



The Israeli System of Road Accidents Victims Compensation Report by Ilan Kaner, Adv¹

The Israeli system exists since 1975 and it's rather unique. It is a No-Fault system. Any person injured in a road accident in which a motor vehicle was involved, is entitled to compensation without the need to prove liability. The question "who caused the accident?" is not relevant.

The whole system is based on the private insurance companies and not on the national welfare institutes.

The Israeli law forbids driving a motor vehicle without having a valid insurance policy. Violation of the law in this respect is a criminal offence. You have to purchase it from any private insurance company. This mandatory insurance covers not only the driver's bodily injuries, but also the passengers in the vehicle who were injured and pedestrians who may have been hit by the motor vehicle. So, as a matter of fact, almost everybody who was injured is entitled to compensation. Even a drunk driver is.

The Road Accident Compensation Law does not apply in several cases: when someone causes an accident deliberately, when the injured driver stole the vehicle, when the vehicle was used for perpetrating a criminal offence or when the driver had no valid insurance policy. The validity of the insurance depends on having a driving license. In case the driver had no valid insurance policy, the passengers and pedestrians who were injured are entitled to compensation from a special fund, but the driver himself is not entitled to any compensation under the law.

When we talk about compensation that the injured person is entitled to, we talk about a full compensation for his bodily injuries, with three exceptions:

The first exception is that when you calculate his loss of earnings, you do not take into account any earnings above three times the average wages. The average salary in Israel is about €2000 a month, so the maximum earnings that you take into account are €6000 per month. This, of course, has a negative result for those who earn more than three times the average, but the whole idea was to make it a social law and pay compensation to all road accident victims.

The second exception relates to the income tax. In cases under the general tort law, the loss of earnings calculation is based on the gross salary. In the case of road accidents there is a reduction of income-tax from the earnings up to a maximum of 25%.

In respect of non-monetary compensation, such as pain and suffering, there is also a limit of compensation: As you may well know, pain and suffering are hard to calculate. In order to simplify the system, the law provides us with a formula that is based on the permanent invalidity-percentage of the injured, the number of days he was hospitalized, and his age at the time of the accident. There is a common list of invalidities. Each one gets its own percentage: for example - losing the tip of the finger gets 5% invalidity, the loss of one eye is 30% etc.

By these limits of compensation we get a balanced arrangement that ensures compensation for each and every person injured in a car accident on the one hand, and on the other hand moderately limits the amount of compensation.

Once the injured person has a cause of action under the Road Accident Compensation Law - this is his only way of action. He cannot file a claim under the general tort law for his bodily injuries.

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As mentioned above, although it is a mandatory insurance, it is based on the private insurance companies.

Furthermore, although we deal with private insurance, the whole field of this insurance is governed and supervised. This is necessary in order to prevent insurance companies from taking advantage of the insured persons, who, in fact, were forced to purchase the insurance. The legislator dictates the policies, which have to meet the following standards:

1. The insurance policy insures all the persons injured at a road accident in which the vehicle was involved, with full compensation in respect of all bodily injuries sustained (with the exceptions mentioned above).
2. The commissioner of insurance supervises both the insurance tariffs, and also the terms and conditions of the insurance according to a uniform policy. The commissioner can also intervene in a dispute that may occur, and safeguards the insured person's interests.
3. The legislator prohibits the insurance companies from limiting the insurance coverage by age, driving experience, mental or physical conditions, the condition of the motor vehicle, etc. The insurance companies can either sell an insurance policy to the customer or refuse to sell it.

But some of you may ask what about those non profitable candidates?

In order to implement insurance coverage also on those who are not "profitable" and the insurance companies have no interest in insuring them - the legislator set up the "POOL" which is obliged to insure each and every motor vehicle user who did not succeed to obtain an insurance policy from a private insurance company (such as motor-cyclists).

Till 2006 the insurance tariffs had a fixed price. In 2006 the motorized vehicle insurance market was reformed. Differential tariffs were set, and very high premiums were imposed on owners of two-wheeled vehicles. Strong objections were raised throughout the country and those young people refused to purchase any insurance coverage. The legislator was forced to intervene. In order to make them more profitable for the insurance companies, he determined that in accidents involving a two-wheel vehicle and a motor vehicle, the motor vehicle insurers will pay the two-wheel insurers 75% of the compensation with which the two-wheel insurers were debited. This, of course, enabled the insurance companies to sell policies to motor-cyclists at more reasonable prices.

The mandatory insurance has proven to be very profitable for the insurance companies, and there are several reasons for that:

1. In many cases, when you sell a mandatory insurance, you get in contact with a person that is usually not interested in insurance at all. He lives very well without insurance. Now, he is forced to get an insurance policy. His standards may change; you can sell him a health policy as well...
2. When, for example, an insurance agent approaches a factory and offers an "All Risk" insurance coverage for all the assets, he also sells mandatory insurance policies for all vehicles owned by such a company.
3. By its nature, there is a time gap between the receipt of the premium from the insured and the payment of insurance benefits. In this interval the money is held by the insurance companies and invested in the capital market.

As a result, the profit of the insurance companies from the mandatory insurance in the first half of 2013, amounted to about €104,000,000 and, as a matter of fact, 60% of the profit of the insurance companies in



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elementary insurance derived from mandatory vehicle insurance.

This nice profit was calculated after those insurance companies had to transfer during the same period about €8,000,000 to "Karnit".

"Karnit" is a fund that was established in order to compensate injured persons who are not entitled for compensation from an insurance company under the law, because of several reasons: for example - those who were injured following a hit-and-run accident, persons injured by a stolen vehicle or injured by a vehicle which was not insured, as well as cases in which the insurance company is in liquidation.

We have had this system, which has proved itself quite efficient, for almost 40 years. As a plaintiffs' representative I can testify, that it is relatively simple to handle a road accident claim, in comparison to claims under the general tort law. The questions raised are mainly in respect of the scope of the injury, but legal questions in respect of the application of the law also raise from time to time. For example, the law relates to "motorised vehicles" - what about electric bicycle, electric buggy, motored engineer equipment - does the law apply to these?

Another example is: what is a road-accident? Is it only a "regular" accident when two vehicles impact, or is it also when the person was injured while entering the vehicle, pushing the vehicle, towing the vehicle, loading or unloading it - do these fall under the definition of a "road-accident"?

In spite of the above mentioned disputes, road-accident cases are quite easy to handle. As previously stated, there is no need to prove liability, which, of course, makes it simpler for the claimant.

Furthermore, various mechanisms exist which make the proceedings simple and easy. For example: when a plaintiff files a claim in

respect of bodily injuries according to the general tort law, he is obliged to attach to the claim an expert medical opinion. Such requirement does not apply in respect of the Road Accident Compensation Law. The Court appoints an expert on its behalf in the medical areas which appear to be relevant to the alleged injuries.

There is also a mechanism that provides the injured person with some money in advance, for his basic needs after the accident, and these sums are reduced from the total compensation sum.

Finally, the law limits the fees of lawyers who represent plaintiffs in claims according to the Road Accident Compensation Law. Our fees are between 8%-13%, which is approximately half of our fees in actions under the general tort law.

So, this is it. I can only recommend to apply this system in your countries, and thank you for listening so patiently.