

COMPENSATION SYSTEM FOR ROAD TRAFFIC ACCIDENT VICTIMS

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Science in Transportation

Department of Civil Engineering

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Abstract

Worldwide over 1.3 million Persons killed, 50 millions injured in 2007 due to road traffic accidents. In 2004, Road Traffic injuries was the ninth leading cause of death. By, 2030 it is estimated the fifth leading cause of death, beating the rank of HIV/AIDS and Tuberculosis. It is the number one leading cause of death among vulnerable age group 15-29 years old. 700,000 people were killed due to road accidents occurred in Asia and the Pacific Region in 2007. In Asia and Pacific region 98% of traffic deaths are estimated to occur in low and middle income countries.

Sri Lanka experiences an increasing trend in road accidents during the last few decades. The cost of road accidents is estimated to be over 10 billion rupees per year, which include vehicle and road furniture damages, medical costs and police and other administrative costs. Ignoring safety hazards may lead to increase in the number of serious accidents. On the other hand having no positive measures towards reducing road accidents may lead to loss of confidence of road users.

Traffic accident victims may suffer a great amount of damages. They are not only susceptible to bodily injuries but they may also succumb to financial problems arising from the hospital bills, medical treatment or rehabilitation.

However, the trauma from such accidents seems to be immeasurable. As this trauma is often accompanied by pain, suffering and emotional distress, victims may not be expected to get on their feet as quickly as possible.

Often times, after a traffic accident, most victims are simply overwhelmed by the barrage of telephone calls, insurance paperwork, accident reports, treatment costs, medical bills, paperwork and other correspondence. These may be too hard to handle for a victim who may want to rest and take a time off from distractions. Actually due to existing compensation system for road traffic accident victims in Sri Lanka, vulnerable road users are doubly vulnerable.

Hence it is very important that the compensation systems and legal procedures should be simple and accessible to the victims of road traffic accidents. This thesis discusses the features of the post accident process, its impact on the road traffic accident victims and systems practicing worldwide to compensate road traffic accident victims.

Key words: road safety, road traffic accidents, injuries, compensation, victims

Dedication

For my loving husband and two little daughters



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List of abbreviations

Abbreviation	Description
AIRO	Automobile Insurance Rating Organization of Japan
CALI	Compulsory Automobile Liability Insurance
CFA	Conditional Fee Agreement
FSA	Financial Services Agency
GDP	Gross Domestic Product
GSRRS	Global Status Report on Road Safety
JCSTAD	Japan Centre for settlement of Traffic Accident Dispute
MIB	Motor Insurance Bureau
MTPL	Motor Third Party Liability
NLIRO	Non-Life Insurance Rating Organization of Japan
PCIRO	Property and Casualty Insurance Rating Organization of Japan
PRA	Public Roads Administration
TFF	Traffic for sakringsforeningen (Sweden's Green Card Bureau)
TSL	Traffiksakdelagen (Swedish Traffic Damage Act)
TSN	Swedish Road Traffic Injuries Commission
UK	United Kingdom
UNCRD	United Nations Centre for Regional Developments
US\$	United State Dollar



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USA	United State of America
VRU	Vulnerable Road Users
WHO	World Health Organization



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CHAPTER 1: INTRODUCTION

1.1 Background

Causality on the road is an observable fact, occurs quite often in increments. These pathetic incidents lead to massive emotional and economic consequences, imposing high economic and social costs to the society. These costs are in the shape of loss of earning capacity, damage to physical assets, lost wellbeing and expenditure on medical care.

Universal data on the road accidents provides extremely valuable information to assess and evaluate the nature and dimension of the problem in road safety. It also provides us the opportunity to investigate various practical options to mitigate the extent of this grave problem.

According to the information contained in *Global Status Report on Road Safety (GSRRS), 2009*, over 1.3 million people die each year on the world's roads, and between 20 and 50 million suffer non-fatal injuries. In most parts of the world this epidemic of road traffic injuries is still increasing.¹

The Global Status Report on Road Safety is the first broad assessment of the road safety situation in 178 countries, using data drawn from a standardized survey conducted in 2008. According to the results of the survey, road traffic injuries remain a global public health problem, especially in low-income and middle income countries.

These countries have higher road traffic death rates (21.5 and 19.5 per 100,000 population, respectively) than high-income countries (10.3 per 100 000). However even in high –income countries, where the road traffic death rates have fallen over the last 40-50 years, road traffic injuries remain an important cause of death, injury and disability. However as the report, over 90% of deaths on the worlds' roads occur in

¹Global Status Report On Road Safety by World Health Organization(2009)

low-income and middle income countries, which have less than half of the world's vehicles.

