delayed insurance payments at the interest rate prescribed by law.

3.2.2. Analysis of Parties' Arguments

- Oriental Shipping And Trading Joint Stock Company

Phuong Dong company has presented a series of compelling arguments to support their appeal. Their primary contention revolves around the nature of the insurance contract, which they assert is a valued policy. Vessel Ngoc Son was covered under two (02) consecutive annual insurance contracts with PJICO. In both insurance policies, PJICO fixed and guaranteed the insured value of vessel Ngoc Son at 2,800,000 USD, with a constant premium rate for both years, which is consistent with the characteristics of a valued policy as stipulated by law and maritime insurance practices. Phuong Dong’s claim for 100% of the insured value of vessel Ngoc Son, amounting to 2,800,000 USD as stated in the insurance certificate, is lawful and has a legal basis. This type of policy, according to Phuong Dong, establishes a predetermined compensation amount that remains fixed regardless of any changes in the asset's actual value.

The accident of the vessel Ngoc Son has been determined by PJICO and Phuong Dong as a total loss. Regarding compensation in the case of a total loss, Phuong Dong cites relevant provisions from both Vietnamese maritime law and international maritime insurance law to emphasize the legal validity of such agreements: Article 254 of the Maritime Code stipulates that an actual total loss is a loss due to a sea vessel or goods being completely destroyed, damaged beyond repair, or missing along with the vessel; in this case, the insured may claim from the insurer full compensation without having to declare the abandonment of the insured object (Vietnam National Assembly, 2015). Section 68 of the British Marine Insurance Act 1906 stipulates that in the event of a total loss, if the policy is a valued policy, then the amount of compensation is the amount of insurance agreed upon in the policy (Legislation.gov.uk, 2024).

Building on this foundation, Phuong Dong demands full compensation based on the pre-agreed insured value of 2,800,000 USD. They argue that under the terms of a valued policy, the insured party is entitled to claim the full agreed amount, irrespective of the asset's market value at the time of loss. Phuong Dong further contends that any market value assessment of the ship is unnecessary and irrelevant in the context of a valued policy, as the compensation amount has been predetermined by mutual agreement.

Phuong Dong also accuses PJICO of breaching the insurance contract by failing to provide timely compensation and delaying the claims process. They present evidence of having submitted complete claim documentation to PJICO, which allegedly failed to process the claim within the stipulated time frame. Given these perceived breaches, Phuong Dong is not only seeking full compensation but also requesting the court to award interest on the delayed payment. They argue that PJICO's delay in processing the claim has caused significant financial harm, which should be remedied through the payment of interest calculated from the date of complete claim submission.

- Petrolimex Insurance Joint Stock Corporation

PJICO asserts that according to the insurance contract terms, Phuong Dong has failed to furnish all necessary documents to complete the claim file. Furthermore, PJICO contends that while they conducted a valuation of the ship's actual value and communicated the results to Phuong Dong, the latter disagreed with the assessment and refused to provide additional requested documentation.

Regarding the interest calculation, PJICO argues that the proposed start date of June 29, 2017, is inappropriate. They maintain that as of this date, the claim file remained incomplete due to Phuong Dong's disagreement with the valuation results. PJICO emphasizes that according to the contract, the compensation processing period begins only upon receipt of a complete and valid claim file, which Phuong Dong has not yet provided. Moreover, PJICO challenges the accuracy of the interest amount and rate calculated by the court of first instance, arguing that the applied 10% interest rate does not comply with the State Bank's regulations, as Article 1 of Decision No. 2868/QD-NHNN dated November 29, 2010, issued by the State Bank of Vietnam, stipulates that “the basic interest rate for Vietnamese dong is 9.0% per annum” (State Bank of Vietnam, 2010).

PJICO also raises the issue of valuation costs, as pursuant to Clause 2 of Article 161 of the Civil Procedure Code, a party who does not accept another party's request for an expert appraisal in a case shall bear the appraisal costs if the appraisal results confirm the basis for the request. If the appraisal results only partially confirm the request for an appraisal, the party who did not accept the request shall bear the appraisal costs corresponding to the portion of the request that has been proven to be valid. Thus, PJICO asserts that Phuong Dong should bear these expenses as they disagreed with the initial assessment and demanded a re-evaluation.

