

## Chapter 9

### **Fundamental Legal Principles of Insurance Contract**

After studying this chapter, the student has to be able to answer the following questions:

- What are the legal principles of insurance contract?
- Explain every legal principle by example
- Explain the difference between representations, concealment and warranty.
- What are the Distinct legal characteristics of insurance contract, then explain every characteristic by example.
- What is the difference between insurance is enough or is not enough, and how can calculate indemnity in each case.
- Show how insurance contract differs from the other contracts.
- Explain law of agency and how affects the actions and duties of insurance agents.
- Explain by example the difference between *Waiver* , *Estoppel* and *Binder*

#### **9-1- Legal Principles of Insurance Contract**

In addition to those principles that apply all contracts. The insurance contract is subject to **special legal principles that are unique to insurance contract** and differentiate it from other contracts. Some of these principles are applicable to all lines of insurance and some others are applicable only to property and liability insurance. *Legal Principles of Insurance Contract* can be illustrated , in detail ,herein below:

##### **1-Principle of utmost good faith**

In fact, if we contemplated *the history of marine insurance* we can say the underwriter of insurance company often was unable to examine the ships and their cargo because they were always at sea. At the same time the insurance was necessary, neither ship-owner nor businessman dispense with it, so what should the underwriter do it? The underwriter should place **great faith in statement made by shipowner or businessman** who own Cargo (applicants for insurance) for insurance concerning ship or Cargo to be shipped. That is, *the meaning of utmost good faith.* *In other words a high degree of honesty and frankness and truthfulness* whether from people dealing with insurance company (applicants) or underwriter of insurance company (a representative of insurance company).

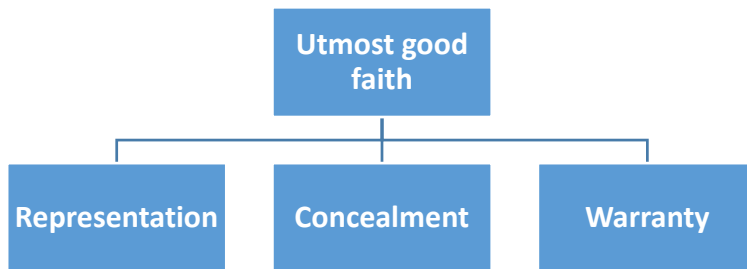
**Example**

In marine insurance shipowner or businessman (owner of cargo) should state good information for they are covering (ship – cargo), the ship is seaworthy and the cargo in a good condition. At the same time, the underwriter of insurance company should be just in determination of premiums and provisions of contract

Consequently, if the underwriter or applicant for insurance departed from utmost good faith, the contract will be avoidable.

The concept of utmost good faith principle is implemented by three legal doctrines, they are:-

- (i) Representation (ii) Concealment (iii) Warranty



**Figure (9.1) Doctrines implementing the principle of utmost good faith**

I) Representations: If you would like to buy life insurance ,you will look for an agent or maybe you will go to insurance company and you will negotiate with agent or Insurance Company for insurance coverage and you make statements concerning yourself. These statements are called representations. So, what is representation? It is a statement made by an applicant for insurance to supply information to insurance company for the purpose of inducing it to accept a risk.

**Notice:** Representations maybe written application or maybe oral. Misrepresentation is a false statement. So, if the applicant misrepresents a material fact, the insurance contract can be avoidable and the insured will have no coverage even though he has insurance policy. In essence, the insurance contract never existed.

✓ **Notice :** Material means that if the insurer knew the true facts, the policy would not have been issued, or would have been issued on different terms

**For example, in life insurance** Mr. Osama Abd Mawla applies for life insurance policy. He makes representations concerning him (his name – age – occupation – marital status – present insurance) by filling an application form. He also

answers some questions about his health and states in application form, that he has not diabetic disease, whereas, he actually has been treated several times from this disease and still has medical treatment. In this case, he has misrepresented a material fact and the policy is avoidable. Also, if he dies of a diabetic one year later and insurance company then learns the truth, the company could contest the death claim on the basis of a material misrepresentation.