Almost half (46%) of those who die in road traffic crashes are pedestrians, cyclists or users of motorized two-wheelers collectively known as “*vulnerable road users*”.² This proportion is even higher in the poorer economies. According to the report in some low-income and middle-income countries up to 80% of road traffic deaths are among vulnerable road users such as pedestrians, cyclists, motorcyclists and people using informal public transport are especially at risk.

In many developing countries poor people are also more likely to vulnerable road users and are almost affected by road injuries as they have less financial resources to pay for health care. For the families affected, road injuries or deaths can result in loss of earnings, unbearable health expenditures that drive them further into poverty.

Research(Ghee et al,1997/ Fouracre and Jacobs,1976)shows that road accident cost in many countries are equivalent to between one and three percent(1%-3%)of annual Gross Domestic Product(GDP).If one considers a minimum figure of one percent of GDP per annum ,then the cumulative total for developing countries within the Asia-Pacific region is about US\$ 20 billion per annum.

However, according to the Global Status Report on Road Safety (GSRRS) unless action is taken, global road deaths are forecast to nearly double by 2030. The burden of disease attributed to road safety is comparable with other leading diseases as follows:

² Global Status Report On Road Safety by World Health Organization (2009)

Total 2004			Total 2030		
RANK	LEADING CAUSE	%	RANK	LEADING CAUSE	%
1	Ischemic heart disease	12.2	1	Ischemic heart disease	
2	Cerebrovascular disease	9.7	2	Cerebrovascular disease	9.7
3	Lower respiratory infections	7.0	3	Chronic obstructive pulmonary disease	7.0
4	Chronic obstructive pulmonary disease	5.1	4	Lower respiratory infections	5.1
5	Diarrheal diseases	3.6	5	Road traffic injuries	3.6
6	HIV/AIDS	3.5	6	Trachea, bronchus, lung cancers	3.5
7	Tuberculosis	2.5	7	Diabetes mellitus	2.5
8	Trachea, bronchus, lung cancers	2.3	8	Hypertensive heart disease	2.3
9	Road traffic injuries	2.2	9	Stomach cancer	2.2
10	Prematurity and low birth weight	2.0	10	HIV/AIDS	2.0
11	Neonatal infections and other	1.9	11	Nephritis and nephrosis	1.9
12	Diabetes mellitus	1.9	12	Self-inflicted injuries	1.9
13	Malaria	1.7	13	Liver cancer	1.7
14	Hypertensive heart disease	1.7	14	Colon and rectum cancers	1.7
15	Birth asphyxia and birth trauma	1.5	15	Esophagus cancer	1.5
16	Self-inflicted injuries	1.4	16	Violence	1.4
17	Stomach cancer	1.4	17	Alzheimer and other dementias	1.4
18	Cirrhosis of the liver	1.3	18	Cirrhosis of the liver	1.3
19	Nephritis and nephrosis	1.3	19	Breast cancer	1.3
20	Colon and rectum cancers	1.1	20	Tuberculosis	1.1

Source: World Health Statistics 2008 (<http://www.who.int/whosis/whostat/2008/en/index.html>)

Figure 1: Leading causes of deaths

Global Plan for the Decade of Action for Road Safety 2011-2020 says road traffic injuries are the third leading cause of death for people between 5 and 44 years of age. The report emphasizes unless immediate and effective action is taken, road traffic

injuries are predicted to become the fifth leading cause of deaths in the world, resulting in an estimated 2.4 million deaths each year.

A road accident is defined as a collusion of one or more vehicles resulted due to unexpected sequence of activities. When a road user perceives a possible hazard situation he or she usually undertakes an evasive action. When someone fail to complete the evasive action or actions prior to reaching a point of no escape, he ends up with a collision.

There are three main factors related to road traffic accidents. They are the road user, the vehicle, and the road environment.

