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# **MIS-SELLING OF INSURANCE POLICIES IN INDIA- A CRITICAL STUDY OF LEGAL ISSUES AND CONSUMER REMEDIES**

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## **1. ABSTRACT**

Mis-selling in insurance is basically the selling practices which involve the misrepresentation of information to consumers in order to sell the policies to the consumers through misleading statements, omission of material facts, pressure tactics, unsuitable product recommendations, or manipulation of documentation. Mis-selling in India has continued to occur despite efforts as well as regulatory attempts and market reforms because of structural incentives that is upfront commissions, low financial literacy, and poor regulation or weak oversight at the point of sale. This paper will critically analyse issue of mis-selling in India and multiple types of its forms, underlying drivers, the relevant legal and regulatory frameworks, also the judicial approaches and responses, and the practical remedies available to consumers. The study relies on the IRDAI guidelines, the Insurance Act, the consumer protection jurisprudence, recent regulatory debates over commission structures and public reports to emphasize the continuing concern of mis-selling. The paper examines key cases to demonstrate how consumer forums and courts have defined mis-selling and provided the remedies to the consumers and where legal vacuums still affect and continue to harm policyholders.

The paper contends that despite the existence of multiple avenues of relief (Insurance Act, IRDAI regulations, Consumer Protection Act) provide multiple redress options, the lack of enforcement and misalignment of incentives limit the effectiveness of consumer protection. The paper recommends a multi-faced strategy that includes regulatory reforms which includes commission reform and stronger disclosure requirements, improved as well as enhanced supervisory powers for IRDAI, robust and effective industry codes of conduct, better record-keeping of sales processes, and large -scale financial literacy and grievance redress initiatives. The paper concludes with effective policy recommendations designed to mitigate mis-selling and timeliness and effectiveness of consumer remedies.

**KEYWORDS-** Mis-selling, Insurance, IRDAI, Consumer Protection Act, Policyholder Remedies, Commission structure, Regulatory oversight.

## **2. INTRODUCTION**

Insurance is a cornerstone of modern financial system as it provides a safeguard against unexpected transfers risk and ensures financial stability for individuals, households and businesses<sup>1</sup>. The insurance industry in India has grown considerably over the last two decades with economic liberalization, increasing incomes, awareness, and government regulations and the life and non-life insurance products have emerged as essential risk management instruments<sup>2</sup>. However, despite the growth this industry has repeatedly facing a huge challenge in the form of mis-selling of insurance products which is the conduct of the insurers or intermediaries that results in consumers buying inappropriate products resulted in being misled about benefits and costs, or being pressured into buying coverage they do not understand or need<sup>3</sup>.

Mis-selling refers to a practice of selling insurance policies by misrepresentation of material facts and concealment of information, coercion like pressure tactics, or by recommending unsuitable or inappropriate and misleading policies that do not align with the consumer's requirements, financial capacity, or risk profile. In many cases, policyholders are induced into purchasing insurance policies based on false representations of guaranteed returns, exaggerated benefits, or incomplete as well as inadequate disclosure of charges, exclusions, and surrender fees and penalties. Structural drivers in India include the commission-heavy remuneration model for intermediaries, targets set by banks or insurers, and low levels of financial literacy among many policy purchasers. Such practices of Mis-selling not only leads to financial losses for consumers but also undermines public confidence in the insurance system and also erode public trust in the insurance system.

In the Indian context, mis-selling is often driven by structural and operational factors in the insurance distribution chain. The Agents, corporate intermediaries, and bancassurance channels are often motivated through high upfront commissions and performance and sale targets, which encourage and promote aggressive sales practices. At the same time, a large

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<sup>1</sup>World Bank, *Financial Consumer Protection and Insurance Markets Report (2019)*

<sup>2</sup>Ministry of Finance, Government of India, *Annual Report on Insurance Sector*

<sup>3</sup>IRDAI, *Mis-Selling in Insurance Industry: Things to Know and Learn*.

proportion of consumers are often deficient in adequate financial literacy and tend to rely heavily on intermediaries for advice. This creates an asymmetry of information and bargaining power, making the insured susceptible to exploitation and manipulation.

