



EXAMINER'S REPORT

NOVEMBER 2017

MARINE INSURANCE

Q1. Give a detailed explanation of the role played by marine insurance in the financing of international maritime trade.

The question expects the student to be familiar with the role of marine insurance in financing international seaborne trade (marine hull and marine cargo insurance), the role of the banks in financing trade, etc. Students are expected to be familiar with financing of international trade and the integral role of marine insurance.

In order to pass, the student is required to present a detailed discussion on the role of marine insurance in seaborne trade (marine hull and marine cargo insurance), the role of the banks in financing trade, how marine insurance provides continuous cover for the cargo carried, and how the policy of insurance forms an integral part of the documents needed to raise finance for the trade conducted, etc.

General structure and quality of answers - dealing with the issues individually and critically using relevant case laws and references.

Q2. In what circumstances may a ship-owner give notice of abandonment of his insured ship? Explain the provisions governing such notice and the consequences they have for both insurers and the assured.

The question expects the students to have a good knowledge of the notion of 'abandonment' in marine insurance laws / shipping practice, as it forms the foundation for a claim arising from total loss/constructive total loss. Students are expected to be familiar with the Sec 62 of the Marine Insurance Act 1906.

For a good pass, the student is required to engage in a detailed discussion of the notion of 'abandonment' of a ship by the shipowner and the consequences that flow from the same, especially in a situation where the claim is based on a total loss, or constructive total loss. The answer is also to include a clear discussion on when a shipowner may give a notice of 'abandonment' of his insured ship, in what manner (written/oral), whether the insurer should accept such notice or 'abandonment', and the consequences of such acceptance of the notice of abandonment on both the assured and insurer.

The question requires students to use appropriate illustrations, both case laws and examples – the ones cited in the study material/ text book and student's own choice. Additional marks are awarded for good quality answers (structure and analysis), and for those dealing with issues individually and critically using relevant case laws and references.

Q3. Explain the purpose and function of a Shipowners' Protection & Indemnity Club, the benefits that accrue to the shipowners, and how it is governed by the Marine Insurance Act 1906.

This question requires the student to be well versed in the role played by the P&I Clubs in the shipping industry – especially in terms of providing cover where it is not available from underwriters.

In the main body of the answer, the student is required to carry out a detailed discussion on the purpose and function of the shipowners' P&I clubs in the shipping industry. A good answer will include an overview of the role of P&I clubs, how the clubs came to be established, their not-for-profit nature, the types of cover provided by the clubs, etc., and how it benefits the shipowner (club letters etc.).

The discussion was expected to include examples and case laws cited in the study material/ text book and student's own choice. Case Laws: ***De Vaux v Salvador (1836)***; ***Western Hope case***. Additional marks were awarded for well-structured answers, dealing with the issues individually and critically using relevant case laws and references.

Q4. Answer BOTH parts of the question: a) Explain, with examples, the circumstances in which an assured may claim an actual total loss. b) Discuss the rights that automatically accrue to underwriters upon payment of a claim for total loss of the subject matter insured.

This question is in two parts, and the student is to attempt both parts.

Students are expected to be aware of a claim for *total loss* in insurance practice and the rights that the underwriters accrue on allowing such a claim. The question requires the student to discuss in detail **a. the circumstances under which an assured may claim an actual total loss** and **b. the rights that automatically accrue to the underwriters upon payment of a claim for total loss of the subject matter insured**. The students are expected to be aware of how rights are subrogated.

A good answer is expected to have good quality illustrations – both case laws and examples (from study material/ text book and student's own choice). Additional marks were awarded for well-structured answers, dealing with the issues individually and critically using relevant case laws and references.

Q5. Define the essential requirements for justifying a claim under sue and labour expenses and explain how these expenses differ from General Average expenditure.

The student is expected to have a good understanding of 'sue and labour' in marine insurance laws and how it differs from general average claim. The students are to carry out a detailed discussion on sue & labour under marine insurance contracts and how it differs from the expenses incurred as general average claim. Students are to demonstrate a clear understanding of the principles behind sue & labour, namely the duty of the assured to mitigate the losses by engaging in such acts to minimise the damage that could be caused by an insured peril, and how such expenses can be claimed under sue & labour.

The student is to use case laws, and examples cited in the study material/ text book and student's own choice, and the relevant provisions of the MI Act 1906, namely section 78. Examples: ***The Nukila [1996]***; ***The B Atlantic No 2 [2015]***. Additional marks are awarded for well-structured answers, dealing

with the issues individually and critically using relevant case laws and references.

Q6. Discuss and distinguish particular average loss and a general average loss.

To answer the question the student should be familiar with the difference between particular average loss and general average loss in marine insurance practice.

Clearly, this is both a legal question, and practical question, the answer is expected to contain a detailed discussion on particular average loss and general average loss in marine insurance practice, how although both are considered partial losses; where particular average loss refers to a loss sustained to any particular cargo, but general average loss refers to a loss of two or more interest in the marine adventure.

A student is also expected to use case laws and examples cited in the study material/ text book in the discussions, and student's own choice, and the relevant provisions of the Marine Insurance Act 1906. Answers are to be well structured, dealing with the issues individually and critically using relevant case laws and references.

Q7. Discuss the principle of insurable interest, covering in detail every aspect of the application of this principle in relation to marine insurance.

To answer the question the student should be familiar with the principle of insurable interest in marine insurance laws.

The student is to carry out a detailed discussion on the insurable interest and the legal right to insure. Students are expected to be aware of the relevant provisions of the Marine Insurance Act 1906 relating to insurable interest and the application of the principles.

As in all law questions, a student is expected to refer to case laws and examples in the discussions. Case laws: **Lucena v Craufurd (1806)**; **Moonacre [1991]**. Additional marks were awarded for well-structured answers, dealing with legal issues individually and critically using relevant case laws and references.

Q8. . Answer BOTH parts of the question: a) Using appropriate examples, state the measure of indemnity, as specified in the Marine Insurance Act, 1906, for damage to the insured ship i. where the damage has been repaired; ii. where the damage has been partially repaired, iii. where the damage has not been repaired. b) Does the indemnity in the above cases get amended by the provisions of the Institutes Time Clauses?

This question is in two parts, and the student is to attempt both parts. The student is to present a preliminary discussion on measure of indemnity as specified in the Marine Insurance Act 1906 for the insured ship under different heads.

The question requires that students carry out a detailed discussion on **a.** measure of indemnity as specified in the Marine Insurance Act 1906 for the insured ship under different heads – *where the*

damage has been repaired, where the damage has been partially repaired, where the damage has not been repaired. The answer should also include discussions on whether the indemnity in the above cases gets amended by the provisions of the Institute Time Clauses.

Being a law question, a student is also expected to use case laws and examples cited in the study material/ text book in the discussions. Additional marks were awarded for well-structured answers, dealing with legal issues individually and critically using relevant case laws and references.