

SEX DISCRIMINATION IN INSURANCE RATES.

Sex discrimination has been practiced since the dawn of mankind. There are many forms of discrimination but inequity based on sex has been the most dominant. Different periods of time and different civilizations have witnessed discrimination on the basis of culture, ethnic and racial appurtenance, language, physical and mental capabilities among others. Even though we are living in a modern society where emphasis is being laid on equality for all and where everything is being done to put men and women on the same level, subtle prejudice still persists. The price of some insurance product is one salient example where discrimination between men and women persevere.

Indeed, Insurance companies use many risk factors in determining the cost of insurance premium. Historic data and extensive product research are used to compile various factors and create a benchmark for risk profiles. The agent's commissions, overhead, and expenses of doing business are other factors influencing the price. Each company uses a different set of standards and assumptions to calculate that premium. The higher the risk associated with a person, the more he or she is likely to pay for coverage. Factors insurance underwriters take into consideration before they provide you with a quote are the type and amount of insurance you buy, your chance of making a claim while the policy is in effect and this is determined by your lifestyle habits (smoking) along with your age, medical condition, family history and occupation. And one among the most controversial factors happens to be gender. The use of gender in deciding how much to charge for some types of insurance cover is nothing but a form of discrimination.

Gender has since long been one of the many criteria used in classifying, accepting, and rating risks. Since data show that women live longer than men, life insurance rates for women are lower. For example, a male teacher of 30 years old would pay a monthly premium of Rs 560 for a death cover of Rs 100,000 over a period of 20 years whereas his female colleague of same age taking same insurance product and cover would pay Rs 540 monthly. Similarly, pension payments are lower for women because it is expected that they will be paid out for more years. Thus, the benefits payable at retirement age to a male is much higher than to a female who is contributing the same amount towards a retirement plan for the same number of years. Car insurance also takes the gender of the buyer into account. Apart from factors like places you intend to drive, the type and value, its features, your driving record among others, car insurance will see to it whether the vehicle will be driven by a man or by a woman. Women have often paid lower rates as they are deemed less likely to have an accident. Statistics show that men are found to be more reckless than women when it comes to driving, hence their annual premium for car insurance are at times up to 10% more. Is it fair therefore that man has to pay more money for the same insurance policy? Would we accept the same type of price discrimination were it on the basis of ethnic differences? On the other hand, Women tend to pay more for Medical insurance than men because they are more likely to visit their doctor when feeling ill and are

more likely to suffer from certain chronic diseases. However, the differences are less pronounced than in other class of cover mentioned earlier.

Even though the Equal Opportunities Act 2008 promotes equal opportunity and prohibits discrimination on the ground of status and by victimization, section 4(1)(a) of the Act allows derogation from the general principle of equal treatment, thereby permitting proportionate differences in individuals' premiums and benefits wherever sex is a determining factor in the assessment of risk which is based on relevant actuarial and statistical data. However, it is of opinion that the use of actuarial factors based on sex to determine risk is incompatible with the principle of equal treatment between men and women. The wide and all embracing protection of fundamental rights and freedoms in section 3 of the Constitution prohibits discrimination by reason of race, place of origin, political opinions, colour, creed or sex. The more specific protection against discrimination under section 16(1) of the Constitution states that '*no law shall make any provision that is discriminatory either of itself or in its effect*'. Section 16(3) goes on to define 'discriminatory' as '*affording different treatment to different persons attributable wholly or mainly to their respective descriptions by race, caste, place of origin, political opinions, colour, creed or sex whereby persons of one such description are subjected to disabilities or restrictions to which persons of another such description are not made subject or are accorded privileges or advantages that are not accorded to persons of another such description*'. Section 16 of the Constitution only allows for some very limited exceptions to the abovementioned rule such as laws relating to non-citizens (with regard to place of origin) or matters relating adoption, marriage, divorce, burial, devolution of property on death. As presently drafted, it would appear that there is a conflict between section 4(1)(a) of the Equal Opportunities Act 2008 and the provisions of the Constitution relating to the prohibition of discrimination and the constitutionality of section 4(1)(a) could be challenged in the Supreme Court.

Like race and ethnic origin, gender is a characteristic which is inextricably linked to the person as an individual and over which he has no influence and it is therefore inappropriate to link risk to an individual's sex. Actuarial differences do exist between white and black people but it is illegal to use those categories. I therefore believe that the use of gender in determining insurance premium should be made illegal and it is high time for insurance companies to adopt a gender neutral pricing policy.

Rajesh B. Chikhuri

Life and Pension Advisor