The regulatory framework which governs the insurance sector in India is primarily administered by the Insurance Regulatory and Development Authority of India (IRDAI) it basically aims to protect the consumer interests through licensing norms, disclosure requirements, codes of conduct, and grievance redressal mechanisms<sup>4</sup>. In addition, consumer protection statutes offer legal recourse against unfair trade practices and deficiency of service. Notwithstanding these measures, complaints about mis-selling continue to constitute a significant portion of insurance disputes before consumer protection forums and ombudsman offices. This points to the fact that legislation alone is not adequate without efficient implementation and enforcement<sup>5</sup>.

The Judicial decisions in India had played a significant and influencing role in shaping the law relates to mis-selling by interpreting as well as assessing the contractual obligations, evaluating evidence of misrepresentation, and awarding compensation to aggrieved policyholders<sup>6</sup>. The Courts and the consumer forums have repeatedly emphasized majorly on the duty of insurers and intermediaries to act in good faith and maintain transparency<sup>7</sup> but the lack of uniformity and the inconsistency in enforcement process, procedural delays, and limited consumer awareness among consumers impeded the practical effectiveness of these remedies.

## **2.1 RESEARCH OBJECTIVES**

The paper studies regarding the problem of mis-selling of insurance policies in India and to evaluate and keep a check on how far the existing legal and regulatory system of framework is capable to protect policyholders from unfair practices. The research aims to understand not only the legal aspects of mis-selling but also the practical realities faced by consumers at the time of purchase and during claim settlement. The key objectives of the research are as follows:

- **To examine the nature, extent and scope of mis-selling in the Indian insurance sector.**

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<sup>4</sup> Insurance Regulatory and Development Authority Act, 1999

<sup>5</sup> Insurance Ombudsman Rules, 2017; IRDAI Annual Complaint Statistics

<sup>6</sup> LIC v. Consumer Education & Research Centre, (1995) 5 SCC 482

<sup>7</sup> Modern Insulators Ltd. v. Oriental Insurance Co. Ltd., (2000) 2 SCC 734

- **To analyse the main cause and structural factors contributing to mis-selling in India.**
- To study the existing legal and regulatory framework governing insurance practices in India.
- **To evaluate approach of courts, judicial trends and case law relating to mis-selling of insurance policies.**
- **To assess the effectiveness of existing redressal mechanisms available to policyholders.**
- **To identify practical gaps and weaknesses in the present system and suggest suitable reforms<sup>8</sup>.**

## **2.2. METHODOLOGICAL APPROACH**

The present study follows a qualitative and analytical research approach. It is based mainly on the examination and interpretation of existing legal materials, judicial decisions, regulatory guidelines, and scholarly writings. The research focuses on understanding the nature, causes, and impact of mis-selling of insurance policies through systematic analysis of laws, cases, and policy documents. No field survey or empirical data collection has been undertaken. The study relies on secondary sources to draw conclusions and make recommendations.

## **2.3 DOCTRINAL LEGAL RESEARCH**

This research is primarily doctrinal in nature. Doctrinal legal research involves the study of legal principles, statutes, regulations, and judicial precedents. In this paper, relevant provisions of insurance laws, consumer protection legislation, regulatory guidelines, and court judgments have been analyzed to understand the legal framework governing mis-selling. The study also examines how courts and regulatory authorities interpret and apply these laws in practice. By critically evaluating existing legal rules and case law, the research aims to assess their effectiveness in protecting consumers.

## **2.4 SCOPE OF THE STUDY**

The present study focuses on the issue of mis-selling of insurance policies in India, with particular emphasis on the legal framework and consumer protection mechanisms. It examines various forms of mis-selling such as misrepresentation of benefits, non-disclosure of material

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<sup>8</sup> World Bank, *Financial Consumer Protection Report* (2019)

facts, sale of unsuitable products, and forced or tied selling practices. The research covers life insurance, health insurance, and general insurance products distributed through different channels, including individual agents, corporate agents, brokers, and bancassurance models<sup>9</sup>. The study primarily analyzes statutory provisions such as insurance laws and consumer protection legislation, along with regulations and guidelines issued by the Insurance Regulatory and Development Authority of India. It also evaluates judicial interpretations delivered by consumer forums and higher courts in cases involving mis-selling and unfair trade practices. In addition, the research briefly compares international regulatory practices to identify best practices that may be relevant for India. However, the main emphasis remains on the Indian legal and regulatory context. The study is doctrinal in nature and relies on secondary sources such as statutes, case laws, regulatory circulars, academic articles, and official reports. It does not include empirical surveys, field interviews, or statistical analysis. The objective is to critically assess the adequacy of existing legal safeguards and suggest reforms to strengthen consumer protection in the insurance sector.

