PRUDENT
THE FUTURE OF INSURANCE

Liability Claims

TAKEAWAYS

July, 2026

Welcome to the 66th edition of 'Liability Claims Takeaways' - our monthly insights from industry stalwarts.

CONTENT:

1 Professional Indemnity (PI) Policy

Event Chronology

The insured, an engineering consultancy company, was engaged by a design consultant to provide engineering designs and shop drawings on an infrastructure project ("the Project"). The design consultant had been contracted by the main contractor ("the Contractor") to deliver engineering design and shop drawings for precast and prestressed concrete elements and their connections.

During execution of the project, the contractor alleged that the issued drawings contained multiple drafting and detailing deficiencies, including misaligned or missing embeds, incorrect dimensions, and incompatible connection details. These issues reportedly resulted in numerous repair directives and required significant field modifications, including cutting, drilling, welding adjustments, and recasting of precast components, leading to project delays and additional costs.

The contractor subsequently raised a claim against the design consultant seeking recovery of these additional costs, asserting that the losses arose from design and drafting errors. While the design consultant is disputing liability, it has formally notified the insured that, in the event liability is established, it intends to seek indemnity from the insured on the basis that the alleged drafting deficiencies originated from the insured's services.

Highlight

The case illustrates the challenges frequently encountered in Professional Indemnity claims involving multiple consultants engaged on the same project. Apportioning liability necessitates careful consideration of the respective contractual obligations, the nature and extent of each consultant's professional services, and whether the alleged error or omission materially contributed to the loss claimed.

Key Intent of the Claim Case Study

This case study highlights the complexities of apportioning liability when several parties contribute to a common design outcome, and the origin of alleged errors remains to be ascertained. It showcases the importance of a structured, collaborative exercise to jointly assess defects, attribute responsibility, and allocate associated costs and liabilities in a fair and proportionate manner.

Scope of the Policy

The policy is intended to indemnify the insured for its legal liability arising from any negligent act, error, or omission in the performance of its professional services. Where multiple parties contribute to a loss, coverage under the policy is limited to the insured's proportionate share of liability, as determined through an appropriate attribution process, and does not extend to liability arising from the acts, errors, or omissions of any other party.

Prudent: The Part Well Played

A detailed review of the contracts, design documentation, and project records was undertaken to establish the insured's scope of services and distinguish its contribution from that of the contractor and other consultants. We worked closely with the insured and their lawyer, facilitating the submission of detailed liability and quantum assessments and participated in discussions with the contractor to help protect the insured's interests. As negotiations remain ongoing, the final apportionment of liability and quantum of loss has yet to be determined.

2 Banker's Indemnity Policy

Event Chronology

A bank uncovered an internal fraud involving its cash in-charge, who had exclusive control over the gold loan vault in violation of mandatory dual-custody procedures. Exploiting these control failures, the employee fraudulently sanctioned nine gold loans in the names of relatives without their knowledge and misappropriated the loan proceeds for personal use. Subsequent investigations revealed that the gold pledged against these loans was entirely counterfeit and held no recoverable value, raising concerns that genuine customer gold may have been replaced during the period of unauthorised vault access.

The investigation was further complicated by the branch's remote location, which created challenges in conducting inspections, securing records, and arranging independent assessments. Gold assessors and forensic experts were engaged to verify the authenticity of the pledged assets and quantify the loss. With no genuine collateral available for recovery and no repayments received on the fraudulent accounts, the loans were transferred to a Recalled Asset Account, leaving the bank with a significant unrecoverable exposure. Considerable effort was required to reconstruct events, establish the extent of the loss, and address difficulties associated with reimbursing affected parties.

Key Intent of the Claim

Case Study

This case study examines a loss arising from employee dishonesty, fraudulent loan origination, and the suspected replacement of pledged assets. Given the prolonged nature of the misconduct, questions were raised regarding the absence of dual controls, the effectiveness of audit procedures, and how the fraud remained undetected for an extended period. The case focuses on determining when the loss crystallised and the evidence required to establish a covered loss.

Highlight

The matter demonstrates how a breakdown in fundamental custody controls can evolve from a simple operational weakness into a significant loss. It also highlights the challenges insurers and insureds face when employee dishonesty intersects with asset substitution, fraudulent lending, and delayed discovery. The involvement of independent gold assessors and forensic reviews proved critical in establishing the authenticity of pledged assets and quantifying the resulting loss.

Scope of the Policy

Coverage consideration is subject to the policy provisions relating to employee dishonesty and discovery of loss. The assessment focuses on the direct financial impact sustained by the insured, whether the loss resulted from fraudulent acts committed by an employee, and the extent to which any recoveries or reimbursement obligations affect the quantification of the claim.

