

## **THE SIGNIFICANT OF PROFESSIONAL INDEMNITY (PI) INSURANCE AMONG ENGINEERING CONSULTANCIES IN MALAYSIA**

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### **Abstract**

These days, society has becoming increasingly litigious, and this increases the chance for professionals to be brought in court against their negligence. Professional Indemnity (PI) Insurance is known to indemnify against negligence act. However, certain issues arise when its importance is questionable as well as its extent and impact could give towards professionalism is being doubted. A deeper understanding on the finer details of the cover available could assist engineers to choose PI Insurance as their risk transfer medium. This research aims to propose factors that will encourage engineering consultancies to insure for PI Insurance. In order to achieve the aim of the research, three objectives have been addressed, which are to determine the awareness and understanding of the PI Insurance among the engineering consultancies in the construction industry, to identify the benefits that will encourage engineering consultancies to secure their business with PI Insurance and to identify the factors that will encourage engineering consultancies to secure their business with PI Insurance. Acknowledging the fact that PI Insurance is relatively new to the Malaysian construction industry, the possibility of engineers to be exposed and aware with its importance could be low. A qualitative research was conducted through the semi-structured interview approach in answering to the curiosity. Eleven respondents from Selangor and Perak had participated in the process since Selangor is the most critical area where claims been brought up whereas Perak, as a neighbouring state was selected to support the outcomes of the research and through that, it is proven that the importance of PI Insurance was slightly understood and been aware by the engineers. This research had also indicated that insufficient amount of PI Insurance sum would not promise engineers' business financial strength as it only covers up to certain amount, depending on the limit on indemnity. By insuring PI Insurance, it becomes an indicator that engineers will indemnify when negligence is present besides it acts as a marketing tool in terms of their integrity and capability that sets the business apart from others. In conclusion, it is seen that the most significant factor to encourage engineering consultancies to insure for PI Insurance in Malaysian construction industry is to restructure the premium besides enforcement by the Government need to be taken to encourage greater participation from them.

**Keywords:** *Professional Indemnity (PI) Insurance, professional liability*

## **1.0 Introduction**

Construction sector of most emerging economies is witnessing sharp growth prospects on the one hand and pressure to effectively and efficiently contribute to the national development on the other (Sawhney, Agnihotri, & Kumar Paul, 2014). Currently, the construction sector is facing many issues, which it needs to resolve and as the society becoming increasingly litigious, there is a greater chance for an engineer to be brought in court against their negligence. A professional, due to the nature of his work, may be exposed to the likelihood of lawsuits for professional negligence for what he had done or what he had said in the course of his work (Inland Revenue Board Malaysia, 2009). According to Anonymous (2015), very few professional practices have sufficient resources within their own organisations to meet claims brought against them in respect with professional negligence.

On the other hand, architects, engineers and design professionals are considerably exposed to numerous consequences on building defects, contractual issues and litigation especially when building design issues have been in the spotlight in the construction industry (Harris, 2005). This reason has made PI Insurance become so important to the construction industry. Without the cover, professionals would be vulnerable to indemnity claims from a variety of sources. Several issues on the Professional Indemnity (PI) Insurance among the engineers are found. The reason why the emphasis is on engineers, is that among any other issues, the inadequate or incomplete design documents has become one of the most common issues impacting the construction project (Interface, 2007), where it is obviously involving the engineers works. Through some random preliminary interviews that had been done with several registered engineers, they agreed that there are growing demands in the PI Insurance. Some have actually realised the importance of it but very few professionals who insured it. It is seen that the importance of PI Insurance against loss is questionable.

In today's world, as was mentioned by Sinha (2013), any professional or professional bodies that render skilful advice and services to people, can be sued for negligence, errors and omissions on their part, the cost of which in some cases can be excessive. However, according to Harris (2005), a few design firms claimed that they do not belong to any professional association yet never had a claim during their long establishment as organizations. Therefore, they do not think that it is necessary to insure for PI Insurance. Other than that, an unclear limit of liability gives bad judgments towards the application of PI Insurance as professionals think that they do not need such liability, and rather than paying for the premium, they would rather 'going bare', or in other words, they doubt on what the policies offered by the insurers. Through this research, all the needs and the importance of PI Insurance are underlined to increase the awareness and understandings on its other benefits it could offer.