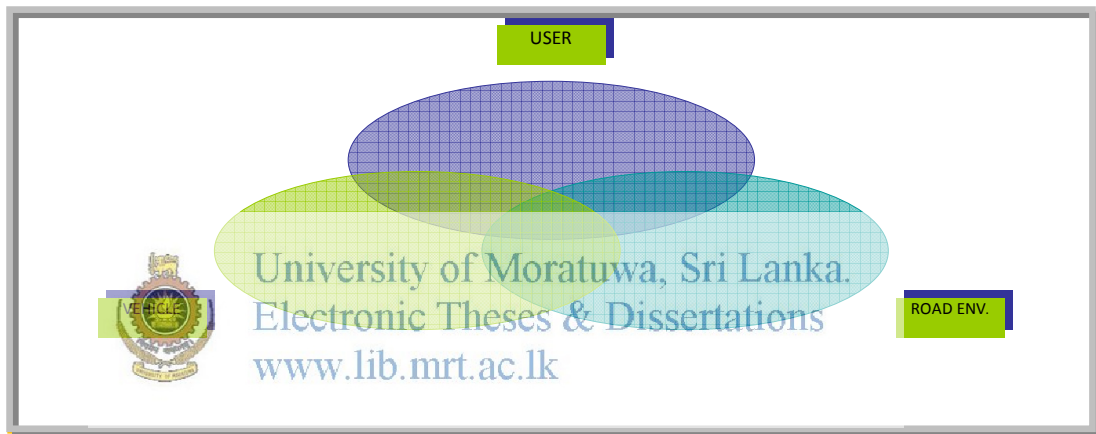


Figure 2: Main factors related to road accidents

All accidents could be categorized as Fatal, Grievous, Non-grievous (minor injuries), Damage only.

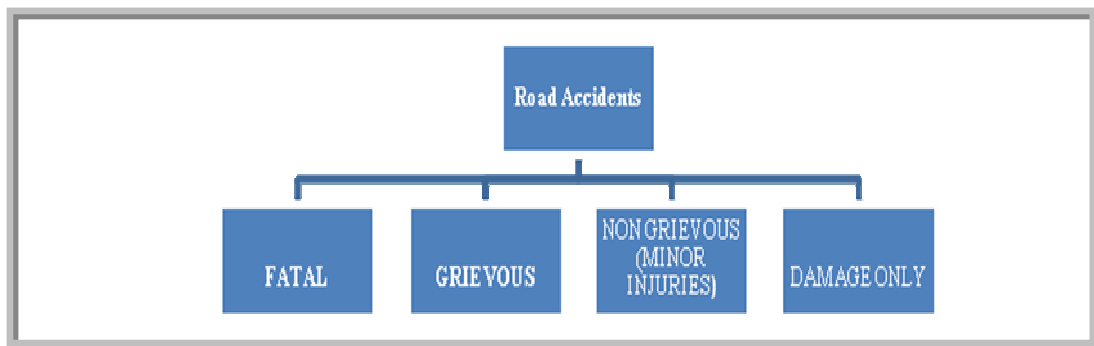


Figure 3: Types of accidents

Road traffic injuries are a critical public health problem in Sri Lanka. Since all the road users are vulnerable within the existing road traffic environment and the road infrastructure is not developed to suit the demand of vehicle population, the accident situation in Sri Lanka is getting more complicated.

Sri Lanka also experiences an increasing trend in road accidents during last few decades. The cost of road accidents is estimated to be over 10 billion rupees per year, which include vehicle and road furniture damages, medical costs, police and other administrative costs.³

In Sri Lanka around 150 accidents are reported daily which cause loss of 5- 6 valuable lives.⁴ In the last 30 years from 1977 to 2007, around 1,120,848 injured out of which over 40,000 people died and 370,000 injured out of which 68,440 were seriously injured. More than three fourth of such deaths were of young adults within the age group of 20- 55 years. The bread winners of such families left behind a burden for their dependents and the country. Statistics of reported Accidents are shown in the Annexure



Figure 4 shows the number of accidents casualties occurring in each year from year 1977 to 2007(for 30 years).

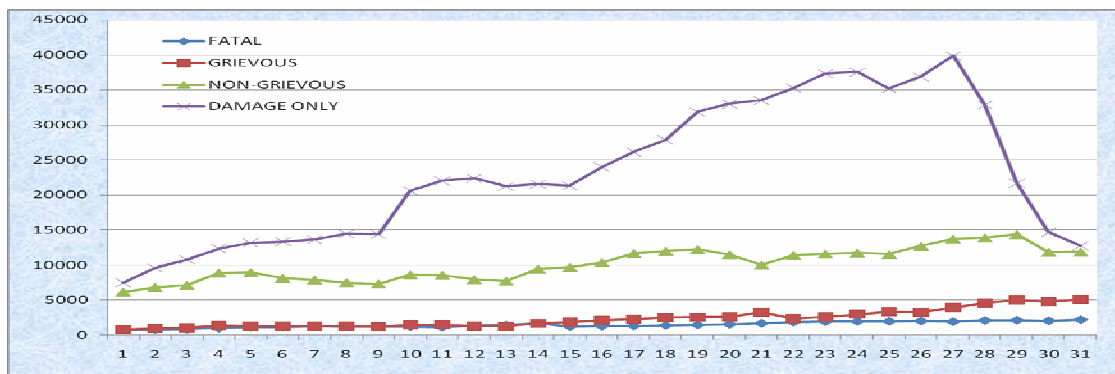


Figure 4: Accident trends in 30 years in Sri Lanka (1977-2007)