### **3. INTRODUCTION TO THE MIS-SELLING OF INSURANCE POLICY**

The problem of mis-selling of the insurance policy in the insurance industry sector has gained significant attention from scholars, researchers, regulators, policymakers, and consumer rights organizations in recent years because the insurance products has become more complex and market-oriented, the dynamics between insurers, intermediaries, and consumers has undergone paradigm shift. The studies shows a growing concern over unethical sales practices, misleading advices, and a lack of transparency, which diminishes consumer confidence and market stability.

In the initial stages of research the focus is primarily on market expansion and its development and insurance penetration in India. However, with a gradual increase in consumer complaints the research gradually shifted its focus towards examining the quality of service, ethical standard, and regulatory compliance of the insurance industry. The recent modern contemporary literature on the topic highlights that mis-selling is a deep-rooted systemic problem in the insurance industry due to its incentive structures, information asymmetry, and weak enforcement mechanisms.

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<sup>9</sup> IRDAI, Market Conduct Guidelines.

### **3.1 CONCEPTUAL UNDERSTANDING OF MIS-SELLING**

Several scholars discussed the term mis-selling and have attempted to define and conceptualize mis-selling in the insurance context. Mis-selling is generally perceived as the sale of financial products that are not suitable for the customer requirement or sold through misrepresentation, concealment, or pressure tactics<sup>10</sup>. Researchers emphasize that mis-selling is not limited to deliberate fraud but also includes negligent advice and failure to provide adequate information<sup>11</sup>.

Studies highlight that mis-selling often occurs when intermediaries prioritize short-term financial gain over long-term customer welfare. The absence of proper needs assessment and risk profiling contributes significantly to this problem. Academic literature also links mis-selling to principal-agent theory, where agents act in their own interests rather than in the best interests of clients<sup>12</sup>. Some authors argue that mis-selling should be viewed as a form of unfair trade practice, as it distorts consumer choice and weakens market discipline. This conceptual framework has influenced judicial reasoning and regulatory policies in several jurisdictions, including India.

### **3.2 ROLE OF DISTRIBUTION CHANNELS AND INTERMEDIARIES**

A substantial body of literature focuses on the role of distribution channels in facilitating mis-selling. In India, insurance products are sold through individual agents, corporate agents, brokers, banks (bancassurance), and digital platforms. Research suggests that traditional agents and bancassurance channels are particularly vulnerable to mis-selling due to target-based sales models.

Studies indicate that bancassurance has expanded rapidly because of banks' wide customer base and credibility. However, scholars have noted that customers often trust bank officials without questioning the suitability of insurance products. This blind trust creates opportunities for misrepresentation and coercive selling.

Inadequate training and certification of agents as a contributing factor for mis-selling. While regulatory bodies prescribe licensing requirements, the quality and depth of training vary significantly. Some studies recommend continuous professional development and ethical training as essential measures to reduce mis-selling.

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<sup>10</sup> IRDAI, *Mis-Selling in Insurance Industry*

<sup>11</sup> World Bank (2019), *supra* note 5

<sup>12</sup> Jensen & Meckling, "Theory of the Firm," *Journal of Financial Economics*

### **3.3 INCENTIVE STRUCTURES AND SALE PRESSURE**

One of the most frequently discussed themes in the literature is the impact of commission-based incentives on mis-selling. The high upfront commissions encourage agents to prioritize sales volume over customer satisfaction. This creates pressure to sell high-margin products, even when they are unsuitable for consumers.<sup>13</sup>

Research evidence reveals that products with higher commissions are more aggressively promoted. It has been noticed that short-term incentives lead to high lapse rates of policies, which indicate customer dissatisfaction and misinformed purchase decisions<sup>14</sup>. This evidence supports the contention that incentive schemes have a significant impact on sales behavior.

Certain authors propose deferred compensation schemes in which commissions are tied to policy persistency and customer satisfaction. International research indicates that deferred compensation schemes enhance persistency and minimize customer complaints<sup>15</sup>.

### **3.4 CONSUMER AWARENESS AND FINANCIAL LITERACY**

The role of consumer awareness in preventing mis-selling. Research indicates that low financial literacy remains a major barrier to informed decision-making in India. Many policyholders lack basic understanding of insurance terminology, risk coverage, and contractual obligations. The consumers often rely entirely on agents advice and rarely read policy documents<sup>16</sup>. This passive attitude makes them vulnerable to manipulation. Even educated consumers may struggle to understand complex products such as unit-linked insurance plans and investment-linked policies.