Apart from that, the extent or impact of Professional Indemnity (PI) Insurance towards professionalism is controversial where some might or might not aware on the consequences the claims could give towards them but they just do not really care about it. Taking an example of the case of Steven Phoa Cheng Loon & Ors V Highland Properties Sdn Bhd & Ors,<sup>1</sup> the court had decided the liability appointed towards the engineer was 10% from the total negligence suit, in which the amount charged was way too high to only going bare without any insurance covered. Without the PI Insurance, the engineer might not be able to practice any longer, besides he will lose his reputation. Freeman & Abberton (2013) agreed that, by not having an adequate PI Insurance in place to cover reasonable estimate of clients' potential losses, the consultant is likely facing liquidation, clients might be unable to recover their monetary loss and the worst part is, the consultant service might be terminated and face bankruptcy.

Even so, there are situations where a business entity suffers loss as a result of negligent act by a professional engaged by the business entity (Meng, Thy, & Leong, 2007). In fact, some might say that choosing between buying liability insurance and 'going bare' could be a distressful one for design

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<sup>1</sup> Steven Phoa Cheng Loon & Ors v Highland Properties Sdn. Bhd. & Ors (2000) 4 MLJ 200

professionals. This consequence has somehow indicated how the PI Insurance can affect one's business especially towards the financial status as well as their business reputation. Therefore, this research is intended to fulfil these three objectives which are;

1. to determine the awareness and understanding of the Professional Indemnity (PI) Insurance towards the engineering consultancies in the construction industry
2. to identify the benefits of Professional Indemnity (PI) Insurance towards engineering consultancies
3. to identify the factors that will encourage engineering consultancies to secure their business with Professional Indemnity (PI) Insurance

With an aim to propose factors to encourage engineering consultancies to insure for Professional Indemnity (PI) Insurance, the research outcomes are intended to give a better understanding regarding the engineers' liability in the construction industry. Furthermore, this research is expected to be the medium in promoting the PI Insurance among the engineers as well as the design and build teams, as a protection towards themselves against their professional liability and the persons who have legitimate claim damages against them.

## **2.0 Professional Indemnity (PI) Insurance for Engineering Consultancies**

Insurance is usually seen as the financial risk transfer medium, and yes it actually is. However, its importance is frequently recognized only after a major loss. Businesses that offer advice, designs or similar services in a professional capacity are potentially at risk either they are multinationals that operate all over the world or smaller private firms of partnerships.

### **2.1 Definition of Insurance**

Insurance is a way of protecting people's interests in themselves, others and properties where the policies are contracts which are subjected to the same requirement as all other contracts (Pagura, 2014). Similarly, Smith (2010) defined insurance as a form of risk management in which the insured transfers the cost of potential loss to another entity in exchange for monetary compensation known as the premium.

The fundamental requirement for the existence of insurance contracts is the existence of large number of similar loss exposures (Outreville, 2012). Due to that, what has been concerned regarding insurance is that many of the policies offered by insurers are not transparent. The consequence of this matter has led to the doubtfulness in insuring it. However, one should always remember the risk that might happen and how he or she can mitigate it.

### **2.2 Evolution of Insurance**

The evolution of insurance discloses the history of the insurance industry from its primitive beginnings in ancient times, to the industry we know today. According to ValueWalk (2015), the first written insurance policy appeared on a Babylonian monument with the code of King Hammurabi in 1750 B.C., a collection of 282 laws and standards on rules for commercial interactions and set fines and punishments to meet the requirement of justice. Later, the guild coverage was developed. According to Beattie (2008), the wealthier guilds had large funds that acted as type of insurance funds, and whenever the master's practice burned down, the guild would help to rebuild it by using the funds they had.

The insurance industry started to become broader when shipping began and merchants and ship owners sought out funding to purchase provisions for their voyages where in return, they were guaranteed with some of the returns from the goods the colonist would find in America. In 1666, the event of the Great Fire of London had made people start paying premium to insurers to bail them out

from emergency (Grierson, 2009). However, only in the year 1763 marked the beginning of the modern insurance industry and due to its increasing production volume, Europe had become one of the world's most important goods manufacturers which led to a new global division of labour, besides dominating the rapidly growing continental trade and its logistical bases, as well as marine insurance (Borscheid & Haueter, 2012). The industrial revolution has led to the introduction of business insurance where the types of insurance began to be expanded and later after the World War II, companies started to offer group, life and health insurance (Anonymous, 2015).

It is important to actually acknowledge the chronology of how the insurance industry has been introduced in order to determine its significance and why it is introduced. The salient features are determined along the development of the industry through each era, (ValueWalk, 2015). In this 21<sup>st</sup> century, there are quite numbers of insurers which offer competitive rates in various types of insurance (Dafny, Gruber & Ody, 2014). Therefore, it is wise to determine the needs and preference of which insurance should be insured as a protection towards oneself.

### **2.3 Types of Insurance**

There are two primary types of insurance in the business, where the first type is the life insurance whereas the second type of insurance is the general insurance that covers the property and casualty.

