

## **preface to the ninth edition**

In today's context, insurance is undoubtedly one of the most successful facets of our economy. One important factor that has substantially contributed to this is the time tested legal framework of our country.

This book is primarily an effort to bring forth the underlying statutory principles and related judicial interpretation pertaining to insurance and law in a constructive and comprehensive way. In every aspect of the commentary, relevant updated and current information has been incorporated representing significant jurisdictions across the world.

Furthermore, a new chapter focusing on Health Insurance has been added. Special effort has been made to present the relevant principles in a reader friendly manner for the exclusive benefit of students.

For the dedicated and active research assistance by Skariah Baby, Nagendra, Chandana and Sathish I place on record my sincere thanks.

My wife Radha Pyari, daughter Jyotsna and son Yashwant continue to be a significant source of inspiration and encouragement. I am grateful to them.

I would like to express my sincere gratitude to Lexis Nexis for giving me this invaluable opportunity of revising this title. I also take this opportunity to express my sincere thanks to the editorial colleagues of Lexis Nexis for their support.

However, any omission or shortcoming, needless to say, solely rests on my shoulders.

**3rd June, 2009 SV JOGA RAO  
BANGALORE**

## **preface to the eighth edition**

Insurance law is not an unfamiliar terrain to me. Though in my teaching career spanning more than 15 years I never got an opportunity, but as a post-graduate scholar I had the fortune of studying this subject.

Quite vividly, I recall the discussion I have had with my Professor i.e., Dr. R. Venkata Rao (presently Principal, Dr. Ambedkar College of Law, Andhra University, Waltair) in the year 1985 (I was in my M.L. previous year) about the fourth subject to be chosen. It was my volitional choice to pursue M.L. with Criminal Law specialization. At that time, Dr. R. Venkata Rao suggested to me to consider any subject from commercial laws. Thereafter, he himself mentioned about Law of Insurance and asked me to think about it.

I had opted for the same without much thinking. Till now I did not know why Dr. R.V. Rao had suggested this subject.

I never explored and I never discussed with him. However, I thoroughly enjoyed the course.

Now, while spending long hours for the purpose of revision of this book, I am convinced that my professors' suggestion was quite perfect. One thing

is that, in any market economy, Insurance as a commercial activity assumes lot of significance. Though our market economy is in its infant stage, when it comes to Insurance sector, this is what we are experiencing.

I have had the significant opportunity of working with Prof. (Dr.) N.R. Madhava Menon, at National Law School of India University, Bangalore. I have learnt a great deal from him. He is a great inspirator. Speaking for myself, he has succeeded himself in imbuing dedication in my mind and heart. For this singular reason, I felt that my endeavour must be dedicated to him. In addition, Dr. Menon had and continues to have great admiration for the work undertaken by the original author Sri. M.N. Srinivasan. Similarly, he had great reverence for Dr. Menon.

When publishers enquired whether I would be interested in revising Mr. Srinivasan's Law of Insurance (both lawyers' and students' edition) I took some time to convey my acceptance. In the mean time I had a quick run through of the book. Thereafter, I told them that it would be my privilege to revise a book of this illustrious author.

Without tampering the foundational framework, I have incorporated new chapters and updated judicial decisions from different jurisdictions in almost all the chapters.

The following new chapters have been added in respective parts as mentioned hereunder:

**Part I:** Insurance Law: Essential Tenets, Fundamental Principles of Law of Contracts, Classification, Commencement, Duration and Revival of Policy

**Part II: Marine Insurance: Judicial Interpretation of its Relevant Features**

**Part IV: Motor Vehicle Insurance: Judicial Interpretation of Essential Legal Parameters**

**NEW PART :** Other Types of Insurance— **Chapter 1 :** Burglary and Theft, **Chapter 2 :** Fidelity Insurance, **Chapter 3 :** Aviation Insurance, **Chapter 4 :** Liability Insurance, **Chapter 5 :** Contractors' Risk Insurance, **Chapter 6 :** Credit Insurance, **Chapter 7 :** Consequential Insurance, **Chapter 8 :** Employer's Liability Insurance, **Chapter 9 :** Plate-Glass Insurance, **Chapter 10 :** Goods In Transit Insurance, **Chapter 11 :** Insurance Covering Risk of Storm and Tempest, **Chapter 12 :** Professional Indemnity Insurance, **Chapter 13 :** Employees State Insurance, **Chapter 14 :** Public Liability Insurance.

**PART VII: Insurance and Consumer Protection**

**Chapter 1:** Legal Protection of Consumer Interests, **Chapter 2:** Liability of Third Party, **Chapter 3:** State Commission Judgments.

Special effort has been made to focus on Principles for the exclusive benefit of students.

For the dedicated and active research assistance by Skariah Baby, Jayshankar and Zara, I place on record my sincere thanks to them.

Similarly, the secretarial assistance of Nagendra and Chandana is gratefully acknowledged. My wife Radha Pyari, daughter Jyotsna and Son Yeshwanth continues to be a significant source of inspiration and encouragement. I am grateful to them. I would like to express my sincere gratitude to Wadhwa Brothers for best owing me with this invaluable opportunity of revising this treatise. I also take this opportunity to express my sincere thanks to the editorial colleagues of Wadhwa for their support.

However, any omission or shortcoming solely rests on my shoulders.