3.2.3. Court Ruling

The appellate court found that Insurance Contract P-16/0005, executed between NOSCO and PJICO, is a contract entered into between two Vietnamese enterprises based on Vietnamese law (as expressly stipulated in the contract). The contract does not violate any law and is therefore valid and binding on all parties to the case. The subject matter of the insurance is the vessel Ngoc Son, a Vietnamese-flagged vessel, including its hull, machinery, and equipment.

Pursuant to Articles 232 and 233 of the Maritime Law and Articles 42, 46, and 48 of the Insurance Business Law, the insured amount stated in the insurance contract shall neither be less nor greater than the insured value. The insured value is the actual value of the insured object. Therefore, the insured amount for the vessel Ngoc Son must be based on the actual value of the vessel at the time of the insured event.

The trial court commissioned IVC Vietnam to appraise vessel Ngoc Son, which was valued at 1,779,000 USD. The court awarded this amount as compensation, converting it to 41,541,429,000 VND using the State Bank's selling rate on October 19, 2018, which is consistent with the law. Phuong Dong and PJICO have agreed the insured value of spare parts and supplies on board to be 156,531.41 USD and 1,582,900,621 VND, respectively. The equivalent value of the spare parts in Vietnamese Dong is 5,283,065,575 VND.

According to the contract, PJICO was obligated to pay the insurance claim within 30 days of receiving a complete set of valid claim documents. Phuong Dong submitted all the necessary documents on November 29, 2016, meaning that PJICO should have made the payment by December 28, 2016 at the latest. However, PJICO delayed the payment. The trial court erred in determining the starting point for calculating the default interest. The correct starting date for the interest calculation is December 29, 2016. With an interest rate of 9% per annum for 22 months on the principal of 46,824,494,575 VND, PJICO is liable to pay Phuong Dong a total of 7,726,041,598 VND in default interest for the delayed period.

Based on the ruling, the court determined Petrolimex Insurance Joint Stock Corporation must compensate Oriental Shipping And Trading Joint Stock Company the amount of 54,550,536,173 (fifty-four billion five hundred fifty million five hundred thirty-six thousand one hundred seventy-three) VND, of which the insurance money is 46,824,494,575 (forty-six billion eight hundred twenty-four million four hundred ninety-four thousand five hundred seventy-five) VND, and interest is 7,726,041,598 (seven billion seven hundred twenty-six million forty-one thousand five hundred ninety-eight) VND.

The entire amount that Petrolimex Insurance Joint Stock Corporation must compensate Oriental Shipping And Trading Joint Stock Company, which is 54,550,536,173 (fifty-four billion five hundred fifty million five hundred thirty-six thousand one hundred seventy-three) VND, shall be transferred to the beneficiaries: Vietnam Development Bank - Hai Phong Branch and Vietnam

Bank for Agriculture and Rural Development - Transaction Office, to the account of Vietnam Development Bank - Hai Phong Branch.

The appellate court acknowledged the voluntary action of Petrolimex Insurance Joint Stock Corporation to refund the insurance premium to Oriental Shipping And Trading Joint Stock Company for a total amount of 119,206,855 (one hundred nineteen million two hundred six thousand eight hundred fifty-five) VND.

The appellate court found that, pursuant to Clause 1 of Article 46 and Clause 1 of Article 48 of the Insurance Business Law, the cost of loss assessment shall be borne by the insurance company. Based on the stipulated clause, Petrolimex Insurance Joint Stock Corporation must bear the appraisal cost of 60,000,000 (sixty million) VND (confirmed as already paid by Petrolimex Company).

4. Lessons for parties participating in Insurance contracts

4.1. Lessons Learned from the Dispute

4.1.1. For Insurance Companies

Insurance companies should draft contracts with clear contract terms, with precise language to define key terms, such as "total loss," "insured value," "valued policy," and "actual value." Ambiguities in contract language can lead to disputes over the interpretation of coverage and the amount of compensation. In this case, disagreement arose over whether the compensation should be based on the insured value stated in the contract or the actual market value of the ship at the time of the loss. By ensuring that contract terms are clearly defined, insurers can reduce the risk of disputes and maintain trust with policyholders.