In the Malaysia Insurance Report Q1 2015, Malaysia's life insurance segment accounts about 68% of total gross premium on the overall insurance sector and they actually forecast life density to rise from USD397.2 per capita at present to USD466.8 per capita by 2018 and this indicates that life insurance plays a bigger role for a sizeable minority of wealthier Malaysia households, which use it as a conduit for organized savings (Fastmr, 2016). According to Dhaka (2014), life insurance provides financial security, as well as facilitates creation of long-term capital in the market. He further explained that one should know how life events impact his/her insurance needs and the premium rates depend on the characteristics of the insured situation. However, Rivers (2010) stated that people are increasingly ignoring life insurance due to the high costs and the belief that their retirement benefits will be enough to deal with future obligations. Therefore, he added that insurers have to improve people's knowledge and understanding on these policies as well as creating awareness and education campaign.

As for the general insurance, according to the Malaysia Insurance Report Q1 2015, the forecasted general insurance segment to outperform the life segment over the coming years as the removal of price tariffs in key non-life lines leads to greater competition and lower prices for consumers. It is expected that it outperforms the broader market over the coming years as it grows from a low base, as Malaysia's general sector accounts for only 32.5% of total gross premiums. Grize (2015) had briefly explained that general insurance covers all types of insurance except life insurance, where it includes property and casualty insurance, which is insurance on homes, cars and business for property or liability damages, and also insurance against unemployment, equipment breakdown, or workers benefits, and also travel and transport insurances. Grize (2015) had also added that, the insurance business in general, especially general insurance, is perhaps the only business where statistics is not just something 'nice to have', but indeed provides the fundamental basis on which a company is built, that is why it can exist and make money.

### **2.4 Insurance in Construction Industry**

Construction industry is known for its complexity and uncertainty and due to that, every construction project is required to have construction insurances which will provide coverage for material, risks, natural disasters, employees and even one's business. Cantor (2014) highlighted all insurances available in the construction industry which will be explained briefly in Table 1.

**Table 1: Types of Insurance in Construction Industry**

<b>Types of insurance</b>	<b>Description</b>
Collateral warranty	Legally binding agreement which is ancillary to a separate contractual agreement between two parties and which imposes an extended duty of care and a broader liability to those parties
Contract works insurance	Policy that covers all risks involved in a construction project which commonly issued under the joint names of a contractor and a principal client
Directors and officers insurance	Protects directors' and officers' company due to the claim made towards their wrongdoings
Employer's liability insurance	Helps in paying compensation if employees injured or becomes ill due to their work done for the employer
Flood insurance	Insures home owners for the flood related insurance claims
Integrated project insurance	Insures client and all his alliance partners, replaces liability driven PII with financial loss cover where the outturn cost above the target cost plus pain-share is insured
Latent defects insurance	Provides cover for new buildings if there are any latent defects appear with a condition of breach of contract is proven
Legal expenses insurance	Can be insured either via specific policy or as a section of a combined policy to insure against cost of defending legal action
Legal indemnity insurance	Provides recompense if the policy holder faces capital loss or expense while dealing with a range of possible legal issues
Office combined/contents/buildings insurance	Safeguard business owners' assets against damage or theft
Performance bond	Insures clients against contractors' failure to fulfil contractual obligations
Professional indemnity insurance	Covers the proven negligence act did by the service provider
Public liability insurance	Provides covers usually for contractors towards personnel injury, or loss or damage to property of third parties
Residual value insurance	Underwrites valuations of assets at the date of termination of a lease or other type of financing arrangement
Terrorism insurance	Can be obtained on a standalone basis or as an addition to a conventional building or commercial combined policy

Source: (Cantor, 2014)

However, in the scope of involving the design professional services especially engineering consultancy, according to Singh (2009), the reintroduction of the Design Guarantee Bond is seen to be more effective than any Collateral Design Warranties, or Professional Indemnity Insurance. This is due to its tangible and easily enforceable remedy towards employers. Besides that, the PI Insurance is well-known for its high premium which some might see as not reasonable.

## **2.5 Professional Indemnity (PI) Insurance**

Professions have always been related with the service. Nowadays, suits against professionals have become a trend and it is increasingly expanding. It has also become a growing problem as the law has become more concerned to those injured due to the professionals' mistakes. Due to that reason, Inland Revenue Board Malaysia (2009) claimed that some professional bodies have enforced

their members either by statute or by rules, to affect Professional Indemnity (PI) Insurance policies. They might be exposed to lawsuits for their professional negligence either for what they had done or what they had said regarding their matters of works, thus it is necessary to purchase the PI Insurance.