**Example in motor insurance:** Mr. Ayman Abdel Mawla applies for insurance on his new car telling the insurance company that he had no any accidents during the last five years. As a matter of fact , he has been wrecked his last car by driving it very quickly. The policy is issued and Mr. Ayman does it again and he totally wrecks the new car and is sued for 50,000 L.E for injuries to other people. If insurance company had known that Mr. Ayman lied about important fact (i.e. material fact) when he applied for the policy, it will refuse to pay the claim.

II) Concealment: The second doctrine of utmost good faith is concealment. It is the counterpart of misrepresentation. Concealment means the deliberate failure of an applicant of insurance to disclose a material fact to insurance company. In other words, Concealment is nondisclosure that the applicant does not reveal those material facts about exposure unit that he only knows and that he should realize are relevant.

If the applicant intentionally concealed a material fact, he obviously realizes is relevant. The insurance company will have the right to void the contract.

**Example:** Mr. Ayman applies for fire insurance policy for his store. He answers all questions the agent asks, but fails to mention his store close to petroleum station. In this case, he has intentionally concealed a material fact, he obviously realizes is relevant and insurance company has the right to void the contract.

III) Warranty: The third doctrine of utmost good faith is warranty. **A warranty is a policy provision or a promise made by insured making the insurer's responsibility conditional upon some fact or circumstance concerning the risk.** In other words, a warranty is that by which the insured undertakes that some particular things shall or shall not be done, or that some conditions shall be fulfilled.

**Example:** A burglary policy on jewelry shop may contain a warranty (a policy provision) that insured will keep **a burglar alarm system** in operation whenever

the shop is not open for business. If there is a burglary loss at a time when the alarm system is not functioning, the insurance company has no obligation to pay, because the warranty had breached and that is well make the policy is avoidable.

### **What is the period of in force of utmost good faith principle?**

Originally, the period of this principle is in force at the beginning of negotiation of insurance with agent or insurer up to the policy is issued .Nevertheless, it should continue after writing the policy.

**For example:** If you have fire policy for your house, that consists of three floors and you built another floor. The house became four floors after insurance. You have to inform insurance company according to utmost good faith principle because the value of exposure unit (the value of house) has changed.

### **2-Principle of insurable interest**

**Insurable interest** means a relationship between the insured and subject matter of insurance ( exposure unit i.e. the person in life insurance, the property in property insurance) .By virtue of it, the insured suffers a loss, if the risk has occurred . In other words, **this principle means** that insured must in a position to sustain financial loss, if the event insured against occurs( Schmit ,j and others 1996 p.86) .That is , if a person had been harmed by change in particular, economic change in whatever he insures ,that person has insurable interest. It is worthwhile to mention that the insurable interest is very important to the buyer of insurance because it determines whether the benefits from an insurance policy will be collectible.

**Examples for insurable interest:** in effect, there **many examples** in our life, for insurable interest because insurable interest is required for all types of coverage including life insurance such as

- **Every person has insurable interest in his property** as long as he is the owner. That is, he has insurable interest in his car, or his home .... etc, because he may sustain financial loss if his car (or his home ... etc) is damaged or stolen. Consequently, you cannot buy insurance on my car, because you are not the owner and you have not insurable interest. Likewise me, I can not buy insurance on your car for the same reason.
- A Bank that makes an inventory loan to business firm has insurable interest in the stock of goods. Because the goods are collateral for the loan.
  - The creditor may have an insurable interest in the life of a debtor.

- An employer may have an insurable interest in the life of a key employee.
- A wife may have an insurable interest in her husband and vice versa is correct.
- A parent has an insurable interest in his child.

