

Carrier's Legal Liability Insurance

V/s

Transit Insurance/Marine Insurance

Generally, the people of transport fraternity are confused which insurance product, they should purchase: Carrier's Legal Liability or Transit Insurance. Some think The Carrier's Legal Liability is substitute of Transit Insurance.

Are both substitute to each other or have different coverages? Let us see.

Sometimes due to lack of knowledge and awareness they purchase Carrier's Legal Liability Policy (whereas their real need is Transit Insurance) and think they are safe and fully protected but they are not.

As you know the Carrier's Legal Liability policy in India is not as popular as truck insurance, health Insurance or life insurance. There is very little knowledge about Carrier's Legal Liability Insurance. Even the agents and brokers who have been working in insurance industry for decades don't have enough knowledge to properly guide their clients about Carriers Legal Liability Insurance.

What is generally covered under Carriers Legal Liability Insurance?

The insurer will reimburse you all sums which you become legally liable to pay resulting from an Occurrence happening during the Period of insurance and arising out of Your insured operations for:

Physical loss or damage to Cargo and for Consequential loss resulting from such loss or damage.

Liability to third parties, for property damage due to Physical loss or damage to property of any Third-Party

including ships, locomotives, rolling stock and equipment and any Consequential loss, loss of use, delay or Demurrage resulting from such physical loss or damage.

In policy wordings it seems that all risks are covered under the Carrier's Legal Liability policy but this is not true.

Actually, this policy protects you against the perils for which you are actually liable as per Carriage by Road Act 2007. This policy does not cover the perils which fall under Section 17 of Carriage by Road Act 2007.

Section 17 Carriage by Road Act 2007, Save as otherwise provided in this Act, a common carrier shall be responsible for the loss, destruction, damage or deterioration in transit or non-delivery of any consignment entrusted to him for carriage, arising from any cause except the following, namely:

- (a) act of God;
- (b) act of war or public enemy;
- (c) riots and civil commotion;
- (d) arrest, restraint or seizure under legal process;
- (e) order or restriction or prohibition imposed by the Central Government or a State Government or by an officer or authority subordinate to the Central Government or a State Government authorised by it in this behalf.

If in the claim of cargo, the peril mentioned in Section 17 of Carriage by Road Act such as cargo damaged in "riot" is involved, the carrier cannot be held liable for cargo damage. Hence this cargo claim will not be recoverable under Carrier's Legal

Liability Policy.

From the aforesaid example, it is clear that the CLL does not protect the cargos fully. This is a legal aspect of CLL but if we talk about practical aspect, the cargo of a party which has not taken transit insurance, is damaged when it was under custody and control of the carrier, he will deduct claim amount from the freight bills of the carrier. As a carrier, you are service provider and are at receiving end, hence you are not in a position to resist. Now in case of cargo damaged by rioters, as a carrier, you are not liable as the peril "riot" comes under purview of section 17 of Carriage by Road Act 2007, but your party will not accept your argument and deduct claim money from your freight bills. So now, it is clear that Carrier's Legal Liability policy has its limitations and only covers Perils, for which the carriers are liable as per Carriage by Road Act 2007.

At one hand the CLL covers limited perils but on the other hand Transit Insurance (ITC-A, all risk policy) covers cargo damage or loss due to any peril subject to certain terms and conditions.

So, transit Insurance provides better protection in comparison to CLL Insurance. Now a days the carriers can also take transit insurance in their own name if cargo owner does not have transit policy for his cargos. Some people argue, how can the carriers take transit insurance in his own name when he is not the owner of goods and does not have Insurable Interest in subject matter of Insurance? The

Argument is correct, you can not take insurance for the cargos of others. But now a days there is agreement in between carriers and cargo owners in which the cargo owner put condition that if the loss occurred when the cargo

is in the custody of the carrier, they will deduct full claim value from his freight bills and they do.

In this situation when cargo owner debits every claim amount from the freight bills of carrier, indirectly now

the carrier are owners of the cargo which they carry. So, they can protect themselves by taking Transit Insurance on their own names.