There is a need for financial education at school and community levels. Public awareness campaigns, simplified policy documents, and digital comparison tools are suggested as effective methods to empower consumers.

## **4. LEGAL AND REGULATORY FRAMEWORK**

The problem of mis-selling in the insurance sector is addressed in India through a combination of statutory laws, regulatory guidelines, judicial mechanisms, and grievance redressal systems. The objective of this framework is to ensure transparency, accountability, and protection of

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<sup>13</sup> IRDAI, Market Conduct Guidelines

<sup>14</sup> IRDAI Annual Report on Policy Lapse Rates

<sup>15</sup> Financial Conduct Authority (UK), Commission Reform Studies

<sup>16</sup> Sharma, A., "Regulatory Challenges in Indian Insurance Sector," *Indian Journal of Law and Policy* (2020)

policyholders' interests. However, despite the existence of comprehensive laws, practical enforcement remains a challenge.

The legal and regulatory framework can be understood under the following-

#### **4.1 THE INSURANCE ACT, 1938**

The Insurance Act, 1938<sup>17</sup> is the principal legislation governing insurance business in India. It regulates the registration, functioning, and supervision of insurance companies and intermediaries. The Act lays down duties and responsibilities of insurers and agents, including:

- Maintenance of ethical standards
- Proper conduct of business
- Disclosure of relevant information
- Regulation of commissions
- Licensing of intermediaries<sup>18</sup>

Under the Act, insurers are required to act in good faith and follow fair practices while dealing with customers. Any form of misrepresentation, fraud, or misleading conduct may attract regulatory penalties.

Although the Act does not explicitly define “mis-selling”, its provisions on fair conduct, agent licensing, and business standards indirectly aim to prevent unethical sales practices.

#### **4.2 ROLE OF THE INSURANCE REGULATORY AND DEVELOPMENT AUTHORITY OF INDIA (IRDAI)**

The Insurance Regulatory and Development Authority of India (IRDAI) is the apex body and was established under the IRDAI Act, 1999, it was responsible for regulating and supervising the insurance sector in India.<sup>19</sup> Its primary objective is to protect policyholders' interests and promote fair and ethical practices in the industry.

IRDAI plays a key role in preventing mis-selling through the following measures:

##### **(a) Licensing and Registration**

IRDAI regulates the registration and licensing of insurance companies, agents, corporate agents, brokers, surveyors, and other intermediaries. Only licensed persons are allowed to sell

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<sup>17</sup> Insurance Act, 1938 (Act No. 4 of 1938)

<sup>18</sup> Insurance Act, 1938, ss. 40–42 (regulation of commissions and licensing of agents)

<sup>19</sup> IRDAI Act, 1999, s. 3

insurance products, which helps in maintaining professional standards and accountability<sup>20</sup>.

#### **(b) Code of Conduct for Intermediaries**

IRDAI has prescribed codes of conduct for intermediaries. These require agents and brokers to act honestly, disclose material information, recommend suitable products, avoid misleading statements, and protect customer interests. Violation of these rules may result in suspension or cancellation of licenses.

#### **(c) Product Approval and Disclosure Norms**

Before introducing any insurance product, insurers must obtain approval from IRDAI<sup>21</sup>. The Authority examines policy terms, benefits, charges, and risk coverage. It also mandates standardized disclosure documents, such as benefit illustrations and key feature sheets, to ensure transparency.

#### **(d) Monitoring and Enforcement**

IRDAI has the power to conduct inspections, issue show-cause notices, impose penalties, and order corrective measures. These powers enable the regulator to control unethical practices and protect policyholders from mis-selling<sup>22</sup>.

In summary, IRDAI acts as the central regulatory authority that ensures discipline, transparency, and consumer protection in the insurance sector.

### **4.3 CONSUMER PROTECTION ACT, 2019**

The Consumer Protection Act, 2019 provides an important legal remedy against mis-selling by recognizing insurance policyholders as “consumers”<sup>23</sup>.