Prudent: The Part Well Played

Independent gold assessors were engaged to verify the authenticity of the pledged assets, while loan records, vault access logs, audit reports, and staff accountability findings were reviewed to establish the fraud mechanism and quantify the loss. Despite challenges arising from the branch's remote location, a coordinated effort between investigators, auditors, and the police authorities enabled the insured to substantiate its claim and demonstrate the direct financial loss resulting from employee dishonesty.

3 Cyber Policy

Event Chronology

The insured received a communication from a threat actor alleging unauthorised access to the insured's employees' personal data, as well as financials of the insured. Following the notification, the Information Security team immediately activated its incident response plan and commenced containment, investigation, and remediation activities. The threat actor made a ransom demand and also provided proof of data exfiltration.

A series of rapid containment measures was implemented; retrospective threat hunting and forensic analysis were conducted across the environment to identify any evidence of malicious activity. While no material disruption to business operations was observed, continuous monitoring and investigation remained ongoing.

Key Intent of the Claim

Case Study

This case study examines the need of prompt and judicious management of a cyber incident involving alleged unauthorised access to corporate and personal data, focusing on the timely engagement of incident response vendors, regulatory considerations, and adherence with insurance policy terms and conditions.

Scope of the Policy

Coverage consideration extends to incident response costs, legal and regulatory advisory services, forensic investigations, data analytics, and other reasonable expenses incurred in responding to a covered security incident, subject to policy terms and conditions.

Prudent: The Part Well Played

Timely coordination between the insured, broker, insurer, and specialist service providers ensured that key stakeholders were engaged promptly and with appropriate insurer consent. Early notification and authorisation facilitated an effective incident response, enabling the insured to manage the event without the need to make any ransom payment. As the insured continues to incur costs associated with ongoing engagements, the final claim assessment remains pending.

Highlight

The matter demonstrates the importance of rapid incident response and early engagement of specialist service providers. The insured promptly retained legal counsel for regulatory and notification advice, an incident response firm for forensic investigation, and a data analytics provider to assess potentially affected information and support response efforts.

We are sure you found the anecdotes interesting and got some key points to take away.

Stay tuned for the next edition!

About Prudent Insurance Brokers

We, at Prudent Insurance Brokers, provide industry-leading expertise in designing and managing insurance programs to address unique requirements of your organisation. We have a client-centric service infrastructure that delivers proactively & passionately in a highly systematic manner. Our Liability Team consists of members with underwriting experience and the largest number of lawyers who can assist you across different areas:

- Identifying and addressing gaps in your current insurance programs
- Arranging the most cost-effective cover from Indian and international markets
- Ensuring contract compliance for your insurable indemnities
- Offering 360° claims management by one of the largest claims teams across any broker in India
- Providing global solutions through the strongest international alliances

Our Claim-handling Expertise

Our team members come from varied areas of expertise, thereby enabling us to ensure that our clients are assisted thoroughly, through every step of the claims-handling process. We take pride in our professional competency and diligence, and our team is always willing to walk the extra mile in client service.

For More Queries, Please Reach Out To:

Aditi Singh
aditi.singh@prudentbrokers.com

Ankit Kumar
ankit.kumar@prudentbrokers.com

Arpita Cuddapah
arpita.cuddapah@prudentbrokers.com

Pallavi Rajpal
pallavi.rajpal@prudentbrokers.com

Rakshita N
rakshita.n@prudentbrokers.com

Sonali Gosain
sonali.gosain@prudentbrokers.com

Sugandha Rohatgi
sugandha.rohatgi@prudentbrokers.com

Spriha Lohani
spriha.lohani@prudentbrokers.com

Diwakar Sheoran
diwakar.sheoran@prudentbrokers.com

Nishant Kashyap
nishant.kashyap@prudentbrokers.com

Richa Dhasmana
richa.dhasmana@prudentbrokers.com

Sahil Dua
sahil.dua@prudentbrokers.com

Shashwat Agarwal
shashwat.agarwal@prudentbrokers.com

Tanuj Gulani
tanuj.gulani@prudentbrokers.com

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PRUDENT INSURANCE BROKERS PVT. LTD. (Composite Broker)

Certificate of Registration IRDAI No. 291 & IFSCA No. 017 (Validity: 18th February 2026 to 17th February 2029)

Registered office at 1st Floor, Tower B, Peninsula Business park, G.K. Marg, Lower Parel, Mumbai – 400013, Maharashtra,
Tel : +91 22 3306 6000 I CIN No.: U70100MH1982PTC027681