The purpose of the PI Insurance policy is to indemnify persons against liability arising from any breach of their professional duty and it is normally taken on an annual basis (Ndekugri, Daeche, & Zhou, 2013). The PI Insurance ensures the interests of owner and the third party indirectly by bearing the economic compensation responsibilities of professional service organizations and their employees (Qi, 2008). However, while it may help in reducing the claim in terms of financial impact, severe personnel, professional and financial damage can and probably will, still be realized. It is just a medium that prevent a profession from loss of business, loss of reputation, loss of personnel assets and bankruptcy.

## **2.6 Professional Indemnity (PI) Insurance for Engineers**

Professional Indemnity (PI) Insurance indemnifies the insured against legal liabilities from professional activities. According to Johnson & Dracoulis (2007), in the construction industry context, those professional activities involve the architectural and engineering design, cost monitoring and control from quantity surveyors, and procurement and management from project managers. Apart from that, Paterson (2014) identified that PI insurance is essential to provide cover for losses arising out of a professional error in the design or specification of works, which can be significant. Paterson (2014) had also added that PI Insurance aims to protect policyholders against their legal liability for damages arising out of an error in the professional services provided by the policyholder.

Kelleher et al. (2014) stated that engineer, or the design professional is generally responsible for a wide range of tasks which include designing the project to administering the contract for construction. In the construction industry, Bunni (2003) claimed that it has been estimated that for every claim paid by parties and the insurers to resolve a professional indemnity claim, there are percentages that will go to the lawyers and expert witnesses engaged in the related litigation, with just a small amount going to compensate the insured for the underlying loss. With that, it is seen that legal costs have somehow may exceed the cost to cover the compensation of loss to the clients or the third party.

Claims may happen to anyone, whether he is a well-known engineer or in the Small and Medium Enterprise (SME) group. Thus, it is essential to choose the right policy to defend themselves against damages and legal costs incurred for claims arise depending on the current financial status of the business. There are two types of PI Insurance involved, which are the annual policy and the single project policy. An annual policy covers all claims made throughout the year, from any number of different projects (Perry, 2013). However, according to APCC (2012), since it is purchased annually, renewal has never been guaranteed. Unlike annual policy that covers any number of different projects, the single project policy only covers that one particular project (Perry, 2013). Basically, this single project policy is arranged depending on the needs of a specific project.

## **2.7 Significance of Professional Indemnity (PI) Insurance**

It is wise to protect a business after all the hard work. According to Soni (2013), PI Insurance provides a safety net if a business needs to pay to cover legal costs or mistakes for whichever error made during the work. The needs of insuring PI Insurance may be seen from different aspects. Sheridan (2008) identified that clients' requirements influence the concerns of insuring for PI Insurance by the consultants, as well as the level of PI Insurance cover they hold. Consultants should have something to indemnify their business besides creating a peace of mind for the company. With regards to the arguments of whether PI Insurance should be made mandatory for all Engineering Consultancy Practices (ECP), it is still in the consideration by the Board of Engineers Malaysia (BEM), since the issue has been brought up several times since 2006 without any decisions been

made through (Anonymous, 2007). Therefore, the need of the PI Insurance is quite subjective as it depends on how one sees the benefits of securing for PI Insurance.

Besides that, according to CQI (2016), it is vital to ensure that one is insured while the liability arose and at the time the claims made as this can be a significant issue if claims made a long time after the services or advices were given, or during the retirement period. This means that consideration towards PI Insurance need to be made in the retirement besides to verify on the status of historic liability while changing insurer (CQI, 2016). Furthermore, the significance of PI Insurance can also be seen when claims were made even when you have done nothing wrong which caused by an unhappy or dissatisfied client towards the consultant, and here, the PI Insurance will cover the defence cost to protect the consultant (Zaborowski, 2013). Since reputation is critical to the success of an engineering consultancy's business, as it founded entirely on trust (Wolman, 2016). Wolman (2016) also added that the business' longevity is based on the robust product and reliable service that the professional could contribute and this is where the PI Insurance will provide the necessary funds and pay for the necessary parties to solve the issue at hand.

With regards to the negligence matter, it is an action or omission of an action that could endanger the life, health, properties, morals or comfort of the public (Gutierrez et. al., 2013). He had also added that, defective work as a consequence of design negligence can also be reflected as negligent act, whether it arises during or after the construction phase of a project. Other than that, loss of action is seen to be one of the needs of insuring PI Insurance as there will be a lot of time consumed when such claims are made. Imagine how much losses could an engineer bear if he has to spend time in court as part of defence, when he could generate the business income instead (Soni, 2013) as the adjusters from both parties could take place. Last but not least, in the aspect of peace of mind, when a business is run by an engineer, he or she is carrying an extremely huge responsibility. According to Soni (2013), although a business has never experienced a claim situation before, there are still a lot to consider, besides it is a wise choice of having the right amount of protection when suddenly worst come to worst. The upside down situation could be prevented and the business can run without worrying much on claims that could be made against them.

