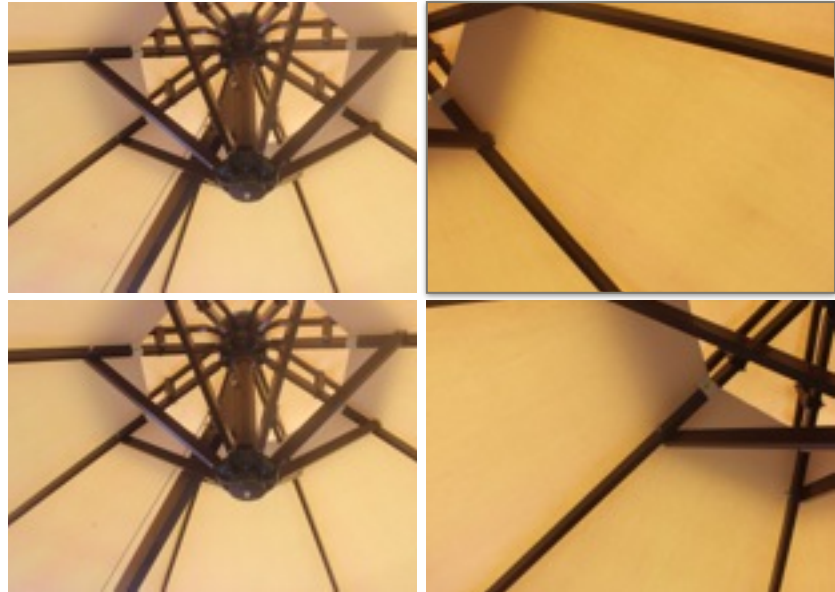


A Review Of Aviation Insurance And Jurisdiction To Claim.



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In India, the Civil Aviation Industry is one of the fastest growing Industry. The demand for Civil Aviation has continuously been on the rise and the Indian Civil Aviation Industry aims to become the third largest Aviation Industry by 2020



The modern airports, low cost carriers, FDI, Liberalization, Privatisation and Globalization are few of the many factor that have ushered in this growth. India is the ninth largest Civil Aviation Industry in the world.

India's Aviation Industry is but at an infant stage. It is not up to its full potential yet. Its potential is being tapped into by making available more opportunities to the public; considering the fact that air transport is still expensive for majority of the country's population. The policy makers are now collaborating with the stakeholders to make policies and rules efficiently and rationally.

With 10 legislations, 7 separate documents of Rules and Regulations framed by the Central Executive and 10 separate Guidelines and Policies established by it, the Indian Government has been comprehensive enough while framing laws for the Civil Aviation Industry

Aviation Insurance

Aviation insurance is the insurance that covers the risks involved in the Civil Aviation. The policies regarding Aviation are very peculiar in nature and require separate specialization unlike other insurance matters; this is primarily because of the jargon used in the Aviation Policy. Since India does not possess a separate Space Law, it is interpreted under the Civil Aviation Law in India. It is sometimes also called as 'Aerospace Insurance'. Micro-satellites and commercial space launchers are all governed under this policy.

The first Aviation insurance policy was written in London, in 1911. But, it only became popular and a matter of law in 1924.

The infamous Warsaw Convention was signed in 1929 which was an agreement to establish terms, conditions and limitations of liability for Civil Aviation. The International Union of Aviation Insurers (IUAI) was created in 1933 to establish a specialist Industry sector in Civil Aviation.

Though advancements in sectors of law and insurance have been made, no single insurer possesses the resources to handle the risk, the size of a major airline company. Also, since the nature of cataclysms occurring in the Civil Aviation Industry are usually devastating in nature, losses being measured in lives and sometimes property, it is impossible for an insurer to sufficiently insure a person. As a result, most airlines create 'fleet policies' to cover their losses.

Types of Aviation Insurance

Aviation insurance generally consists of the following kinds:

1. Public Liability Insurance:

This insurance is also called as "third party insurance", covers the owners of the aircraft for any damage it does to any third party like destruction of house, agricultural fields, vehicles etcetera. It also covers the damage done by a plane if it collides with another. But, this insurance is devoid of coverage of the aircraft itself or for any of the damage suffered by the passengers. In case of any mishaps, the airline company will try and compensate the victims; but if an amicable settlement is not arrived at, then the matter will be taken to the court which will then decide the quantum of compensation to be levied.

2. Passenger Liability Insurance:

Passenger Liability Insurance is an insurance that protects the passengers injured in any accidents occurring during their voyage on an airline. This insurance is a mandatory insurance in many countries of the world and is usually sold on a 'per seat' basis and coupled with the ticket.

3. Combined Single Limit:

A Combined Single Limit Coverage combines both the public liability and the passenger liability insurances into a single coverage but with an

overall limit for every accident. This coverage enable the insurer to pay more to the injured, claims of liability etcetera. The following is a list of non-exhaustive liabilities that is borne by the insurer of a CSL Coverage:

- a. General Legal Liability
- b. Cargo Legal Liability
- c. Registered Baggage
- d. Unregistered Baggage
- e. Baggage in the charge of the passenger
- f. Mail Legal Liability
- g. Third Party Liability
- h. Passenger Legal Liability
- i. Other Public Legal Liability

These liabilities are usually a subject of a contract of carriage, like a ticket or an airway bill.