**Why insurable interest? Or what are the purposes of an insurable interest?**

Existence of insurable interest is very important for all insurance contracts for the following reasons:

- *An insurable interest reduces moral hazard:* In life insurance an insurable interest requirement reduces the incentive to murder the insured for purpose of collecting the proceeds. That is, without an insurable interest, a person can buy life insurance policy on the life of another person who are not closely related to him by blood or marriage and try deliberately murder him for collecting sum insured. In property insurance without an insurable interest, someone may tempt to insure someone else's house and then deliberately cause a loss to receive the proceeds.
- *To prevent Gambling:* Without an insurable interest, the insurance contract would be a gambling contract for example a person can insure house of another person and hope for an early loss. The same thing, in life insurance a person can insure the life of another person and hope for an early death.
- *To determine the sum insured in property insurance:* If the value of insurable interest is known, the insurer can determine the maximum value of indemnity because it equals insurable interest value.

**When insurable interest Must exist?**

In affect, the time at which insurable interest must exist depends upon the type of insurance as illustrated below:

- I) In life insurance: The insurable interest must exist only at the inception of the policy, but it does not have to prevail at the time of a loss. *For example*, a wife who owns a life policy covering the life of her husband can keep the policy even if they are divorced.
- II) In property insurance: The insurable interest must exist at the time of the loss. That is, insurable interest does not have to exist when the coverage is put into effect. *For example*, you can insure today a car that you expect to buy tomorrow. Another example: If you have a house and insured that house against fire, you can collect on such insurance only; if you still have an

insurable interest in the house at the time of damage occurs. But, if you sold that house to another person, before the house is damaged, you can not collect from insurance company, even though your policy may still be in force, because you no longer have an insurable interest.

### **What is the extent of insurable interest?**

The extent of insurable interest varies from type of insurance to another as follows:

*In property insurance*: In the case of property insurance, not only insurable interest must exist at the time of the loss, but the amount that the insured is able to collect is limited by the extent of such interest. *For example* if you have a one-half interest in a house that is worth one million Egyptian pounds at the time, it is destroyed by fire you can not collect more than 500,000 L.E from insurance company. No matter how much insurance you purchased. But, if you could collect more than 500,000 L.E (amount of insurable interest) you would make a profit on fire insurance. This would violate the principle of indemnity (see this principle later).

*In life insurance*: In contrast to, property insurance, life insurance payments are not limited by insurable interest. Life insurance contracts are considered to be **valued policy**.

*For example*, Life insurance contract provides that, the insurer will pay a specified sum to the beneficiary at time of death of person whose life is the subject of insurance.

### **3-Principle of the proximate cause**

The principle of the proximate cause means the insurance company is liable to indemnify the insured, if **the insured risk** is **the proximate cause of the loss**. The proximate cause literally means *the nearest cause or direct cause*. In insurance business, it relates to the immediate cause of the mishap (accident), which resulted in the loss.

*In other words*, the proximate cause is the efficient or dominant cause that results in a loss with no other intervening cause, which breaks the chain of events. The following questions may be raised about the proximate cause:

- 1- *How can you determine the proximate cause?*
- 2- *When does the insurance company is liable to pay indemnity?*

**Answer:**

The proximate cause can be determined:

- 1- If the event occurs as a single event and that event can be attributed for a loss.
- 2- If the loss occurs as chain events in succession with one event setting off the other, it may be difficult to determine the exact cause of the damage.

The insurance company is liable to pay indemnity in the following causes"

- When the insured risk is a single event
- When the insured risk occurs first and it is followed by an excluded risk.

**Example (1)**

Given that, you have fire policy for your house. This house contains a store. The fire had occurred in the house, and firemen remove undamaged goods from the burning house to avoid its involvement in fire. The goods are stacked in the open yard and consequently it was damaged by rain. The question now whichever fire or rain is the proximate cause?

**Answer:** if the rain damage had occurred before the insured protects the goods then the approximate cause of the damage is fire and fire is covered under the fire policy. However, if goods were left unprotected for a long period the rain would be a new and independent cause of damage and damage caused by rain is not covered under a policy.