³ Pre-requisite for the Development of Road Safety Strategies – Bandara S 2009

⁴ Interim Report of the Select Committee of Parliament to look into the alarming increase in traffic accidents - 2008

Accordingly, Sri Lanka has a large number of road traffic accidents and casualties. Around 2,000 persons are killed and more than 20,000 are injured each year on the roads. Very sound alarm is the reality that the number of casualties is increasing. Road accidents are a major health problem and a big economic problem for Sri Lanka. The cost has been estimated to be more than 10 billion Rupees per year.⁵In the last 12 years 1,707,697 vehicles had been registered (from 1995 to May 2007) and added onto the roads.858,072 motor bicycles and 301,941 three wheelers being the most vulnerable vehicles for accidents amount to 67.91% of this total number.

It could be observed that the reported damage only accidents are reducing in recent years. Due to “on the spot” claim settlements in Sri Lanka for last few years thousands of accidents not reported to the police.

1.1.1 Challenges

One of the major challenges following a road accident is recovering damages for sustained injuries. Any user of the road, being a driver, passenger, cyclist or pedestrian is entitled to compensation for sustained injuries, provided that the accident was the fault of someone else.

However making a claim is a legal procedure in which someone can be compensated, that have been involved in an accident. The procedure of making a claim involves more than just filling out forms and getting the cheque claim. Making a claim has many restrictions and pitfalls, depending on the type of accident involved in.

As a country we have to identify the reasons for these types of deaths and injuries and should take actions to minimize and eliminate the traffic related road accidents. On the other hand as citizens of this country it is our duty to create awareness among ourselves to avoid incidents that lead to such tragic consequences.

⁵Final Report, Southern Transport Development Project- Road Safety Component, Sri Lanka

1.1.2 Vulnerable Road Users

Especially *Vulnerable road users* such as pedestrians, cyclists, motorcyclists and people using informal public transport are most likely to be harmed on the roads. “*Vulnerable Road Users*” (VRU) is a term applied to the most at risk in traffic. Thus, vulnerable road users are mainly those unprotected by an outside shield, namely pedestrians and two-wheelers, as they maintain a greater risk of injury in any collision against a vehicle and are therefore highly in need of protection against such collision.

After being injured in a road accident, the last thing anybody needs is long drawn out legal process. In the waiting time for most of cases these vulnerable groups are facing numerous difficulties. Many accident victims find it difficult to make a claim as they are uncertain of the claim procedures. Mostly legal and compensation process is time consuming and having many barriers to overcome for the general public in Sri Lanka. Also, this thesis comprises a discussion based on fatal and grievous traffic accidents in Piliyandala Police area.



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1.2 Objectives

As a country we cannot accept any kind of road traffic accidents. Ignoring safety hazards may lead to increase in the number of serious accidents. On the other hand if there are no positive measures towards reducing road accidents, this may lead to loss of confidence of road users.

It is not an easy task to eliminate all accidents and achieve ZERO records. But while reducing accidents, it should be introduced a system to look after the welfare of the victims of the accidents and to compensate them and their families. Due to absence of proper system to compensate victims and their next of kin's, they would suffer a greater amount of difficulties.

The objectives of this study are:

- to identify the accident trend, features of the post accident process
- to identify the pros and cons in the process of legal/compensation in road accidents.
- to compare the available system in Sri Lanka with a few other countries which were data available

1.3 Study Area

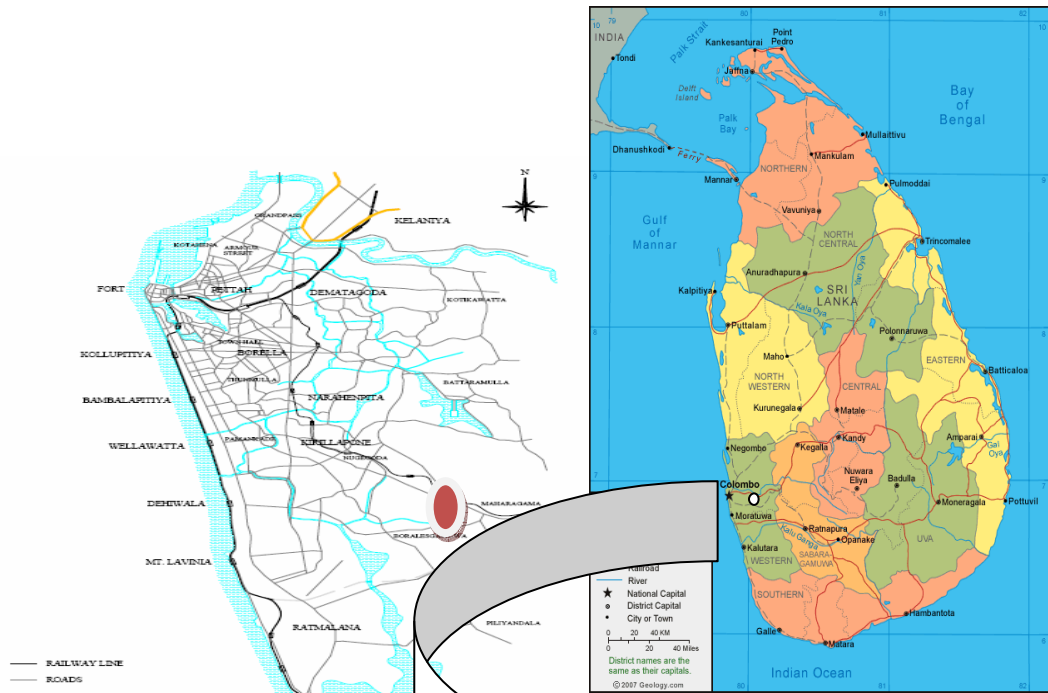
This thesis consists of the analysis of the accident problem and different types of the settlements among road traffic victims within the Piliyandala Police area. Since the resources for collecting reliable accident data is limited and it is a time consuming task, the study was limited only to Piliyandala Police Area.