**Dt. 14-2-2006 PROF. S. V. JOGA RAO**

## **preface to the seventh edition**

The Law of Insurance has been a subject of considerable public importance since its beginning. A few new statutory enactments have become added to the existing statutory material on the subject. The prominent among them are the Public Liability Insurance Act, 1991 and the Insurance Regulatory and Development Authority Act, 1999. Such degree of Legislative care further demonstrates the public importance of the subject. Apart from public importance, insurance is also a subject that cares for the individual and family interest. Insurance protects and is capable of protecting the general public as well as the individual. Because of its public and individual utility, insurance has by now, become a business of huge turnover. India is now a vast insurance market. The segment of compulsory insurance which provides social security to road users and to factory workers in itself presents a huge volume of business. It is this vastness of the market which attracted the foreign insurers and, in order to throw open the door to them, the exclusive monopoly of the Life Insurance Corporation and the General Insurance Corporation has been diluted. With this major policy change, the organisational structure of insurance business in India is getting altered.

Before 1956, the whole of the insurance sector was in the hands of private sector companies. The temptation for takeover of life insurance business was its money potentiality with the added reason of the presence of ghost companies. While public was saved from the burden of bubble companies, the people had to put up with loss of bonus and low dividend at the hands of the Government insurer. The same was the reason for takeover of general insurance business and the same has been the catastrophe to the public. The public suffering was largely due to delays in clearance of claims. An indemnity is worth very little if it comes with a delay. Now the public sector insurer will work in competition with the private sector.

Apart from the structural changes, the law of insurance has also been registering changes in respect of its basic and working principles. These changes have rendered the subject to be more functional than merely theoretical. Hence the new edition of the present book had not only become necessary but was rather also somewhat overdue.

Into this subject of great public importance, Shri M.N. Srinivasan ventured with the motto of "In the service of our Lord, the all-merciful Almighty." Service of the people means service of Almighty. Hence, a subject of public importance taken up with the motto of public service. Success naturally came its way. The present editors have come across this unique opportunity of further advancing the success of this contribution in the field of insurance law.

The noble author had organised the presentation of the subject into certain divisions, namely administration of the business of insurance and its principles. Statutory part dealt mainly with the regulation and functioning of insurance companies. The study of principles dealt with the various types of insurance prevalent in the society, for example, life, marine, fire,

etc., etc. This scheme has been maintained in this new and considerably enlarged edition.

#### *Salient Features of the New Edition*

Some of the salient features of the working involved in the preparation of this new enlarged edition may be noted here.

##### *1. Statutory Coverage*

The impact of the new legislation has been examined for the purpose of updating the existing text and also for the purpose of modifying it according to the requirements of new statutory framework. The new grand piece of legislation, namely the Insurance Regulatory and Development Authority Act, 1999, in addition to its own new set of provisions, has brought about consequential amendments to the total number of Acts dealing with insurance. The years 2001-2 have further seen amendments of the Insurance Act, GIC Act and LIC Act. The impact of these new pieces of legislation and their consequential amendments on the existing scheme of things has been thoroughly probed and analysed so as to present a new and emerging picture of the statutory framework.

##### *2. Thorough Study of Case Law*

The mode of presenting cases and giving their citations has been revised. The most commonly accepted method of citing cases has been adopted. All decisions appearing in the country's primary reports have been brought in. An effort has been made to locate the principles running through them, to capture their ratio and to present the same so as to demonstrate significant trends in the movement of the subject.

##### *3. Expansion of Headings and Sub-headings*

The whole text, the new and the old as merged together, has been rearranged under a new system of purposeful headings and sub-headings.

##### *4. More Detailed Subject-Index*

A detailed subject-index is still another beneficial feature of this edition. A book which proceeds according to principles and not according to the sequence of the provisions of a statutory enactment, needs a very helpful subject-index for easy location of the point which is under search. An attempt has been made in this edition to present an exhaustive, comprehensive and complete subject-index.

##### *5. Enlarged Appendix*

This edition provides the whole text from the statutes covering or impinging upon the subject of insurance. Extracts have also been provided from some other Acts, like Motor Vehicles Act, which have only consequential bearings upon the law of insurance.

## **preface to the sixth edition**

It gives me much pleasure to present this further revised, improved and up-dated Sixth Edition of my book on Insurance Law relating to all branches of Insurance - my eleventh law book in the course of these sixty years - to the Lawyers and Laymen, Students of Law and Commerce, Industrialists and Businessmen, Insurers and the Insuring public. This was made possible, as, in addition to Legal Practitioners and others, a good number of Law and Commerce Colleges recommended and adopted it for study in their

Institutions.

I am grateful to all these readers who have created this welcome opportunity for me to renew the book once again and make it useful for a further short period.

In order to make this book more informative, supplementary companion volumes 'Case Books of Insurance Law' have been published containing copious verbatim extracts from the Judgements of the superior English Courts which are not easily available in India.

All paragraph headings are collected in the contents to avoid a subject index.

The help received from DTP artists, family members, Messrs. Butterworth and Co. Publishers, Messrs. Geethanjali Printers, Messrs. M.P.P. House, prominent Law booksellers of Bangalore, and many other booksellers all over India is hereby gratefully acknowledged.

I whole-heartedly acknowledge my indebtedness to Dr. N.R. Madhava Menon, Director, National Law School of India University, the only university in India, specially meant for promoting legal knowledge and literature.

**12th May, 1997**

**Sri Ramanuja Jayanthi M.N. SRINIVASAN**