Under the Act, mis-selling may be challenged as:

- Deficiency in service
- Unfair trade practice
- Misrepresentation
- Deceptive advertising

The Act establishes a three-tier system of:

- District Consumer Commission
- State Consumer Commission
- National Consumer Commission

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<sup>20</sup> IRDAI (Registration of Corporate Agents) Regulation

<sup>21</sup> IRDAI Product Filing Guideline

<sup>22</sup> IRDAI Enforcement and Inspection Guideline

<sup>23</sup> Consumer Protection Act, 2019, s. 2(7)

Consumers can seek:

- Refund of premium
- Compensation
- Interest
- Damages for mental agony
- Litigation costs

The Act strengthens consumer rights and makes insurers legally accountable for unfair practices<sup>24</sup>.

#### **4.4 INSURANCE OMBUDSMAN SCHEME**

The Insurance Ombudsman Scheme provides a simple, free, and informal mechanism for resolving insurance-related disputes. It is designed to offer quick and accessible justice to policyholders without the need for legal representation or complex procedures. Under this scheme, complaints can be resolved through a straightforward process, and the awards passed by the Ombudsman are binding on insurers. The Ombudsman deals with matters such as policy misrepresentation, delay or rejection of claims, disputes regarding policy terms and conditions, and non-issuance of policy documents. This mechanism is particularly beneficial for small and individual policyholders who may lack the financial resources or legal knowledge to pursue lengthy and expensive litigation before courts or consumer forums<sup>25</sup>.

#### **4.5 JUDICIAL OVERSIGHT AND INTERPRETATION**

Courts and consumer forums play a vital role in interpreting insurance laws and protecting consumers.

The Supreme Court of India has repeatedly emphasized:

- Duty of good faith
- Transparency in insurance contracts
- Fair treatment of policyholders
- Accountability of insurers<sup>26</sup>

Similarly, the National Consumer Disputes Redressal Commission has delivered several judgments holding insurers liable for misleading practices and inadequate disclosures.

Judicial decisions help clarify legal principles and strengthen consumer protection.

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<sup>24</sup> LIC v. Consumer Education & Research Centre, (1995) 5 SCC 482

<sup>25</sup> IRDAI Annual Report on Ombudsman Complaint

<sup>26</sup> Modern Insulators Ltd. v. Oriental Insurance Co. Ltd., (2000) 2 SCC 734

#### **4.6 GRIEVANCE REDRESSAL MECHANISM OF INSURERS**

IRDAI mandates every insurer to establish an internal grievance redressal system. These systems include:

- Dedicated grievance officers
- Online complaint portals
- Time-bound responses
- Tracking mechanisms<sup>27</sup>

Consumers must first approach the insurer's grievance cell before moving to external forums. This helps in early resolution of disputes

### **5. JUDICIAL APPROACH TO MIS-SELLING OF INSURANCE POLICIES IN INDIA AND INTERNATIONAL PERSPECTIVE**

#### **5.1 JUDICIAL APPROACH TO MIS -SELLING**

The Indian judiciary has played an important role in protecting policyholders from mis-selling of insurance policies. Courts and consumer forums have emphasized fairness, transparency, and good faith in insurance transactions. Through various judgments, they have sought to ensure that insurers and intermediaries act responsibly and honestly. Courts have also adopted a balanced approach to the burden of proof. When insurers fail to maintain proper records of disclosures, judicial bodies tend to interpret such gaps in favour of policyholders<sup>28</sup>. This encourages better documentation and transparency.

##### **5.1.1 HIGHER JUDICIARY**

The Supreme Court of India has repeatedly held that insurance contracts are based on the principle of utmost good faith (*uberrimae fidei*) and that material facts must be properly disclosed at the time of sale. Where misrepresentation or misleading conduct is established, the Court has granted relief in the form of claim settlement, refund of premiums, or compensation<sup>29</sup>. It has also discouraged insurers from rejecting genuine claims on technical grounds.

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<sup>27</sup> IRDAI Grievance Redressal Guideline

<sup>28</sup> NCDRC Insurance Dispute Judgments

<sup>29</sup> Modern Insulators Ltd. v. Oriental Insurance Co. Ltd., (2000) 2 SCC 734

### **5.1.2 NATIONAL COMMISSIONS**

The National Consumer Disputes Redressal Commission (NCDRC) has consistently treated mis-selling as deficiency in service and unfair trade practice<sup>30</sup>. It has held insurers liable for the acts of their agents and has directed them to compensate aggrieved consumers. The Commission recognizes that customers often rely on agents and therefore deserve special protection<sup>31</sup>.