## **2.8 Limitations of Professional Indemnity (PI) Insurance**

The issues and limitations found in engineering consultancies indemnity insurance are also highlighted as they will influence the outcomes later. The premium in PI Insurance is seen as the major problem in the insurance industry. As in the subject of PI Insurance matter, Wright (2004) explained that the rationales of the extremely high premium rates and the withdrawal of cover in some cases are due to the claims by the injured employees at work besides the extensive professional indemnity claims nowadays. Similarly, Johnson & Dracoulis (2007) agreed that the PI Insurance is expensive and unless the services that the professionals provide involving design responsibility and relevant contractual provisions, they have no other options but to insure it. Apart from the premium issue, common conditions and exclusions listed in the contract have been difficult towards insurer, as an insured party will only be indemnified where the defective design results form an act or omission which is covered by the policy wording where these policies frequent terms are "failure to exercise reasonable care" or negligence, errors or omissions and in fact, Professional Indemnity (PI) Insurance excludes cover for "fitness for purpose" obligations and might as well no cover breaches of contractual terms which impose a higher duty than the law of negligence (Johnson & Dracoulis, 2007).

Despite that, every policy has a limit of indemnity, sometimes referred to as the limit of liability or even the sum insured, which is the amount cover available (Earp, 2006). Whenever a cover is on an aggregate basis, the limit of indemnity is the maximum amount available to meet any single claim which means it is also the amount available to meet the total of all claims notified in the period of insurance. Professional liability insurance coverage is limited to the ordinary standard of care which means that designers cannot make any guarantees or claims beyond what is normal in the industry, and still be covered (Zimmerman, 2010). However, design professionals' responsibilities do not end

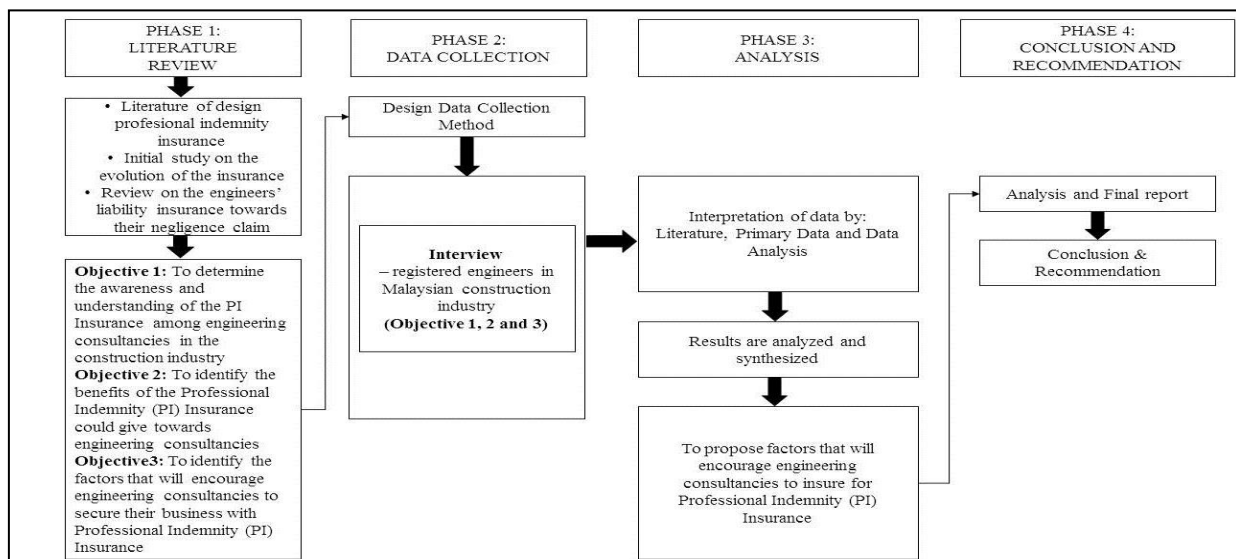
at their retirement which means that even after they have stopped practising; it is possible that an action could be brought against them for a negligent act in the designs or actions in previous years. Therefore, run-off cover protects design professionals for the same risks that the Professional Indemnity (PI) Insurance policy protects them against the amount of time they purchase run-off cover. Besides, it provides cover for the potential incidents which have happened but are yet to be reported (Vero, 2012). However, it will not cover them for any work performed after the original policy expires.

