

Professional Indemnity Insurance for Valuers

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BACKGROUND

The valuation Profession in India has matured greatly since the introduction of the Companies (Registered Valuers and Valuation) Rules 2017, which too has undergone several changes in themselves.

One of the major lacunas of the profession is the absence of clear identification of the roles and responsibilities of a valuer.

In recent times, it is observed that a lot of litigations and inquiries are coming up against valuers, and valuer is left alone to face these, and while in most cases the valuer may be able to prove their innocence ultimately, is faced with tremendous duress and difficulty

in the process. The legal costs have mounted greatly in the last few years, and it is not easy for the valuer to manage all these expenses, especially when the source of income itself is compromised. Also, a lot of these litigations stem from the fact that the investigating agencies have limited knowledge of the roles and responsibilities of the profession, and the fact that there is limited if any, evidence of value in the Indian ecosystem, owing largely to the presence of a parallel economy. Also, while there are virtually no orders where the valuer has been ordered to compensate the client for the dereliction of duties, the days are not far when that too may be witnessed.

NEED FOR PROFESSIONAL LIABILITY INSURANCE

It is human nature to secure itself against risks, and Insurance, as a concept, evolved to satisfy this particular need. The concept of insurance is to divide the risk among all the insured, such that no individual is unduly exposed to risk individually.

Given the circumstances, it is most reasonable that Valuers insure themselves against the above risk. Such risk coverage can be covered by Professional Liability Insurance. Such a insurance policy will safeguard the interest of valuers, in case of a claim filed as a result of their professional services.

WHAT IS PROFESSIONAL LIABILITY INSURANCE

Such a policy is internationally known as E&O (Error and Omission) policy and covers claims raised due to negligence in professional services.

While these policies are fairly prevalent for Medical Professionals, it is only recently that other professionals have raised demand for these products. Thus, the number of Insurers offering this product in India (to other than medical professionals) is still limited, but it is expected that as the demand rises, more, and cheaper products will soon be available in the market.

WHAT DOES A E&O POLICY COVER

- This cover is available for professionals in their individual capacities and/or as firms either on an annual basis or on a project basis.
- The policyholder or insured and their named employees will be indemnified for all sums they become legally liable to pay to Third Party for services included in the policy.
- The policy will cover legal costs and expenses incurred with prior approval.

- The Insurer will cover the policyholder for costs up to the sum insured per accident (Any one accident / AOA).

- The Insurer will cover the policyholder up to the number of claims for which you are covered (Any one Year).

- For a claim to be considered, the insured must be covered for the entire period from the time when service was rendered, to the time the claim is settled, and all time in between (The claim has to occur during the period of insurance).

- The amount that will be covered under the claim is the minimum amount for which the insured is covered during this period.

WHAT DOES A E&O POLICY NOT COVER

- Any claims where mala fide intention of the insured is proven, the claim will not be settled by the Insurer.
- Costs/claims above and beyond the sum insured / number of cases insured will not be covered by the Insurer.
- Claims pertaining to any services rendered for which the insured was not covered at any point of time, either at the time of

rendering service, of the claim settled, or any time in between, will not be entertained by the insurer.

- Also, the insured must not commit to settling the claim at any point in time, or else the claim will not be entertained by the Insurer.

INFORMATION USUALLY REQUIRED BY AN INSURER WHEN APPLYING FOR A E&O POLICY

Usually, the insurer will need to know details of what are the professional services that the applicant is rendering, details of turnover and staff, years of experience in the profession, and if there have been any claims in the past, locations of all offices, etc details may be sought by the insurer.

The applicant will need to indicate the sum insured for each claim and the maximum number of claims that need to be covered in a year. Insurers cover 1-4 claims per year, and the premium varies accordingly.

HOW MUCH DOES A E&O POLICY COST

Based on certain policies taken, the following guideline can be drawn:

For a policy of 10 Lakh, the premium

may be as follows:

Rs. 7000 for 1:1
(max. one claim in any year)
 Rs. 11000 for 1:2
(up to two claims in any year)
 Rs. 13000 for 1:3
(up to three claims in any year)

One can multiply the above amount on a pro-rata basis to arrive at a tentative premium.

For example, for a policy of 20 Lakhs, the tentative premium may be as follows:

Rs. 14000 for 1:1
(max. one claim in any year)
 Rs. 22000 for 1:2
(up to two claims in any year)
 Rs. 26000 for 1:3
(up to three claims in any year)

** Above figures are indicative. Actual premiums may vary based on the Insurer, and according to annual turnover, fees, staff, and other parameters as per each Insurer. GST Extra.*

WHICH INSURERS ARE FULL DETAILS PRESENTLY COVERING VALUERS UNDER E&O POLICY

While most insurers have a E&O policy for professionals, very few insurers are practically underwriting the risk, since they have little or no exposure in the area. The writer has seen policies being issued by UIIC & NIC. As the demand for the product grows, and more and more inquiries are generated, other insurers, realizing business, are also likely to offer the product. The cost is also likely to come down in the future.

MIGRATING FROM ONE INSURER TO ANOTHER

Yes, it is possible to migrate from one Insurer to another, and with the pre-consent of the new Insurer, the risk would be considered to be covered from the date of the original policy (retroactive date). Thus, valuers can consider taking a policy with whatever Insurer is offering it as on date, and as more insurers come into the market, one can choose to move to an insurer of choice or one that is cheaper, and convenient.

Above are broad-based coverages of a E&O Policy for valuers. For exact and full details, please refer to individual policy document wordings.

ABOUT THE WRITER

Writer is an Architect, Valuer and Techno-legal Consultant, with 30 years of experience in consulting.

The above article is written based on writer's own experience, out of his quest to get a E&O policy, and with the intention to make the fraternity aware of the development in the field.

Writer will appreciate updates on the matter and can be reached at nilesh@suchdevs.com.