### **5.1.3 ROLE OF CONSUMER FORUMS**

District and State Consumer Commissions also follow a consumer-friendly approach. They examine policy documents, proposal forms, and agent communications to determine whether the consumer was misled. In cases of mis-selling, these forums have ordered refunds, interest, and compensation.

However, judicial remedies have certain limitations. Legal proceedings are often time-consuming, costly, and complex. Many consumers lack awareness or resources to pursue litigation. Moreover, judicial intervention mainly provides relief after harm has occurred and does not always prevent future mis-selling.

Overall, the judicial approach in India towards mis-selling of insurance policies has been largely supportive of consumers. By emphasizing good faith and accountability, courts and consumer forums have strengthened consumer protection. Nevertheless, effective prevention of mis-selling requires strong regulatory enforcement and greater consumer awareness alongside judicial intervention.

## **5.2 INTERNATIONAL PERSPECTIVE AND COMPARATIVE ANALYSIS ON MIS-SELLING OF INSURANCE POLICIES**

Mis-selling of insurance policies is a global issue, and many countries have developed strong regulatory systems to control unethical sales practices. A comparative study of international models provides valuable guidance for improving consumer protection in India.

In the United Kingdom, regulation is supervised by the Financial Conduct Authority, which follows a consumer-focused approach based on the principle of “Treating Customers Fairly.” Strict suitability assessments, detailed sales documentation, and heavy penalties have helped

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<sup>30</sup> Consumer Protection Act, 2019, ss. 2(11), 2(47)

<sup>31</sup> Sharma, A., “Consumer Protection in Insurance Sector,” *Indian Journal of Law and Policy* (2020)

reduce mis-selling<sup>32</sup>. Large-scale compensation in cases such as payment protection insurance mis-selling demonstrates effective enforcement.

In the United States, regulatory oversight is exercised by bodies such as the Securities and Exchange Commission and state insurance departments. Advisors are often bound by fiduciary duties, requiring them to act in the best interests of clients. Advanced monitoring systems and strict penalties help deter misleading practices.

The European Union regulates insurance distribution through strong disclosure and suitability rules under harmonized directives<sup>33</sup>. Standardized information documents, conflict-of-interest management, and continuous professional training ensure higher levels of transparency and accountability.

In Australia, the Australian Securities and Investments Commission enforces strict compliance through bans on conflicted commissions and mandatory best-interest duties. Public reporting of misconduct and strong enforcement measures promote ethical conduct.

Compared to these jurisdictions, India has a comprehensive legal framework but relatively weaker preventive enforcement. Regulatory action in India is largely reactive, focusing on dispute resolution rather than early detection. Penalties are moderate, and sales documentation practices are still developing.

While direct adoption of foreign models is difficult due to India's large and diverse market, international experience highlights the importance of strict suitability norms, commission reforms, strong supervision, and technology-based monitoring<sup>34</sup>.

In conclusion, developed countries emphasize preventive regulation and consumer-centric governance, whereas India relies mainly on post-dispute remedies. By adapting global best practices to local conditions, India can strengthen consumer protection and reduce mis-selling in the insurance sector.

## **6. CHALLENGES AND REMEDIES**

### **6.1 CHALLENGES IN PREVENTING MIS-SELLING OF INSURANCE POLICIES IN INDIA**

Despite the presence of legal and regulatory safeguards, mis-selling of insurance policies continues to be a serious problem in India. Several key challenges hinder effective prevention.

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<sup>32</sup> FCA, *Conduct of Business Sourcebook (COBS)*

<sup>33</sup> European Union, *Insurance Distribution Directive (EU) 2016/97*

<sup>34</sup> World Bank, *Financial Consumer Protection Report (2019)*

- **Commission-Based Incentives and Sales Pressure**

High upfront commissions and strict sales targets encourage agents and intermediaries to prioritize sales volume over customer suitability<sup>35</sup>. This pressure often leads to aggressive and misleading selling practices.

- **Low Financial Literacy and Information Gap**

Many consumers lack adequate knowledge about insurance products and contractual terms. This low level of financial awareness, combined with information asymmetry between sellers and buyers, makes policyholders vulnerable to mis-selling.<sup>36</sup>

- **Weak Monitoring and Enforcement**

Although the Insurance Regulatory and Development Authority of India supervises the insurance sector, continuous monitoring of numerous intermediaries is difficult. Limited resources and weak penalties reduce the deterrent effect of regulations.

