

Types and Causes of Construction Claims

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Abstract:- The Indian government is investing millions of dollars every year in new facilities to improve the infrastructure of the country. Construction projects are complex, uncertain, have long construction periods, involve many parties, and require the integration of different work components (Civil, Mechanical and Electrical) to work together as a single unit. The projects require highly specialized designs, detailed plans and specifications, high-risk construction methods, effective management, skill full supervision, and close coordination. Thus, claims are common in such projects. Today, construction projects are the subject of more claims than in any other industry. Claims appear to hinder the completion of construction and cause delays in delivering projects. These claims are undesirable because they require significant time and resources to resolve, and because they cause adversarial relationships among the parties involved. It is therefore in the common interest of all involved parties to prevent them, minimize them, or resolve them as amicably as possible. Identifying common claim types and their causes is essential in devising ways and means to minimize and hopefully avoid them in future projects. This research presents the results of a pilot study of the types, and causes of construction claims in the Construction industry. The recommendations to prevent/reduce claims in construction projects are then presented. It is expected that the findings of this research will help construction firms avoid the main causes of claims and, accordingly, minimize delays and cost overruns in construction projects.

Keywords: *Claims, Disputes, Causes, Types, Construction*

INTRODUCTION:

Construction Claim can be defined as a request by either party to the contract, usually the Contractor, for compensation for damages caused by failure of the other party to fulfil his part of obligations as specified in the contract. The compensation is usually in the form of the additional payment or an extension of time (EOT).

Construction claims are measured by many project participants to be one of the most worrying and unpleasant events of a project. The high competition has forced contractors to submit projects with minimum profits in order to stay in business. In addition to their multiparty nature, projects are becoming more complex and risky. This has placed an added burden on contractors to construct increasingly sophisticated and risky projects with less resources and profits. Under these circumstances, it is not shocking that the number of claims within the construction industry continues to increase.

Knowledge of the different construction claim types allows owners to recognize potential claims situations. This recognition can protect the owners from incurring losses and assist in recovering compensation. In this research paper the Construction claims types are divided into mainly eight different types, most of the claim types discussed are interrelated, frequently occurring and most of them may pertain to a particular situation.

RESEARCH OBJECTIVES:

The main purpose of this research is to,

1. Undertake a comprehensive analysis of construction claims in construction projects.
2. Identify and analyze the types of claims and their causes in construction projects.
3. To give conclusions and recommendations for future researches based on the analysis and severity of claims in construction projects.

TYPES OF CONTRACTUAL CLAIMS:

There are several types of construction claims out of which some of the listed down below after studying the research papers, journals, books etc

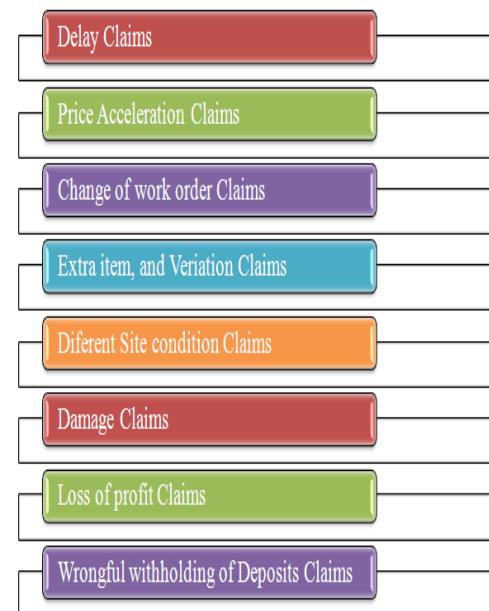


Figure-1 Types of Contractual Claims

CAUSES OF CLAIMS:

There are many kind of conflicts occur in construction industry between the parties which mostly converts into the claims. After taking the opinion of experts like experienced contractor, client, Designers, Arbitrator, Professors of the construction sector as well as after reviewing the research papers related to construction claims I have listed down the following causes of claims.