Besides that, deductible is also one of the issues presented in the PI Insurance matter. Deductible is also called as excess in which it is a policy condition that requires the insured to pay a portion of loss whenever a claim is made (PAM, 2015). According to Professional indemnity (2009) basically, when an event of claim is made, engineers would usually pay legal expenses up to the deductible as per in the agreement but in some policies, legal defence costs are excluded from the deductibles. It also added that there are also policies with zero deductible, and of course they are more expensive. On top of that, in a claim under a PI policy arising from construction work, it is necessary to identify whether the cause of the loss is the negligence in the mandating of the technique for the performance of the work (a PI risk) or negligence in the manner in which that work technique is performed (a construction risk) (Anonymous, 2008). However, the failure to notify in accordance with the policy conditions may entitle the insurer to decline the claim, besides the insurers may be entitled to cancel the policy if the failure to notify a pre-renewal claim or a circumstance occurs after the policy has been renewed (Paterson, 2014).

In summary, the PI claims generally require extensive technical enquiries to establish; what has gone wrong, who might be responsible, what immediate steps to be taken and so many other factors to be considered, and once the insurer is notified, then the appointment of adjuster will be held. The PI Insurance policy is able to ensure that professionals may carry on with their practice as it safeguards the personnel and business assets of theirs through claims. It is burdensome towards one's financial resources to cover the legal costs including the damages of award and here, the importance of the PI Insurance can be seen.

### 3.0 Methodology

A systematic and well-coordinated usage of research methodology has been conducted to achieve the research objectives. The activities assigned for each research process as shown in the flowchart are discussed in detail within the related section of the research

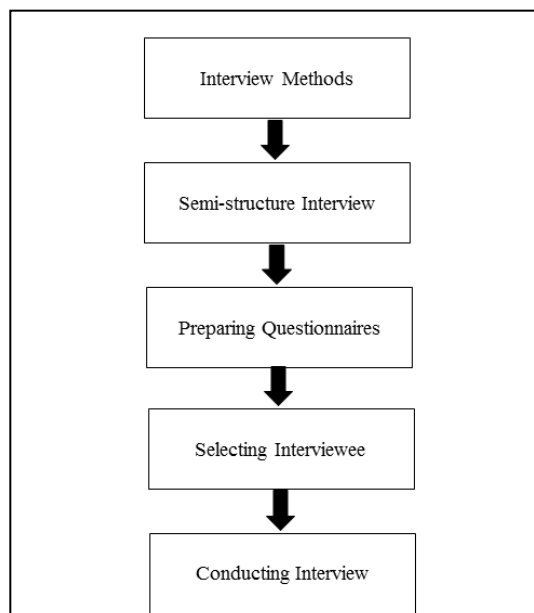


**Figure 1:** Flowchart of Research Process



### 3.1 Approaches to Data Collection

As the data collection would determine the target in achieving the objectives, it is necessary to ensure that information obtained is reliable and valid. The primary data collection is conducted to achieve the target. Primary data means obtaining information through other methods besides the literature review study or reading materials. It is normally conducted through observation interview and other methods (Naoum, 2007). Qualitative method has been adopted involving collection of data through semi-structured interviews. Mora (2010) described qualitative research is used when we do not actually know what to expect, to define the problem or to develop the problem. Sharing almost the similar thought, DiCicco-Bloom & Crabtree (2006) indicated that qualitative interview is suitable for researchers with the aim for an in-depth understanding of a particular research area and to document it correctly by verifying certain matters with the thoughts and opinions. The semi-structured interviews were performed among designers who were involved in the construction industry to obtain their understanding and their point of view towards Professional Indemnity (PI) Insurance. Before the interview was conducted, a few stages in preparing the questions, selecting interviewees and setting up appointments were arranged. Figure 2 illustrates the flow of the processes.



**Figure 2:** Process Flow of Interview Method

Source: (Din, 2014)

Semi-structured interview was chosen for its ability to provide detailed explanation and validation regarding the research study. Sets of interview questions were prepared for the semi-structured interview by which the questions were adapted from previous researches with similar nature. This is to ensure that the outcomes could support and validate throughout the concurrent questions. Selecting the respondents was quite critical in making sure that the respondents were able to assist the researcher in achieving the aims and objectives of the research. Due to the constraints and other limitations, the scope of the targeted group and the location were narrowed down. There were eleven respondents and they were engineers who were involved in designing construction projects, and their registered offices were within Klang Valley and Ipoh.