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The relevant traffic accident data on fatal and grievous accidents from 2005 to 2009 in the Piliyandala Police Area were collected.

Piliyandala is one of the suburban areas that is developing fast in the out skirts of the Colombo District of Western Province in Sri Lanka. Piliyandala city is located in a key area and has connectivity to the Colombo city and several other urban and suburban cities such as Nugegoda, Moratuwa, Kottawa, Maharagama, Horana by main corridors and feeder roads , bus routes such as 120(Colombo –Horana)255 (Kottawa – Mount Lavinia)348 (Piliyandala –Maharagama)




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Figure 6: Map of the study area

1.4 Scope of the Study

This thesis presents a review of the five years history of the fatal and grievous accidents from 2005 to 2009 in study area. Furthermore, the post accident process and

main tendencies of legal and compensation systems are revealed and comparisons on international & local level are carried out using the data from different sources.

1.5 Methodology

Accident data were directly collected from Piliyandala traffic police using their reports and statistics for this study. The analysis of five complete years' (2005-2009) road traffic accident records was undertaken to provide a greater understanding of road traffic accidents that occurred in the study area. The inputs of the samples were fed into spread sheet and analyzed in Chapter 2. Further, collected data on types of settlements and legal actions taken by the police has discussed and analyzed in chapter 2.

Furthermore, interviewed (via telephone) 26 grievously injured victims of road traffic accidents in the study area during a period of three years (2007 to 2009) to obtain the information on their road accident experiences and attitude on legal process. Collected data through telephone survey is summarized and analyzed in chapter 2.

As well as analysis of important government documents, some other written materials and reports were also studied to support this thesis. Apart from above primary and secondary data, obtained the universal data of compensation schemes and methods collected from various web sites and articles published by the experts in the field of transportation and safety. Literature on different road traffic accident compensation systems revealed in chapter 3 of this thesis.

Finally, Sri Lankan road traffic accident compensation system was compared with compensation systems of few other countries where data/information was available and discussed in chapter 4. The conclusions are drawn and represented at the end of the thesis in chapter 5.



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CHAPTER 2: DATA COLLECTION AND ANALYSIS

The Data described and analyzed in this chapter was collected from the Piliyandala Traffic Police by reference to their documents and reports .Data for five years from 2005 to 2009 and accuracy of the data were very high due to systematic recording and updating by the traffic police, Piliyandala.

The table 1 below shows the distribution of fatalities, injured persons (Grievous and Non- Grievous) and other accidents in the study area for 5 years from 2005 to 2009 annually. This analysis considered only the fatal and grievous accidents due to time and resource constraints.

Table 1: Accidents in Piliyandala Police area (2005-2009)

Type	2005	2006	2007	2008	2009	Total
Fatal	19	15	13	14	15	76
Grievous	73	89	94	93	73	422
Non-Grievous	55	60	65	38	43	261
Damage only	146	192	182	194	182	896



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It was observed that 3.06 % of the total fatal accidents in the country occurred in this study area.

2.1 Accident trend in Piliyandala Police Area

According to the data reported to the Piliyandala police, there were 76 fatal accidents and 422 grievous accidents from 2005 to 2009. However the total number of deaths due to these fatal accidents was 90. It was observed that the most of road traffic accident deaths are among men, the economically active age ranges.