- Delay in Supply of Drawings,
- Delay in Handing over the Site,
- Delay in Supply of materials,
- Delay in Payments,
- Delay in Starting work,
- Delay in Completing the work,
- Work actually done but not measured and paid,
- Refund of maintenance deposit,
- Loss due to extra overheads on account of extension of time limit,
- Loss due to idle machinery and idle labour,
- Due to Design errors,
- Due to inadequate or incomplete specifications,
- Due to inadequate information related to design.
- Due to Inadequate bid information,
- Due to Inadequate time for bid preparation,
- Due to Change in work scope,
- Due to Changes in plans and specifications during construction,
- Due to Insufficient plans and specifications,
- Due to Extra items and Variations,
- Due to Non granting of Completion by Engineer in charge.
- Due to Partiality by the Engineer,
- Due to Unrealistic expectations,
- Due to Poor management and administration of the construction site.
- Due to Ambiguities in contract documents,
- Due to Different interpretations of the contract provisions,
- Due to Inadequate investigation of site,
- Due to Unbalanced bidding,
- Due to quoting very low rates in the Tender,
- Due to Changes made or changes which occur not at the request of the owner,
- Due to Extension of time (EOT),
- Due to financial failure of the contractor,
- Due to technical inadequacy of the contractor,
- Due to Poor quality of construction work and use of wrong equipment,
- Due to Failure to follow authorized procedures,
- Due to Employers' Lack of Construction Knowledge,

- Due to damages occur to adjacent buildings during the work,
- Due to Strikes by Workers,
- Due to Stoppage of Work by workers,
- Due to Failure of parties to cooperate with each other in the performance of the work.
- Due to Accidents,
- Due to Natural Calamity,
- Due to Increase in Material / Fuel Cost,
- Due to Court intervention,
- Due to Weather conditions,
- Due to Unforeseen ground conditions,

MOST FREQUENT CAUSES:

From the list of above claims most of the claims mostly settled down between the parties by their mutual understanding as well as by Negotiation but some of the claims which are frequently occurs and which may not settle, create the disputes between the parties are listed and explained below. These types of claims which do not settle and converts into the dispute can be solved by the Advanced Dispute Resolution Methods.

- Payment related Claims
- Change Claims
- Delay Claims
- Extra work Claims
- Contractual Claims
- Difference in pricing and measuring Claims
- Different site condition Claims
- Acceleration Claims
- Damage Claims
- Contract termination Claims

PAYMENT RELATED CLAIMS:

In the construction industry most of claims arise for the not payment or delayed payment of Running bills, Final bills, unreasonably deduction of money from bills without any strong reason, delay in payment of security deposit, maintenance deposit etc.

CHANGE CLAIMS:

Almost every construction project encounters change. Whether it's a change to the scope of work, a revision to the specifications, or an impact to the means and methods of performing the work, changes can significantly impact a project's cost and schedule. Due to change in work scope the claim may take place between the contractor and client. Due to change in work scope or change in design the quantity of work may increase or decrease and if it is the work from which contractor is going to get the maximum profit then he can claim for increased rates for performing the work or extra money for completing the work.

DELAY CLAIMS:

Construction delay claims, or disputes related to schedule impacts, are one of the most common types of disputes in the construction industry. Delay claims typically relate to unanticipated project events and/or circumstances which extend the project and/or prevent work from being performed as originally planned. There are many common causes for schedule delays on a construction project. Any project faces delays and disruptions especially the mega/complex projects of today, with many interfaces. Proving delay and/or disruption is not an easy task and it is a time consuming process especially in the mega/complex projects with thousands of activities, lots of details and interfaces with the involvement of many stakeholders.

EXTRA WORK CLAIMS:

Extra work is any work that is ordered by the owner after construction has started that was not included in the original contract. The extra work being performed by the contractor is a result of a clarification of the contract documents. However, the contractor believes that he is performing extra work, while the owner believes the work was part of original contract.

CONTRACTUAL CLAIMS:

Contractual claims concern matters with consideration to the contract itself. This includes any disagreement on the responsibility or liability of some parts that are not included in the documents. The main reason of these types of claims is poorly written contracts

DIFFERENCE IN PRICING AND MEASURING CLAIMS:

These types of claims deal with the disagreement regarding measurements at the final stage in the construction. Also, these claims include the differences in pricing by the contractor and the owner of some of the materials. Also, the change and the extra work usually create some differences in pricing.

DIFFERENT SITE CONDITIONS CLAIMS:

A changed condition refers to some physical aspect of the project or its site that differs materially from the indicated by the contract documents or that is of an unusual and differs materially from the conditions ordinarily encountered.

ACCELERATION CLAIMS:

Acceleration refers to the owners directing the contractor to accelerate his performance so as complete the project at an earlier date the current date of work advancement will permit. It occurs when the contractor is ordered, either directly or constructively, to speed up performance in some way. These types of claims may occur in big projects but for residential houses, these are rare

especially nowadays where the rate of houses rental is smaller.