For better understanding I am giving you comparative table: -

Peril	Coverage Under CLL	Coverage Under Transit Insurance
Act of God (like flood, lightening, rock slide, landslide etc.)	Not covered	Covered
Strike, Riots, Civil Commotion	Not covered	Covered
Perils mentioned in section 17 of Carriage by Road Act 2007	Not covered	Covered
Fire (other than lightening)	Covered	Covered
Accidental Damage	Covered	Covered
Leakage/Breakage	In basic policy not covered, in wider policy it is covered	Covered
Theft/Non-Delivery	Generally covered except the driver or employee on the role of carrier are not involved in theft or non-delivery.	Generally covered except the driver or employee on the role of carrier are not involved, if the policy is in the name of transporter. If policy in the name of cargo owner, these perils are covered.
Hijacking of truck	Generally covered except the driver or employee on the role of carrier are not involved in this crime.	Generally covered except the driver or employee on the role of carrier are not involved in this crime, if the policy is in the name of transporter. If policy is in the name of cargo owner, these perils are covered.

So, from aforesaid table it is clear that Transit Insurance gives more protection than Carriers Legal liability Insurance.

Precautions

As you know the policy wording of transit insurance and CLL are very complex, hence following precautions should be taken before purchasing insurance policies: -

Transit Policy/Marine Policy

1. Ask about deductible (Excess), if the deductibles are high, ask your agent to minimize it as low as possible.
2. While taking Transit Insurance read all warranties which to be attached with the policy carefully.

3. Look at coverage under policy (whether this is ITC-A, ITC-B or ITC-C)

4. Purchase transit insurance from those agents who have great knowledge about claims and ask them their experience about insurance claims.

5. Do enquiry whether transit policy which is being taken in the name of the carrier can be able to recover 100% of claim money or 75% to 90% of claim value will be paid. Generally, insurers put condition for 75% to 90% settlement in their policies. Only few agents or brokers can negotiate Insurance company to provide 100%

claim to the transporters under Transit Insurance otherwise they only pay 75% to 90 % of claim value

6. Ask your agents or brokers about the insurance company from which they will provide you insurance and check the reputation of insurance company before purchasing.

Carrier Legal Liability policy

1. Apart from looking at policy coverage, warranties, deductibles, also enquire about whether hired vehicles are covered under the policy or not.
2. Whether the policy covers the vehicles which have Third Party Insurance or the vehicles having

comprehensive insurance are only covered under the policy. Generally Public Sector Insurance Companies (United India, New India, Oriental and National Insurance) have condition and do not cover the trucks which have Third Party Insurance.

3. Ask your agents and brokers what support insurance company provides at the time of claim if the matter goes in the court of law. Whether they will appoint advocates for you or come into the picture only once the carrier loses the Court Case and award comes.

4. Ask you agents and brokers how many claims so far have paid by their insurance company under CLL policy. As per my understanding, under CLL policy the insurance companies only collect premiums and do not give any claims. I know only few insurance companies try to settle the claim amicably and provide legal support to the carriers. Purchase CLL only from those companies which can provide you legal support from the beginning.

5. Purchase Carriers Legal Liability

Insurance from those agents who have great knowledge about claim settlement process for CLL and ask them their experience about claims under CLL policy. The agents and brokers who have good knowledge of this product can help you in a better way.

Benefit of Carriers Legal Liability (CLL) Policy

1. No need to give any recovery under subrogation rights to any recovery agents

2. You enjoy full protection even if cargo insurer drags you in the Court of Law for recovery

3. You are also entitled for defence cost and other cost; you spend to save the cargo or to minimise the further loss of cargo.

4. Some parties, especially MNC will not offer work order if you do not have Carriers Legal Liability Insurance.

5. You are also protected if cargo insurer rejects the claim of your party where you are legally liable to pay.

6. **My Suggestion**

Both the policies are different and have different type of coverages

1. For Uninsured Cargo, you should take transit insurance as CLL will not protect you fully.

2. If you carry 100% Insured Cargo, The CLL can serve the purpose as CLL works best for insured cargos.

3. If you carry Insured as well as Uninsured Cargos, you should take both policies, CLL for Insured Cargos and Transit Insurance for Uninsured Cargos

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“A positive mind finds opportunity in everything. A negative mind finds fault in everything.”

Brahma Kumaris