2.2 Accident Victims

It could be seen that the most road traffic accidents victims are vulnerable road users such as pedestrians, cyclists and motorcyclists. Also high percentage of motorcycles and three wheelers have involved in these fatal accidents in the study area. Data contains in annexure II prove the above situation clearly.

2.3 Accident Data

According to the police road traffic accident data, it could be observed that the shared negligence by all involving parties is the main cause for the fatal and grievous accidents in this area.



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Table 2 : Settlements and compensation received (Grievous accidents victims)

Year	Mutually settled* (without compensation)	Settled by the police (without compensation)	Settled in the Magistrate Court (without	Compensation received**	Others ***	Pending cases	Total
-------------	---	---	---	--------------------------------	-------------------	----------------------	--------------

			compensation)				
2007	15	19	32	24	02	02	94
2008	16	20	17	32	06	02	93
2009	23	12	19	15	02	02	73
Total	54	51	68	71	09	05	260
%	21%	20%	26%	27%	3%	2%	100%

* Settle between parties without compensation, but these incidents have informed to the police

*This includes compensation received in Magistrate Courts and when settling the cases at police station

**This includes Hit & Run accidents, collisions with road furniture/animals etc.

2.4 Settlement Types



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The data indicates that the trend for mutual settlements between parties is increasing and cases settled by the police are decreasing 2008 to 2009. Cases settled in Magistrate courts also decreasing from 2007 to 2009 dramatically. Only 71 road traffic accidents victims have obtained compensation or ex-gratia payment out of 260 victims. It revealed that nearly 27% of victims get any amount of compensation for the road traffic accidents during 3 years period from 2007 to 2009.

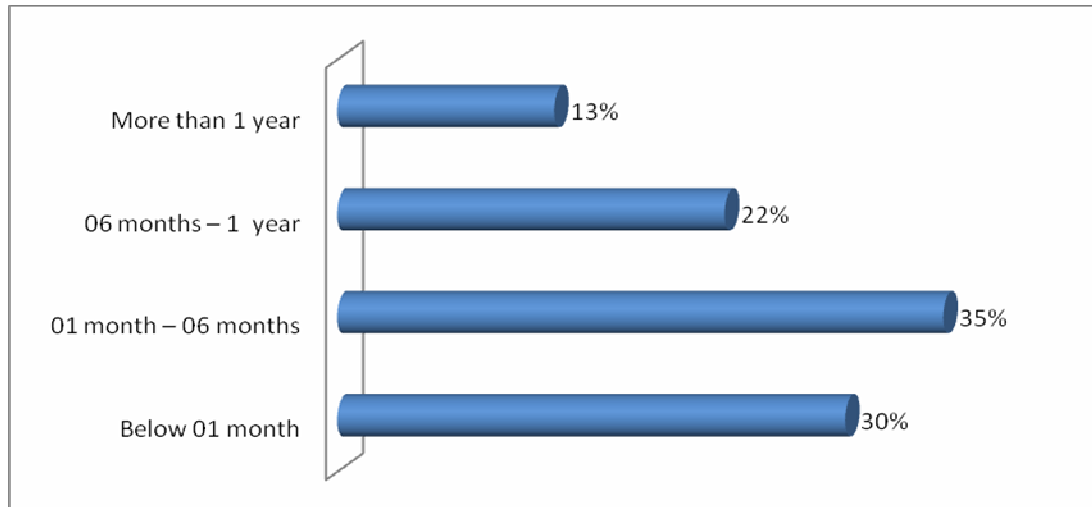


Figure 7: Time Period to get compensation

It can be seen that over 35% of road traffic accident victims who met grievous accidents get the compensation within one month to six months period. Nearly 30% of grievous accident victims get the compensation within 01 month period after a road traffic accident.