Apart from that, during the data collection, Snowball Sampling Method (SSM) had been applied. According to Cohen & Arieli (2011), SSM, or chain-referral sampling is a useful yet reliable technique in narrowing down the targeted respondents in societies while conducting a research. Therefore, to get the potential respondents who were highly experienced and some other specific characteristics, as well as to get reliable data, researcher had chosen this sampling to seek respondents

who were currently from selected population which had been suggested by the population's individuals. The final process of this method was conducting the interview. A face-to-face interview was chosen to avoid any misunderstandings. It is the most convincing and reliable method to ensure that the objectives of the research are achievable.

### **3.2 Data Analysis and Interpretation**

Creswell (2013) had highlighted that the process involves preparing the data for analysis, conducting different analyses, moving deeper and deeper into understanding the data, representing the data, and making an interpretation of the larger meaning of the data. This would indicate that at the end of the process of analyzing the data, researcher would present the output in a detailed report and would be able to give a better understanding towards the audience regarding the research.

### **4.0 Results and Discussions**

The purpose of conducting the semi-structured interviews is to address respondents' opinions and to identify the effectiveness of Professional Indemnity (PI) Insurance in Malaysian construction industry. The selected respondents were all highly qualified and experienced in the engineering consultancy field with an experience of at least 15 years in the industry.

#### **4.1 To determine the awareness and understanding of the Professional Indemnity (PI) Insurance among engineering consultancies**

In achieving the first objective of the research, firstly respondents were asked whether they were currently insuring for PI Insurance or going bare. The reason was to identify the differences of opinions from these two groups on how they looked at the benefits of PI Insurance and their understanding to it. Based on Table 2, majority of the respondents are currently insured for PI Insurance which constitute 73% representing 8 respondents whereas 27% of them (3 respondents) said no in insuring for PI Insurance. However, among those 3 respondents who are not insuring PI Insurance, 1 of them are looking forward for it as he aware on the importance of insuring PI Insurance in the business of construction and was waiting for the right time to step ahead.

**Table 2:** Current Status on PI Insurance

<b>Current Status on PI Insurance</b>	<b>N</b>	<b>Percentage (%)</b>
Yes	8	73
No	3	27
<b>TOTAL</b>	<b>11</b>	<b>100</b>

Through the interviews, the respondents revealed that the most important element that PI Insurance offers is the protection it provides towards professional liabilities and due to that, they willingly chose to secure their business with PI Insurance. The result was dependable since it was supported by Paterson (2014), where he claimed that PI insurance is essential to provide cover for losses arising out of a professional error in the design or specification of works, which can be significant. However, although some had already known and acknowledged the importance of PI Insurance, they only secured the insurance due to the client's requirement. Therefore, it can be concluded that majority of the respondents admitted that PI Insurance is essential in the construction industry and thus they took the initiative to insure it rather than 'going bare' before anything happens which might cause them to liquidity or what is worst is to bankruptcy.

#### **4.2 To identify the benefits of the Professional Indemnity (PI) Insurance could give towards engineering consultancies**

In answering the second research objective, it seemed that nearly all of the respondents agreed that it can protect the business reputation as well as the business financial strength. Respondent PI01

had further elaborated that in terms of reputation, it can give confidence to the clients since the consultant is protected by the insurance if anything happens, besides it shows the consultant's integrity towards the business as he or she has prepared for the risk transfer medium.

**Table 3: The Values of PI Insurance**

Respondent No	Descriptions
	Values of PI Insurance
PI01	It protects the professionals' reputation and in terms of financial, it does not disturb the company's cashflow
PI02	It does protect engineers' reputation but in terms of financial, it depends on the amount of claim
PI03	If there is damage, then it will cover
PI04	To cover damages, legal cost and legal action taken due to their negligence
PI05	To protect professionals due to the act of negligence after their services
PI06	In terms of reputation, yes of course but as for business financial, it only covers a small part of losses
PI07	Of course, but mostly in terms of financial. It does protect a lot
PI08	Probably
PI09	May be. I am not really into deep in this matter
PI10	To protect the interest of the clients and the consultant
PI11	Not really since it covers only a portion of the claim

This finding was consistent with Shinha's (2013) statement where whenever a professional opts for PI Insurance, he is at least safe from financial damages. Although some respondents did not quite agree on PI Insurance's extent towards professionalism in terms of financial strength as they believed that it could only cover up to certain amount, it actually depends on how much their limit of indemnity is, whether it is sufficient or not.