**Example (2):** If a person has only personal accidents policy in which diseases are not covered. Given that the person went by his horse in a journey and fell down from back of the horse and he injured by a disease then died. The proximate cause for death is personal event not disease because it has started by chain of event.

**In Conclusion** :It is worthwhile to mention that all insurance contracts are subject to the previous legal principles. But, the following legal principles (indemnity – subrogation – contribution) are applicable to all insurance contracts except personal insurance contracts (i.e. life insurance).

**4-Principle of indemnity**

In fact, this principle applies most property and liability insurance. So, we can say many insurance contracts are indemnity contracts. It is known, that the function of insurance is to indemnify insureds for their actual losses. At the same time, the insurance company agrees to pay for actual loss suffered by the insured and no more. Consequently, principle of indemnity, states under the policy of insurance the insured has to be restored after the loss, at the same financial position in which

he was immediately before the loss. In other words , *The insurer agrees to pay no more than the actual amount of the loss.*

The purposes of this principle are:

- a. To avoid intentional loss. That is, the insurance company will pay the actual loss suffered by the insured. If there is any intentional loss created by the insured, the insurance company is not obligated to pay.
- b. To reduce moral hazard. If dishonest policyholders could profit from a loss, they might deliberately cause losses with the intention of collecting the insurance .
- c. To prevent the insured from profiting from loss: for example. Given that your house is insured against fire by fire policy of 1000000 L.E and it is destroyed completely by fire. IF its value at that time is only 700,000 L.E that is the amount the insurance company will pay. You can not collect one million because this will exceed the actual loss.
- d. To maintain the premium at low-level: If the principle of indemnity is not applied, larger amount will be paid for a smaller loss and this will increase the cost of insurance and the premium of insurance will have to be raised. If the premium is raised, the persons may not incline to insure or to buy insurance.

The conditions of indemnity principle

The following conditions should be fulfilled in full application of principle of indemnity.

- Amount of compensation should be calculated by the following equation:

$$C = L \times \frac{S}{V}$$

Where:

- C is claim (amount of compensation)
- L is loss
- S is sum insured
- V is value of exposure unit

*That is*, indemnification can not be more than the sum insured:

- If the insured gets more amount than the actual loss, the insurer has right to get the extra amount back.
- The principle of indemnity does not apply to life insurance because, the human being can not easily be evaluated.



- The principle of indemnity does not apply to valued policies (The policies that are used to insure antiques - fine arts .... etc) because of the difficulty of determining the actual value of property at the time of the loss. So, both insurer and insured agree on the value of the property at the time of issuing the policy.

**A notice:** The actual cash value of the damaged property is determined either by fair market value or by replacement cost less depreciation.

**Methods of providing indemnity**

In effect, there are different methods through which indemnity may be provided.

These are:

- 1- Cash payment
- 2- Repair of the destroyed property.
- 3- Replacement of the subject matter of insurance by another one of the same standard, age. (if the property is a machine, for example)

**An Important Notice :**

**The Principle of indemnity is based on the actual cash value at the time of loss**

For example :

In **property insurance**, indemnification is based on **the actual cash value** of the property at the time of loss

■ ***There are three main methods to determine actual cash value(ACV)***

1. Replacement cost less depreciation
2. Fair market value is the price a willing buyer would pay a willing seller in a free market
3. Broad evidence rule means that the determination of ACV should include all relevant factors an expert would use to determine the value of the property

**Relevant factors** include :-

- Replacement cost less depreciation
- Fair market value
- Present value of expected income from the property
- Comparisons sales of similar property
- Opinions of appraisers and numerous other factors.

■ Although the ACV rule is used in property insurance, different methods are employed in other types of insurance, such as:

a) **In liability insurance**, the insurer pays up to the policy limit the amount of damages that the insured is legally obligated to pay because of bodily injury or property damage to another.

b) **In life insurance**, the amount paid when the insured dies is the face value of the policy.

c) **In business income insurance**, the amount paid is usually based on the loss of profits plus continuing expenses when the business is shut down because of a loss from a covered peril.

