

i Information

This exam set contains two parts with a total of five questions (4 + 1). All questions must be answered. You may navigate between the pages by using the arrows bottom right, or the numbers on the bottom line.

MS Unlucky was on a voyage from Rotterdam to Dublin when the Irish Coast Guard called the ship and asked if the ship's anchor was out. The owner of several cables along the coast had notified the Coast Guard about two cable default incidents, and the Coast Guard therefore checked with incoming vessels if they had been dragging anchors along the seabed. The crew found that port anchor with eight shackles in fact was out. When the anchor was hauled onboard, they discovered that most of it was gone. MS Unlucky had crossed the cables at the exact time the defaults occurred, and the owner accepted that the anchor had struck the cables when it was dragged along the seabed. The anchor had rushed out of the hawse pipe because of a defect in the winch, which was due to failure to follow the maintenance program for the winch. According to the user manual, the maintenance should have been performed before the insurance had been effected.

The owner of MS Unlucky (the assured) had effected hull insurance on the Nordic Marine Insurance Plan 2013 Version 2016 (NP) with AS Marine Insurance and P&I insurance with Gard. Gard accepted that the P&I insurance covered the liability for damage to the cables if it was not covered by the hull insurance. AS Marine Insurance claimed that the incident was outside the scope of cover for collision liability in the NP and that even if within this scope, liability for the ship's use of the anchor was excluded.

Question 1:

Is the liability for damage to the two cables covered under hull insurance by AS Marine Insurance or under P&I insurance by Gard P&I insurance?

The owner of MS Unlucky claimed compensation for loss of the anchor and cost of repairing the winch. AS Marine Insurance refused liability, and argued that the owner of MS Unlucky had breached the duty of disclosure by not informing the insurer about the failure to follow the maintenance program for the winches. If the insurer had been informed about this, he would have added 20 % to the premium for the insurance according to normal branch practice. As the loss of the anchor was due to this breach, there was no liability. The owner argued that this information was not material for the risk assessment and that there was therefore no breach of the duty of disclosure. The class of the ship was in order. Further, the failure to follow the maintenance program was the responsibility of the captain, and the owner was in good faith about this when the insurance was effected.

Question 2

- a. Is there a breach of the duty of disclosure?
- b. If so, may the insurer invoke this breach against the owner of MS Unlucky?

Presuming breach of the duty of disclosure could not be invoked, AS Marine Insurance claimed that they were not liable for loss of the anchor and the cost of repairing the winch because the loss was caused by lack of maintenance. The assured argued that the anchor was not the same part as the winch and that the insurer must at least be liable for the loss of the anchor and the chain.

Question 3

Is AS Marine Insurance liable for

- a. The loss of the anchor and the chain?
- b. Costs of repairing the winch?

In case they were liable, AS Marine Insurance also claimed that the owner should carry two deductibles for collision liability as the damage to the two cables had occurred in two instances, and one deductible for loss of the anchor/damage to the winch. The owner of MS Unlucky claimed that the whole sequence of events constituted only one casualty and thus could only trigger one deductible.

Question 4

How many deductibles is the owner responsible for?

All questions shall be answered

Is the liability for damage to the two cables covered under hull insurance by AS Marine Insurance or under P&I insurance by Gard P&I insurance.

Fill in your answer here

Maximum marks: 0

2 Question 2

Is there a breach of the duty of disclosure

- a. If so, may the insurer invoke this breach against the owner of MS Unlucky?

Fill in your answer here

Maximum marks: 0

3 Question 3

Is AS Marine Insurance liable for

- a. The loss of the anchor and the chain
- b. Costs of repairing the winch

Fill in your answer here

Maximum marks: 0

4 Question 4

How many deductibles is the owner responsible for?

Fill in your answer here

Maximum marks: 0

5 Question 5

Explain the concepts of insurable value, the sum insured and the relationship between them according to the Nordic Plan 2013 version 2016 and the Norwegian Cargo Clauses: Conditions relating to Insurance for the Carriage of Goods of 1995, Version 2004, Cefor Form No. 261.

Fill in your answer here

Maximum marks: 0