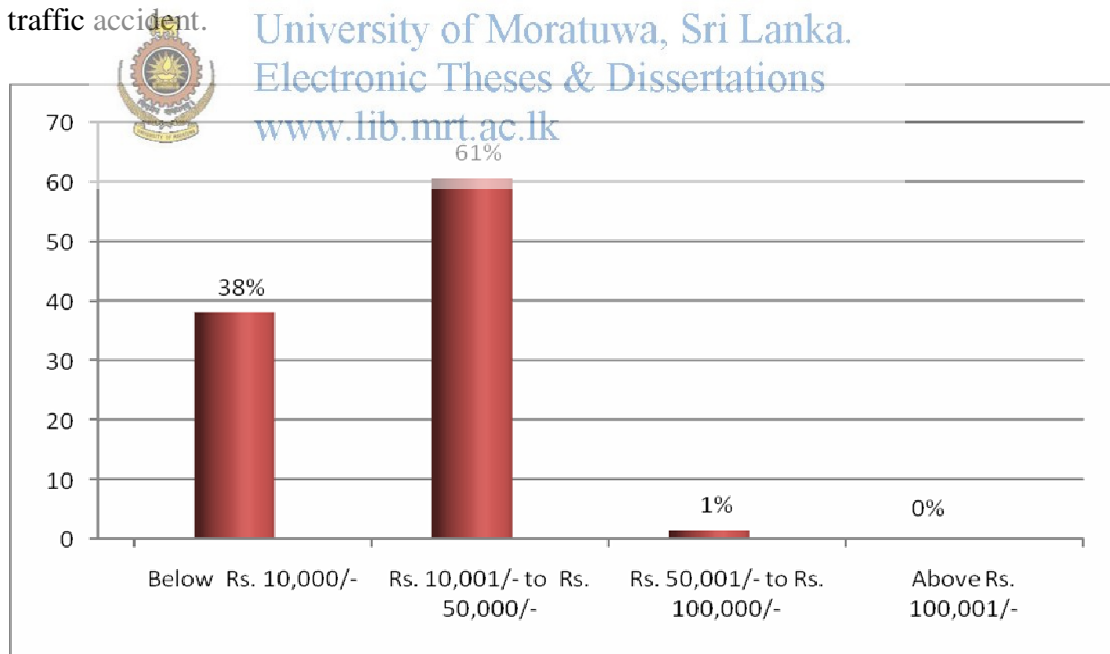


Figure 8: Compensation payment levels (Grievous Road Traffic Accident Victims)

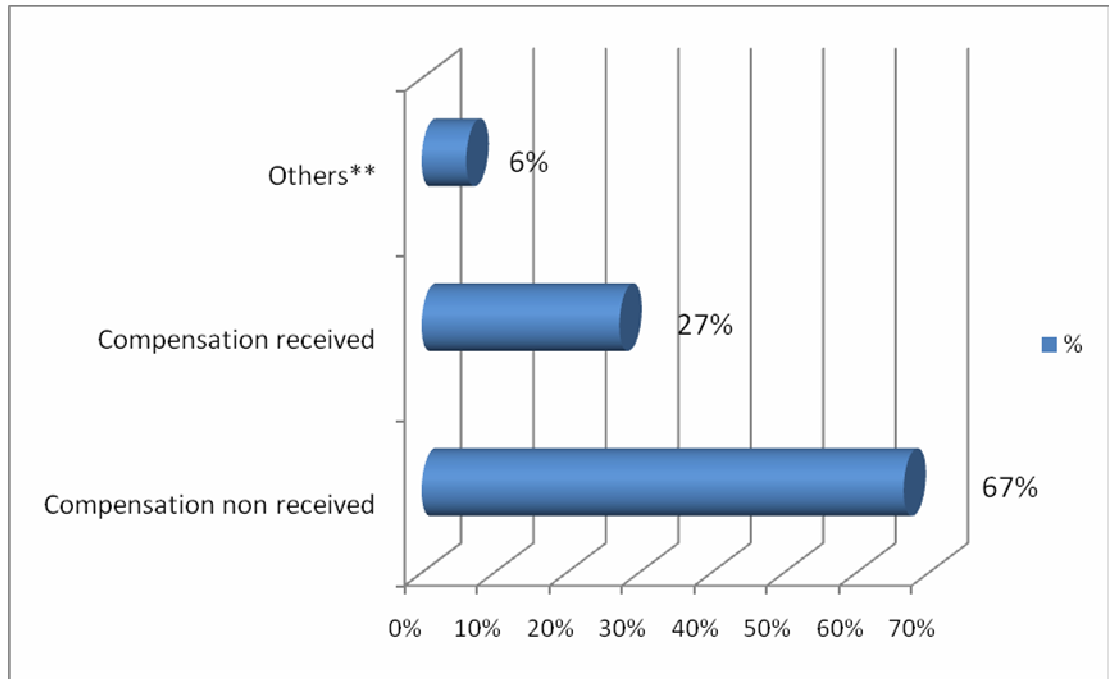


Figure 9: Compensation payments

** This includes cases pending in magistrate courts



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2.5 Compensation Payments

Figure 8 shows the compensation payment levels of road traffic accidents victims. It could be seen that 61% of road traffic accident victims who are suffering serious injuries by grievous accidents, get compensation between range Rs.10, 001/- to Rs. 50,000 /-. Only 1% victims compensated more than Rs.50, 000/- and no one get a compensation more than Rs. 100,001/- while 38% victims get compensation below Rs. 10,000/-

