

6TH SCH.
—cont.

and thereupon the court may determine the maximum liability of the insurer in respect of the claims and also, if need be, his liability in respect of such of those claims as are for loss of or damage to property and may distribute the amount of his liability among the several claims on the following principles:—

- (a) if the claims are solely in respect of loss of life or personal injury or solely in respect of loss of, or damage to, property, the amount of the liability shall be distributed rateably;
- (b) if there are claims both in respect of loss of life or personal injury and in respect of loss of, or damage to, property, one-half of the insurer's total maximum liability shall be appropriated, so far as necessary, to meeting claims for loss of life or personal injury and shall be distributed rateably among them, and the other half shall be distributed rateably among all the claims, including claims in respect of loss of life or personal injury if and so far as they exceed the afore-said appropriation:

Provided that for the purposes of this sub-paragraph so much only of a claim shall be taken into account as represents the amount of damages awarded under the judgment in respect of which the claim is made, and interest on that amount.

(5) Where an application is made to the court under the last foregoing sub-paragraph, the court may stay any proceedings pending in any other court in relation to the same matter, and may give such directions as the court thinks proper for the joining of persons interested as parties to the proceedings, for the exclusion of claims which are not brought before the court within a certain time, and for requiring security from the insurer.

(6) If an insurer becomes liable under this paragraph to pay, in respect of any liability of a person insured by a policy, an amount for which the insurer would not, apart from the provisions of this paragraph, be liable, he shall be entitled to recover the said amount from that person.

(7) References in the foregoing provisions of this paragraph to a person insured by a policy shall, unless the context otherwise requires, be construed as including references to his estate, and except in Scotland the said provisions shall, in relation to a claim established against the estate of a deceased person in proceedings for the administration of that estate, have effect—

- (a) as if the final determination in those proceedings that the claim is established were a judgment obtained against the estate of the deceased in proceedings brought by the claimant as plaintiff, and
- (b) as if the making of the claim in the administration proceedings were the commencement of the proceedings in which the judgment was given.

(8) In this paragraph the expression "liability covered by the terms of the policy" means a liability which is covered by the policy, or which would be so covered but for the fact that the insurer is entitled to avoid or cancel, or has avoided or cancelled, the policy.