#### **4.3 To identify the factors that will encourage professional engineers to secure their business with Professional Indemnity (PI) Insurance**

As for the third research objective which was to identify the factors that will encourage professional engineers to secure their business with Professional Indemnity (PI) Insurance, it is crucial to determine its limitations first as to tackle when the issue arises. Among all the limitations that have been stressed by the respondents, such as too much exclusion, the tedious procedures, and others, the most significant limitation is with regards to the high premium of PI Insurance. Sharing similar thoughts were Wright (2004) and Johnson & Dracoulis (2007) where they also felt that the premium rate is extremely high. Thus, it is wise to read through the policy and understand each wording so that none of the pertinent features left out. However, none of the respondents considered the run-off cover as one of the limitations although Anonymous (2012) believed that it is. This is due to the possible claims made after professional has ended his practice since his responsibility does not end there.

**Table 4: Limitations and Restrictions those Respondents Had Foreseen for PI Insurance**

Respondent No	Description
	Limitations and Restrictions that had been foreseen in PI Insurance
PI01	The coverage
PI02	I do not see any limitations in the PI Insurance
PI03	The procedure is too many and tedious, and there are too many exclusions in the contract besides the deductibles
PI04	Nothing, but I will surely insure for PI Insurance if I am involved in a complex project
PI05	The premium is quite high
PI06	The cover it gives is insufficient as compared to the premium paid

PI07	Premium is quite high but the cover is not much
PI08	None. Everything is just fine
PI09	Current practice for cover is just based on turnover and limited criteria
PI10	Nothing
PI11	The coverage

After the limitations and restrictions of the PI Insurance have been listed, then only the factors to encourage professional engineers to insure can be identified. Majority of the respondents agreed that the premium rate of the PI Insurance needs to be restructured as it is quite burdensome especially to the Small and Medium Enterprise (SEM) engineering consultants who face inconsistent payments from the client, coupled with the allocation on the insurance. The second top factor that was highlighted was the enforcement by the Government. Respondents thought that by enforcing the engineering consultancies to insure, it would somehow benefit them in their business as well as it can sustain the construction industry position.

**Table 5:** Respondents' Expectations and Potential Implication of PI Insurance

Respondent No	Description
	Expectations and Potential Implications of PI Insurance
PI01	Enforcement by Government or regulatory body and to increase awareness to the risks as well as lower the premium
PI02	For me, the premium is reasonable
PI03	There are too many exclusions thus it is necessary to reduce them and of course the premium is too high
PI04	If you are involved with big scale projects, then you have to insure for PI Insurance
PI05	I am looking forward in insuring for PI Insurance and therefore I hope that the premium could be lower
PI06	To increase awareness among professional engineers and lower the premium
PI07	Less premium, wider coverage
PI08	Join the Association of Consulting Engineers (ACEM) and seek for their advices in getting the PI Insurance
PI09	All insurers should offer this service at competitive rates
PI10	Insurance company should give the best offer instead
PI11	Lower the premium

In addition, recommendations were given to increase the level of awareness on the PI Insurance which was to organize awareness seminars on the importance of the insurance to professional engineers. The involved organisation would be the Institution of Engineers Malaysia (IEM) as it is the responsible one to hold those awareness related seminars in order to raise the character and status and advance the interests of the professional engineers, as well as to promote honourable practice and professional etiquette among them.

## **5.0 Conclusion and Recommendations**

Although there is the implementation of the Professional Indemnity (PI) Insurance, the enforcement is still lacking. To resolve or at least encounter the problem, the Malaysian Government should address this long-plagued issue. Since the data collected from the highly experienced professional engineers as well as the supporting literature review, this outcome is significant as a basis to support and assist the Government decisions of improving the current condition of PI Insurance in Malaysia. Besides that, all parties involved have a significant role and the industry as a whole must collaborate and focus on promoting the effective implementation of PI Insurance among the engineering consultancy in Malaysian construction industry.

Hence, following the research outcomes, additional studies on the Professional Indemnity (PI) Insurance are required to further encourage the participation of professional engineers in Malaysia construction industry. The recommendations for further research are as follows;

1. A research on the impact of the run-off cover as the probability of claims made against a business after it closes and ceases operations is quite high. It is also essential for client protection as well as gives financial security to retired partners.
2. A research on PI Insurance is to be made compulsory, will engineers be able to afford it especially the small medium consultants and to come out with some essential provisions in the mandatory PI Insurance scheme. Besides that, the aftermath of the implemented PI Insurance must be emphasized too as it may lead to large hikes on premiums as in the case of lawyers.

Apart from the recommendations given for future research, this research has also intended to contribute some ideas with regards to the importance of Professional Indemnity (PI) Insurance towards the practitioners mainly the engineering consultancies in the Malaysian construction industry.

1. Engineering Consultancies may be registered as a part of the Associations of Consulting Engineers Malaysia (ACEM) and seek for the advices in making the decisions with regards to the subject matter. ACEM has collaborated with several insurers in order to give the most competitive rate towards consultants, besides to increase the level of participations from them.

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