#### **Exceptions to the principle of indemnity:**

There are several important Exceptions to the principle of indemnity, they include the following:-

- **A valued policy** is a policy that pays the face amount of insurance if a total loss occurs, Because of the difficulty of determining the actual value of the property at the time of the loss, the insured and the insurer both agrees on the value of property when the policy is first issued.
- **valued policy law** means A LAW in some states in U.S.A requires payment of the face amount of insurance to the insured if a total loss to real property occurs from a peril specified in the law -The original purpose of a valued policy laws was to protect the insured from an argument with the insurer if an agent has deliberately over insured property so as to receive a higher commission.
- **Replacement cost insurance** means there is no deduction for depreciation in determining the amount paid for a loss
- **A life insurance contract** it is not a contract of indemnity ,but it is **a valued policy** that pays a stated sum to the beneficiary upon the insured's death .

#### **5-Principle of subrogation**

By virtue of principle of subrogation, the insurance company is entitled to obtain the right of its policyholders to recover from any third party (the negligent person) who caused the loss, any loss payments made to the insured. *In other words*, if the insurance company has paid a claim to its insured, it will replace of him to pursue

the third party (the negligent person) who may have caused the incident resulting in the claim.

*In order to understand this principle, let us read altogether, this example.*

**An example:**

Given that your neighbour has burned *a pile of leaves* in front of his house, starts a bonfire and then goes into his house and turns on your house. The fire quickly spreads and your house had damaged because of negligence of your neighbour that permitted the fire to get out of control.

If your house is insured against fire by a fire policy

The following question may be raised. *Do you think you can collect the compensation twice?* Once from your fire insurance and again by suing your neighbour because he is a negligent wrongdoer and is responsible for damage. *The answer* you can not collect from both insurance company and your negligent neighbour who caused the damage. But, insurance company will pay for you the compensation and then you have to give the insurance company legal rights (according to subrogation principle) to collect damage from your negligent neighbour. The insurance company may suit the negligent neighbour and collect from him (if the suit is success full). That is called subrogation. This, of course, will prevent you from making a profit by collecting twice for the same loss.

From the previous lines, we can conclude, subrogation is available to insurers only against third party.

***Now, we can ask what is definition of Principle of subrogation?***

The answer : Substitution of the insurer in place of the insured for the purpose of claiming indemnity from a third person for a loss covered by insurance.

**Notices**

- 1- An Insurance company can not subrogate against its own policyholders even for losses due to their own carelessness.
- 2- Subrogation is not applicable to life insurance
- 3- The insured can not recover his damage twice, once from lawsuit and one from insurance company because this would violate the indemnity principle. Subrogation prevents such double recover. Consequently most property insurance policies contain a provision reinforcing subrogation principle.

- 4- Subrogation cannot exercised where the insured is not in a position to take action against the damaging party (For example, if the negligent party is insured' son)
- 5- If the insured got certain compensation from third party before being fully indemnity by insurer. The latter can pay only the balance of the loss, because subrogation only up to the amount of payment. That is insurer is entitled to get to the extent of his payment.

*What are the purposes of subrogation principle?*

The principle of subrogation has four purposes. Those are:

- i) It enforces the rule of law and holds the guilty person to pay for the loss.
- ii) It helps the insurer to partially or fully recover the amount paid to loss.
- iii) It prevents the insured from profiting from the damages, i.e. obtaining compensation twice for the same loss.
- iv) It helps to hold down the insurance rates. With reimbursement from the concerned third party, the insurance company's losses are substantially scaled down, the benefit of which, in turn is passed on to the final policyholders by way of reduction in premium.