DAMAGE CLAIMS:

Property damages may occur due to the act of the owner or due to safety related problems. This type of claims is very rare because usually contractors have the total responsibility for the site.

CONTRACT TERMINATION:

When contract termination has occurred before the contractor has begun the work, the contractor may be entitled to recover the loss of the expected profit, or the difference between the contract price and the anticipated cost of the work. If the owner has terminated the contract after the contractor has begun the work, the contractor may be entitled to recover the loss in various ways. If the contractor has completed the work in full compliance with the contract prior to termination, she should expect to recover the full contract price. Recovery and liability under terminated contracts varies widely.

Claims Settlement Methods:

When the contractor discovers the problem, he should try to eliminate or avoid it. If he cannot do so, then he should write to a letter to the owner to make a formal claim. This is the first step in claim procedure. The problem is approached during regular meeting s, or a special meeting may be arranged to settle or discuss this dispute. If all that did not succeed, then mediation could be friendly way for settling the claim. Otherwise, arbitration or litigation could be other ways to solve the claims. These methods could be as under:

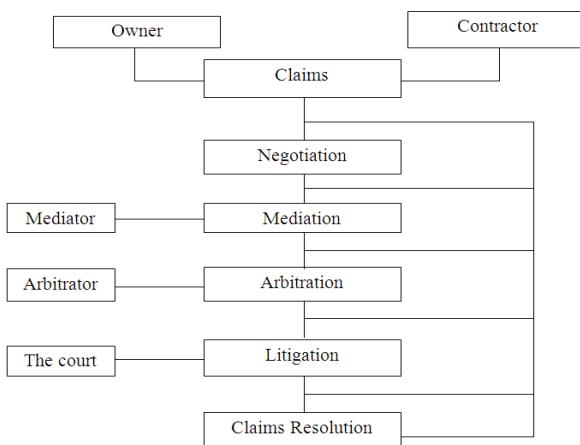


Figure-2 Claim Settlement Methods

CONCLUSION:

Based on the results of this research, the following conclusions can be drawn:

1. Delays in payment are the main important cause of claims because they result in a financial problem and disputes between the owner and the contractor.
2. Documents are a very important part in the contract. At the time of writing the agreement, everything is usually acceptable for all parties, but the problem

come during the last part of the project, when they can not make any changes to the contract.

3. Owners usually try to deduct from the last payment and the reason they give is that the quality of work is not good or there are some errors in execution. Such execution errors or quality depend on how skilled the labors and the management are.
4. One of the major claim factors is that both owners and contractors do not put a good plan before starting a project. The owner usually does not know what he needs exactly. Also, contractors usually do not use any type of scheduling which may result in delay.
5. Another factor is that there is no control of the construction market, anyone could become a contractor. As a result, prices of contracts decrease, and therefore, the quality of work decreases.
6. Sub-surfacing problem and accidents happen during the project but are not important causes of delays. This is because the residential houses do not need a lot of excavation.
7. The economic impact and shortage of money in recent years has resulted in an increased number of claims. Profit margins have decreased and may become harder to maintain.

RECOMMENDATION:

1. In the contract the rights and responsibilities of the contractors as well the rights and responsibilities of the owners and engineer should clearly defined.
2. Give reasonable time to the design team to produce clear and complete drawings, bills of quantities, and specifications with no or minimum error and discrepancies.
3. Careful preparation of the contract documents helps to avoid disputes. Therefore, the documents will help to avoid disputes. Therefore the contractor should ask the owner to write the change orders instead of giving oral change orders.
4. Contractor should have signed change (variation) orders before starting doing any change in work on site.
5. Provide a proper mechanism for processing and evaluating change (variation) orders that pay for direct costs, indirect costs, and loss of productivity associated with any changes.
6. The contractor should take care of his work superiority by getting skilled labour and using good management techniques.
7. The government should create a set of procedures to control the quality of the construction work. Also, it should develop licensing contractors to make it more difficult to get certified.
8. The most excellent solution to claim lies in establishment of partnership between the owner and the contractor. Each party should try to solve the problems from the first moment they arise.
9. Use software like MSP, Primavera etc. to make bar charts, critical paths, planning, scheduling, cost control, productivity analysis and most importantly the project progress report to control the delay of the project.

10. Develop mutual problem solving attitudes on project between contractor and client.
11. Maintain proper job records on a timely manner including Time sheets, Diary records, Reports, Photographs, Records of labour, Records of plant on site, and its utilization, Weather and its effect on progress, Progress of the construction etc.

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