- **Poor Documentation and Evidence**

Lack of proper record-keeping, such as recorded sales calls and written disclosures, makes it difficult to prove mis-selling. This weakens consumers' legal claims and allows unethical practices to continue<sup>37</sup>.

- **Delay in Dispute Resolution**

Consumer forums and courts often face heavy workloads, resulting in delayed justice. Long and complex legal procedures discourage many consumers from pursuing complaints.

- **Limited Awareness of Remedies**

Many policyholders are unaware of grievance redressal mechanisms such as the Ombudsman and consumer courts. As a result, several cases of mis-selling remain unreported.

## **6.2 CONSUMER REMEDIES AND REDRESSAL MECHANISMS**

Consumers affected by mis-selling of insurance policies in India are provided with several remedies to protect their rights and obtain compensation. These mechanisms aim to ensure fair treatment and timely resolution of disputes.

- **Internal Grievance Redressal of Insurers**

Every insurance company is required to maintain an internal grievance redressal system. Policyholders can submit complaints through online portals, emails, or written applications.

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<sup>35</sup> Raghavan, S., "Mis-selling in Financial Services," *Journal of Consumer Law* (2021)

<sup>36</sup> Sharma, A., "Regulatory Challenges in Indian Insurance Sector," *Indian Journal of Law and Policy* (2020)

<sup>37</sup> NCDRC Insurance Dispute Reports

Insurers must acknowledge and resolve complaints within prescribed time limits. This mechanism helps in resolving disputes at an early stage.

- **Complaint to The Insurance Regulatory And Development Authority Of India (Irdai)**

If the insurer fails to resolve the grievance satisfactorily, consumers may approach IRDAI through its Integrated Grievance Management System (IGMS)<sup>38</sup>. IRDAI monitors complaints and may direct insurers to take corrective action. Although IRDAI does not decide disputes, its supervision strengthens accountability.

- **Insurance Ombudsman Scheme**

The Insurance Ombudsman provides a free, simple, and speedy forum for resolving insurance disputes. It deals with complaints relating to misrepresentation, delay in claims, rejection of claims, and service deficiencies. The decisions of the Ombudsman are binding on insurers and are particularly useful for individual policyholders.

- **Consumer Commissions Under the Consumer Protection Act, 2019**

Under the Consumer Protection Act, consumers can approach District, State, or National Consumer Commissions. Mis-selling may be challenged as deficiency in service or unfair trade practice. These forums may order refund of premiums, payment of compensation, interest, and damages for mental agony<sup>39</sup>.

- **Civil court remedies**

In cases involving large financial claims or complex issues, consumers may file civil suits before regular courts. Civil courts may grant remedies such as damages, declarations, and specific performance. However, this process is generally time-consuming and costly.

- **Documentation and Evidence**

For effective redressal, consumers must preserve important documents such as proposal forms, policy papers, premium receipts, and communications with agents. Proper documentation strengthens the consumer's case before legal and regulatory authorities.

- **Time Limits and Limitation Period**

Consumers should file complaints within the prescribed limitation period under applicable laws<sup>40</sup>. Delay in filing complaints may weaken the claim or lead to rejection on technical grounds.

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<sup>38</sup> IRDAI IGMS Portal Guidelines

<sup>39</sup> Consumer Protection Act, 2019, s. 39

<sup>40</sup> Limitation Act, 1963

## **7. FINDINGS AND RECOMMENDATIONS**

### **7.1 KEY FINDINGS OF THE STUDY**

The study reveals that mis-selling of insurance policies remains a persistent issue in the Indian insurance sector despite the presence of a structured legal and regulatory framework. One of the primary findings is that commission-based incentive structures and aggressive sales targets significantly contribute to unethical selling practices. Agents and intermediaries often prioritize sales volume over product suitability, leading to misrepresentation, non-disclosure of material facts, and sale of inappropriate policies<sup>41</sup>.

Another important finding is the widespread problem of information asymmetry and low financial literacy among consumers. Many policyholders lack sufficient understanding of policy terms, exclusions, and risks, making them highly dependent on agents for advice. This imbalance creates an environment where misleading practices can easily occur<sup>42</sup>.

The study also finds that although statutory provisions and regulatory guidelines issued by the Insurance Regulatory and Development Authority of India provide safeguards, enforcement mechanisms are often reactive rather than preventive. Regulatory action typically follows consumer complaints instead of proactively detecting misconduct.