Besides, insurance companies must establish efficient processes to handle claims, including prompt communication with the insured party regarding the status of their claim and any additional documentation needed. Delays in communication can lead to misunderstandings and extended disputes, as seen in this case, where PJICO was criticized for failing to communicate adequately with Phuong Dong about the status of the claim. Timely communication ensures that both parties are aware of their responsibilities and the necessary steps to resolve the claim efficiently.

For insurers, one should conduct thorough and impartial valuations of insured assets to determine their actual value accurately. In this case, the dispute centered around whether the compensation should be based on the agreed insured value or the actual value of the vessel. PJICO's decision to conduct its own valuation was contested by Phuong Dong, who argued that the pre-agreed value should apply. Insurers must be prepared to justify their valuation methods and results legally to avoid potential penalties and ensure fairness in compensation. Insurers must be aware that they may be responsible for the costs of appraisals, legal proceedings, and other expenses associated with dispute resolution if the court rules in favor of the insured party. In this case, PJICO was ordered to bear the cost of the appraisal because it was proven that Phuong Dong had a valid basis for their claim. Having robust internal procedures for evaluating and handling claims can help minimize these additional costs.

As for the compliance with legal requirements, insurance companies must ensure that all their actions comply with local laws, regulations, and international standards. This includes adhering to timelines for compensation payments and understanding the legal framework surrounding interest rates for delayed payments. In this dispute, PJICO faced additional liability for interest due to delayed payments. Ensuring compliance with legal obligations can help insurers avoid unnecessary financial losses and legal challenges.

4.1.2. For Organizations and Individuals Participating in Insurance

Understanding contractual terms is an initial crucial step to keep in mind, as organizations and individuals should thoroughly read and understand the insurance policy terms before agreeing to them. Key aspects include the scope of coverage, conditions for making claims, and the basis for determining compensation. Phuong Dong's dispute with PJICO highlighted the importance of understanding whether the policy was a "valued policy," which sets a fixed amount for compensation, or based on "actual value," which can fluctuate. Understanding these terms can help insured parties know their rights and obligations, leading to better decision-making during disputes.

It is also important for policyholders to submit all required documents promptly and in accordance with the insurance contract's stipulations. In this case, PJICO claimed that Phuong Dong did not provide all the necessary documents, leading to delays in the claims process. Insured parties should ensure that all paperwork is complete and submitted on time to avoid delays in receiving compensation and to strengthen their position if a dispute arises.

Organizations should be knowledgeable about relevant laws and regulations governing insurance contracts, including both local laws (such as the Vietnamese Maritime Code) and international standards (like the British Marine Insurance Act). In this case, Phuong Dong effectively cited legal provisions to support its claims. Being well-informed about the legal landscape can help insured parties navigate disputes more effectively and defend their rights. Besides, maintaining detailed records of all communications, submissions, and actions related to an insurance claim is essential. Phuong Dong supported its case with evidence of timely claim submission and communication with PJICO. Keeping thorough records helps insured parties demonstrate compliance with contract terms and strengthen their position in negotiations or legal proceedings.

Finally, organizations should prepare for the potential financial impact of disputes, including legal costs, delayed compensation, and possible interest payments. Understanding the financial implications can help in deciding whether to pursue legal action or settle amicably. In this case, Phuong Dong requested not only full compensation but also interest on delayed payments, highlighting the need to consider the broader financial impact of a dispute.

5. Conclusion

In conclusion, the analysis of insurance contract dispute settlements, particularly in the context of the case study involving Oriental Shipping and Trading Joint Stock Company and Petrolimex Insurance Corporation, highlights the complexities and challenges inherent in the marine insurance sector. The examination of hull insurance reveals its critical role in protecting shipowners from financial losses due to various maritime risks, including physical damage, liability, and subsidiary interests. By understanding the scope and principles of hull insurance, stakeholders can better navigate the intricacies of these contracts.

Moreover, the study emphasizes the importance of clear communication and well-drafted policies to minimize disputes and enhance mutual understanding between insurers and insured parties. Effective dispute resolution mechanisms are essential for maintaining trust and stability within the insurance industry. As the maritime landscape continues to evolve, it is imperative for all parties involved to engage in proactive risk management strategies, ensuring that the marine insurance sector remains resilient and responsive to emerging challenges. Ultimately, this analysis contributes valuable insights to the broader discourse on risk management and insurance, fostering a more robust framework for future practices in the industry.

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