4. Ground Risk Hull Insurance (Not in motion):

This insurance provides coverage to the aircraft against any damage occurred to it when it is not in motion but on ground. This insurance is also valid against a claim of *vis major*. Events like, floods, winds, mudslides, hailstorms or other damages like vandalism, theft etcetera are all events against which this insurance can be claimed against. These values may differ according to each insurance contract.

The term 'hull' is used because it refers the insured aircraft to marine vehicles. Hence, the word 'hull'. Usually, this insurance includes a deductible to discourage nuisance claims and petty issues.

5. Ground Risk Hull Insurance (In motion):

This insurance is very similar to the Ground Risk Hull Insurance (Not in motion), except this insurance covers the aircraft while it is taxiing and not while taking off or landing. In actuality, this insurance ceases, the moment the plane starts its takeoff run. Also, it automatically comes into

force the moment the aircraft has completed its landing run. This insurance coverage has mostly been discontinued due to the confusion and disputes created between the insurers and the owners regarding when an accident occurred, while the aircraft was taxiing or was attempting a takeoff.

6. In-Flight Insurance:

This insurance covers the aircraft during all phases of its operation, from takeoff to landing and also when it is parked or stored. This insurance is very costly but is comprised of insurance at all stages of an airplane's functioning.

Common Exceptions to the Insurance Policies

As every law in nature has exceptions, so do the Insurance Policies. A few common exceptions to all the Aviation insurance policies are as follows:

1. Wear, Tear and the subsequently resulting gradual deterioration due to dust, age and other similar factors.
2. Claims arising when the aircraft is being used for illegal purposes.
3. Claims when the aircraft is outside the previously agreed limits of travel.
4. Any other kind of loss incurred due to the mistake of the insured himself.

Indian Insurers for Civil Aviation

With the Government allowing 100% Foreign Direct Investment (FDI) in the Civil Aviation Sector, the insurers in India are growing and trying to keep pace with the international standards. As foreign companies buy stock in the Indian Airlines, foreign insurers are vehemently entering the Indian Insurance Sector. With the growing need for insurance due to the booming Civil Aviation Industry in India, the insurers are coming up with more and more innovative and risk – covering policies for the Indian Industry.

The maximum competition among the Insurers is in the General Aviation segment which generally consists of aircraft with less than 61 seats. Since the insured sum in this is less, it has many players in the small Insurance Sector.

Laws regulating Aviation Insurance

The 'Montreal Convention of 1999' which talks about the rules of carriage in air during international travel was ratified by the Indian Government in 2009. Since then, it is applicable to all international travel.

The jurisdiction to claims in India is governed by the Carriage by Air Act of 1972 which allows the claimant four jurisdictions; the fifth was added after the ratification of the Montreal Convention:

1. The place of issue of ticket.
2. The main place of the business of the carrier aircraft.
3. The place of destination of the passenger.
4. The place of domicile of the carrier.
5. The place of domicile of the passenger.

The four State owned insurance companies, namely,

1. New India Assurance Company.
2. Oriental insurance Company.
3. National Insurance Company.
4. United India.

These were the monopolists in the aviation insurance sector before the boom in the sector due to recent liberalizations and allowance of FDI. But, with this growth, private players like ICICI Lombard, Bajaj Allianz, Iffco Tokyo and Reliance General Insurance Company have entered this sector. Private players are also collaborating so as to bid for Insurance contracts. ICICI Lombard and Bajaj Allianz have come together to bid for Air India's Insurance claims which

Industry experts value the Aviation Industry at around 400 to 500 crore rupees. The total figure of Aviation Insurance in India in 2006 – 07 stood at 417.29 crore rupees.

The liability limit in India in the event of the death or bodily injury in cases of

mishaps in Civil Aviation stands at Rs. 7,50,000 for passengers above 12 and for below 12, the compensation is Rs. 3,50,000.

Conclusion

The Insurance sector in India is now very competitive in nature with private entities like ICICI and Bajaj entering in the Civil Aviation Insurance business. This has resulted in the breaking of the monopoly that was held by the State owned Insurance firms.

With the Government allowing 100% FDI in the Civil Aviation Sector, the market is now thrown open to all the foreign companies. Jet Etihad became the first foreign company to acquire a major stock in an Indian Airline when Jet Airways sold around 23% of their stock to it. Also, 'Tata & Sons' are also encouraging the influx of world economy into India by owning a majority stock in AirAsia and another airline company.

Today, due to these efforts, the Aviation Industry comprises of almost 25% of the overall Aviation Insurance Market. With continued efforts, ICICI Lombard has managed to acquire around 70% of the Civil Aviation Insurance market along with New India Assurance and Oriental Insurance.

The Civil Aviation sector in India is an economically booming sector.

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