Judicial trends indicate that courts and consumer forums adopt a consumer-friendly approach and hold insurers accountable for the acts of their agents<sup>43</sup>. Relief in the form of refunds, claim settlement, and compensation is frequently granted. However, litigation is time-consuming, and many consumers are discouraged from pursuing legal remedies due to cost and procedural complexity.

The Insurance Ombudsman mechanism provides a relatively accessible forum for dispute resolution, yet awareness about this remedy remains limited. Additionally, poor documentation and lack of recorded sales interactions make it difficult to prove mis-selling in many cases.

Overall, the study concludes that while India possesses a comprehensive legal framework to address mis-selling, structural weaknesses in incentive systems, limited consumer awareness, and gaps in enforcement reduce its effectiveness. Preventive regulation, stronger supervision, improved documentation, and consumer education are essential for meaningful reform in the insurance sector.

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<sup>41</sup> Raghavan, S., "Mis-selling in Financial Services," *Journal of Consumer Law* (2021)

<sup>42</sup> Sharma, A., *Indian Journal of Law and Policy* (2020)

<sup>43</sup> LIC v. Consumer Education & Research Centre, (1995) 5 SCC 48

## **7.2 RECOMMENDATIONS**

Firstly, there is a strong need to reform the existing commission-based incentive structure in the insurance sector. High upfront commissions and target-driven sales models encourage agents and intermediaries to focus on short-term sales rather than long-term customer welfare<sup>44</sup>. Commissions should be linked to policy continuation, customer satisfaction, and quality of service.<sup>45</sup> Such a system would promote responsible selling and discourage the promotion of unsuitable or high-risk products merely for financial gain.

Secondly, regulatory supervision must be strengthened by the Insurance Regulatory and Development Authority of India through more frequent inspections, digital monitoring tools, and strict enforcement measures. Mandatory recording of tele-sales, maintenance of proper sales documentation, and compulsory suitability assessment forms should be implemented. Strong penalties, including suspension and cancellation of licenses for repeat offenders, should be imposed to create an effective deterrent against unethical practices.

Thirdly, insurers and intermediaries should focus on improving transparency and professional standards. Simplified and standardised “Key Information Sheets” must be provided to customers in plain language, clearly explaining benefits, risks, exclusions, and charges. Regular training programmes should be made compulsory for agents to enhance their knowledge of legal obligations, ethical conduct, and consumer rights. This will improve service quality and build trust between insurers and policyholders.

Finally, greater emphasis must be placed on strengthening consumer awareness and grievance redressal mechanisms. Public awareness campaigns should be conducted to educate consumers about insurance products, their legal rights, and available remedies. At the same time, consumer forums and ombudsman offices should be provided with adequate infrastructure and manpower to ensure speedy disposal of complaints<sup>46</sup>. A strong, accessible, and efficient redressal system will encourage consumers to report mis-selling and help in reducing unfair practices

## **8. CONCLUSION**

Mis-selling of insurance policies remains a major challenge in the Indian insurance sector despite the presence of comprehensive laws and regulatory mechanisms. Practices such as misrepresentation, non-disclosure, unsuitable advice, and forced selling continue to harm consumers and weaken public trust in insurance institutions.

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<sup>44</sup> OECD Commission Reform Report

<sup>45</sup> FCA (UK) Compensation Structure Guidelines

<sup>46</sup> Insurance Ombudsman Rules, 2017

Although regulatory bodies, courts, and consumer forums have taken significant steps to protect policyholders, weak enforcement, incentive misalignment, low financial literacy, and procedural delays reduce the effectiveness of these safeguards. Judicial remedies often provide relief only after damage has occurred and therefore cannot alone prevent mis-selling.

The study shows that mis-selling is not merely the result of individual misconduct but is rooted in structural and systemic weaknesses within the insurance industry. Therefore, long-term solutions must focus on preventive regulation, ethical sales culture, and consumer empowerment<sup>47</sup>. Reforms in commission structures, stronger supervision, transparent disclosure practices, improved documentation, and enhanced public awareness are essential to reduce unethical practices<sup>48</sup>. At the same time, insurers and intermediaries must adopt a customer-centric approach based on honesty and accountability.

In conclusion, effective prevention of mis-selling requires coordinated efforts by regulators, insurers, intermediaries, and consumers. Only through continuous reform, strict enforcement, and widespread education can a fair, transparent, and trustworthy insurance market be achieved in India.

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<sup>47</sup> OECD (2018)

<sup>48</sup> IRDAI Market Conduct Regulations

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