*The importance of subrogation*

- The insurer is entitled only to the amount it has paid under the policy
- The insured cannot impair the insurer's subrogation rights
- Subrogation does not apply to life insurance and to most individual health insurance contracts
- The insurer cannot subrogate against its own insureds

*6-Principle of contribution in insurance*

This principle means, if there are more than one insurance company cover the same loss, at the time of the loss, all insurance companies should contribute for paying the loss proportionately to the extent of their respective liabilities. That is, proportion of every insurance company may be calculated by the following equation:

$$\text{Proportion of company} = \text{Loss} \times \frac{\text{sum insured covering by the company}}{\text{Amount of total coverage by all companies}} \\ \text{(Total sum insured)}$$

**An example:**

Given that, Businessman insures his factory under three fire policies for a total of 10,000,000 L.E. Company (A) provides 5000,000 L.E under one policy, company (B) provides 2000,000 L.E under the second policy and company (C) provides 3000,000 L.E under the third policy. Each of the three companies will share the payment of losses in proportion to the amount of the total coverage, depending on the amount secured for each. If the factory had exposed to fire and the loss is 500,000 L.E, How much businessman will collect and how much every company should pay?

**The Answer:**

Businessman cannot collect 500,000 L.E from each company, but he will collect just 500,000 L.E from the three companies. Consequently and according to principle of contribution, each company will pay its **pro rate share** (its proportion) of the loss as follows:

Sum insured Company A = 5 millions L.E

Sum insured Company B = 2 millions L.E

Sum insured Company C = 3 millions L.E

Total Sum insured 10 millions L.E

$$\text{Company A pays} = 500000 \times \frac{5000000}{10000000} = 250000$$

$$\text{Company B pays} = 500000 \times \frac{2000000}{10000000} = 100000$$

$$\text{Company C pays} = 500000 \times \frac{3000000}{10000000} = 150000$$

Total Paid = 500,000

By contemplating, the previous results, we can say the businessman will not make a profit behind insurance with the three companies, but he, just, will indemnify by the incurred loss. But, if he collected the loss from the three companies, he may profit from the loss and this would be, of course, violate the principle of indemnity. Hence, the insured can not get more than his whole loss from all insurance companies.

**Notes**

- a. Contribution is the right of an insurer (who has paid under policy) to call upon other interested insurers in the loss (but not necessarily equally liable to the same insured) to share the cost of an indemnity payment.

- b. The principle of contribution enables the total claim to be distributed among insurers in a fair way.

When does contribution principle operate?

Actually, there are some conditions should be fulfilled, before the principle of contribution operates. They are:

- i) The risk insured against must be common to all the policies.
- ii) All the policies must be in force during the occurrence of loss
- iii) All the policies must cover the same subject-matter of insurance( exposure unit ). If all the policies cover the same insured but different subject-matters altogether, then the question of contribution would not arise.
- iv) All the policies must cover the same insurable interest of the same insured.

**9- 2- Distinct(Special )legal characteristics of insurance contracts**

In spite of all contracts, particularly, in civil law share basic concepts and basic elements, insurance contracts typically possess a number of distinct legal characteristics that make them different from other legal contracts and not widely found in other types of contractual agreements. The common special characteristics of insurance contracts may be illustrated as follows:

- 1- Insurance contract is a contract of **adhesion**: Contract of adhesion means a contract in which one party draws up its conditions (provisions) and represents it to the other party on a "Take it or leave it" basis without negotiation, revising or deleting any provision. Likewise, insurance contracts are of this type. They are not drawn up through negotiation. But insurance company writes the contract and the insured either accept it or reject it. If the contract has ambiguity or dispute, the court will render its interpretation in favor of insured, because the insurance company has the right to draw up the contract and knows every provision what it means.
- 2- Insurance contract is a **unilateral** contract: A contract may either be bilateral or unilateral. In a bilateral contract each party exchanges promise for promise. However, in unilateral contract, the promise of one party is exchange for a specific act of the other party. Insurance contracts are unilateral. That is, insurance company makes a legally enforceable promise to pay indemnity. But, after the paying of first premium , the insured makes no promises that

can be legally enforced to pay the premiums or to comply with the policy provisions. If the insured violates certain provisions of the contract, he may be prevented from collecting in the event of a loss.

