

Role of Ombudsman's Office in insurance disputes resolution.

Uptake of insurance in our country has seen significant growth in recent years especially among people living in urban area, thanks to awareness campaigns on the importance of being covered.

There are different kinds of insurance products in the market that have registered upward uptake including vehicle insurance, health insurance, marine insurance, life insurance, house insurance, projects insurance and loan insurance.

Due to this growth, insurance claims touching on reimbursement have also increased, meaning that disputes have also increased significantly as well.

To mitigate this, the Insurance Act of 2009 acknowledges different dispute resolution mechanisms which namely courts of law, Commissioner for Insurance, Insurance Appeals Board and the Tanzania Insurance Ombudsman (herein after referred to as TIO).

Of all the dispute resolving avenues, the role of TIO is the least recognized as most people run to the court of law, leaving a user-friendly dispute resolution forum. This article intends to shed light on the said forum for people to understand its powers, procedures and also dispute resolution mechanisms available.

The TIO was established under section 122 of the Insurance Act, 2009 with the main purpose of resolving disputes arising between insurance consumers and insurers namely insurance companies in Tanzania.

Although it's a recognized body to resolve insurance disputes, this office has some limitations on what it can entertain. Section 123 of the Insurance Act 2009 provides exception of claims not to be entertained by the TIO. These are railway rolling stock, aircraft, ships, aircraft liability, liability for ships, surety ship as well as miscellaneous and legal expenses.

Further, an award shall not exceed 15mn/- but the office has jurisdiction to entertain claims not exceeding 40mn/- as per regulation 6 of the Insurance Ombudsman Regulation, 2013.

One can see that this is an alternative mode of dispute resolution but it is trite law that once there are respective forums with powers to entertain a certain dispute, then one has to resort to the said forum first before lodging claims in the court of law.



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The court in the case of Farida Saggin Lukoma vs Zuberi Bus Service Ltd, Civil Appeal No. 146 of 2017 stated inter alia that:

“It is my firm view that, Ombudsman was not established for decoration purposes but rather it was established for the purposes of resolving insurance disputes among them being the appellant’s complaint. Therefore, it was not proper for the appellant to file a normal suit at the Resident Magistrate’s Court after being dissatisfied with the payment given by insurance company. In my view, she was supposed to submit her complaint to the requisite body established by law to deal with such complaints.”

The same was also stressed in the case of Heritage Insurance Co. Ltd vs Abihood Michael Mnjokava, Civil Appeal No. 1 of 2020.

We shall now look at advantages of lodging a complaint with TIO on which we shall pass through the filing procedures, complaint hearing, enforcement and its short comings.

On the advantage, its filling procedures are very user-friendly for anyone to be able to access the office. While in courts of law there are complex procedures of lodging claims like filling of plaint, defence and other pleadings, regulation 13(1) of the Insurance Ombudsman Regulation 2013 provides that complaints can be lodged to the TIO in written form, electronically and even orally.

The mode to adjudicate complaint shall is through mediation, reconciliation and lastly arbitration. Secondly, the law provides for time to finalize a lodged complaint under regulation 15(4) of the Insurance Ombudsman Regulation, 2013 which is opposite to the normal courts of law in which time to finalize a dispute is mostly not adhered to hence time consuming.

Thirdly, unlike courts of law which mostly stand as a referee, the law allows TIO to engage in investigation of the complaint, something which makes an adjudication board to be active in not only the evidence brought to it but also to see the market or the actual hemisphere out of the paper brought before it.

Fourthly, if one is aggrieved with the TIO orders, then regulation 20 of the Insurance Ombudsman Regulations, 2013, provides a remedy to lodge reference to the High Court.

Lastly and more importantly is the execution of its orders. While in normal courts one has to find different properties of the judgment so that the same can be attached, restrained, be sold or in whatever way to realize the decretal sum, the TIO has an easier way to enforce its decisions under regulation 22 of the Insurance Ombudsman Regulations, 2013.

The aforementioned provides that TIO shall give notice to the insurer to pay as ordered, failure to it the said information shall be transferred to the Commissioner for Insurance whom is entitled to add additional fine or cancel license of the insurer to engage in insurance business something which no any insurance company would wish for.

A quick shortcoming of the TIO is the pecuniary jurisdiction. The amount of 15mn/- and 40mn/- are very minimal which even primary courts these days are entitled to entertain.

Research shows that most of officials in TIO are retired judges and experts of law hence the amount ought to be increased to match the district or residence magistrate’s courts.

Note: The material and information contained in this article are for general information purposes only. They only provide either elementary or basic legal knowledge on the above subject. Anyone considering legal action should consult an experienced lawyer to understand current laws and how they may affect a case in question.