- 3- Insurance contract is a **conditional** contract: A condition is a provision of a contract which limits the rights provided by the contract. Insurance contract is conditional. That is, the insurance company's obligation to pay a claim depends on whether insured or the beneficiary has complied with all policy conditions.

For Example: if a loss is suffered, certain conditions must be met before the contract can be legally enforced and the insured or beneficiary should satisfy these conditions and prove that he has an insurable interest in the person insured or property insured.

4-Insurance contract is an **A leatory** contract

It is known any contract between two parties. So, if one party to contract might receive considerably more in value than he gives up under the terms of the contract. The contract is called **aleatory contract**. Likewise, insurance contract is of this type, because it depends upon chance and one party may receive a value out of proportion to the value that is given. That is, insured may receive more in claim proceeds than was paid to insurance company in premium pounds. On the other hand, the insurance company could ultimately receive significantly more pounds as premiums for many years more than the insured if a claim is never filed.

For example: If you paid premium of 100 L.E for 80,000 L.E of car insurance policy on your car against theft risk. Given your car have stolen after two months thereafter. You should collect 80,000 L.E that greatly exceeds the premium paid. On the other hand, you may pay premiums for many years and never have a loss.

5-Insurance contract is a **personal** contract

Since the risk is transferred from the insured person to insurance company. So, Insurance contract is considered a personal contract because in the property insurance, for example, insurance contract does not insure the property itself, but insures the owner of property against loss. That is, the owner of the insured property is compensated, if the property is damaged or destroyed.

Consequently, property insurance contract is not transferable to another person without the insurance company's consent. In contrast, life insurance and some maritime insurance policies are notable exceptions. That is a life insurance policy

can be freely assigned to another person without the insurer's consent because this may not change the risk or increase probability of death.

Example (by reading it, you can say, insurance contract is a personal contract).

Suppose you have a car and you had insured it against collision. If you sold this car and no provision is made for the buyer to continue the existing car insurance, then coverage will cease with the transfer to the new owner. But, if the latter had taken the insurance company's consent, the coverage will continue,

### **9-3 Law and the Insurance Agent**

In fact, Insurance is sold by different methods, one of them by agent. So, **what is agent?** **The answer :** agent is someone who has the authority to act on behalf of a principal (the insurer or insurance company)

#### **Law of Agency**

Important rules of law govern the actions of agents and their relationship to insureds, may be summarized as follows:-

- A- There is no automatic presumption that one person legally can act as an agent for insurer so, the agent has to have authority from insurer.
- B-An agent must be authorized to represent the principal, and the agent's authority to act on behalf of an insurer takes 3 forms, they are :
  - Express authority means the absolute authority, which is stated in the agency agreement.
  - Implied authority means authority of agent to perform all incidental acts necessary to fulfill the purposes of the agency agreement
  - Apparent authority means the ostensible authority, so the insurer has to notify all policyholders of limitations on the agent's powers.
- c- A principal is responsible for the acts of agents where acting of agents should be within the scope of their authority.
- D-Limitations can be placed on the powers of agents by adding a nonwaiver clause to the application or policy

### **9-4 Some important terminologies**

Some important terminologies have direct relevance to law of agency and to the powers of insurance agents. These terminologies are :-



- **Waiver** is defined as the voluntary relinquishment of a known legal right, **For example** . If the insurer receives an application for insurance that contains an incomplete answer and the policy is issued. The insurer can not deny payment the claim on the basis of an incomplete application ,but has to waive because the policy is issued.
- **Estoppel** occurs when a representation of fact made by one person to another person is reasonably relied on by that person to such an extent that it would be inequitable to allow the first person to deny the truth of the representation **For example** . Assume that an applicant for health insurance tells the agent of a health problem, and the agent assures the applicant that health problem does not have to be stated in the application . The insurer could be estopped from denying benefits on the grounds that this information was not included in application.
- **Binder** is a temporary evidence of insurance until a formal insurance contract can be drafted.