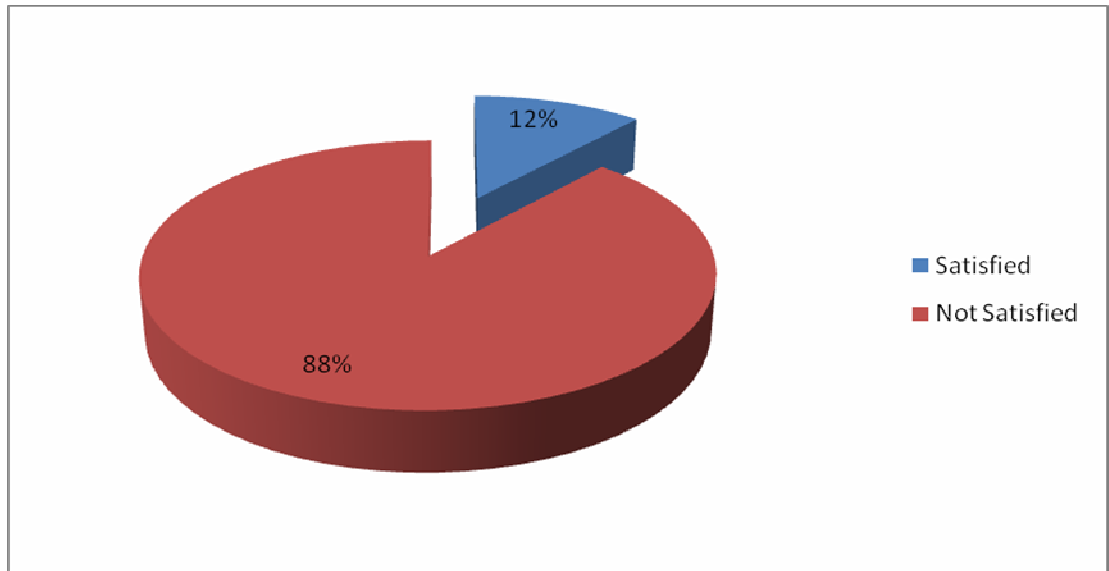


Figure 10: Satisfaction level on compensation amount received by the victims

Figure 9 revealed the results of telephone survey with victims who met grievous accidents. Out of 71 persons it could be contacted only 27 persons who met grievous accidents. Due to changes of the telephone numbers, especially several mobile phone numbers were not reachable and couldn't contact.



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According to the telephone survey only 12% victims were satisfied with the amount of compensation that they received among the victims who faced grievous road traffic accidents within the period 2007-2009.

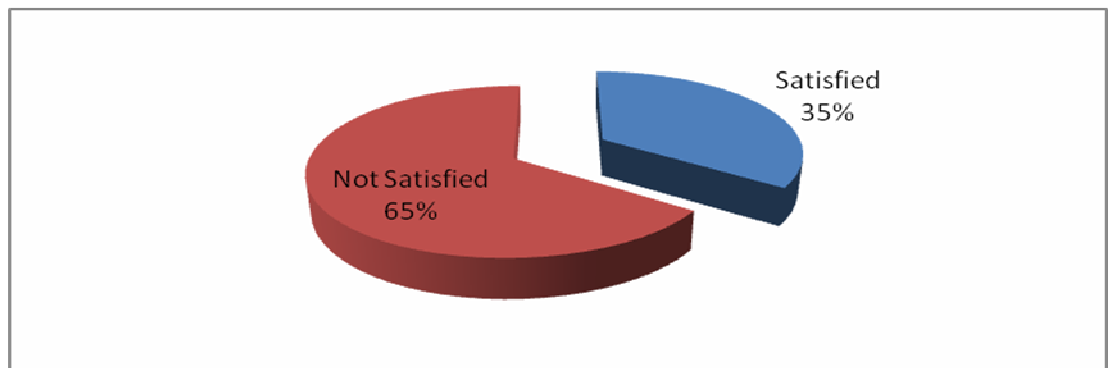


Figure 10: Satisfaction level on time duration to obtain compensation

Nearly 35% victims were satisfied with the time duration taken to get compensation while 65% road traffic accidents victims were not satisfied. Figure 10 illustrates the situation

According to the above results, it could be observed that the majority of the road traffic accident victims are not satisfied with the amount of compensation that they received and the time duration taken to get the compensation or ex-gratia payment.

2.6 Summary of the findings

- Trend for mutual settlements between parties are increasing by 3% and cases settled by the police are decreasing by 3% from 2008 to 2009
- Cases settled in the Magistrate Courts are decreasing by 5% from 2007 to 2009
- Only 28% of victims get any amount of compensation for a road traffic accident.
- Nearly 30% of grievous accident victims get the compensation within one month period after the road traffic accident.
- Over 35% of grievous accident victims get the compensation within one month to six months period after the road traffic accident
- 38% of road traffic accident victims suffered by severe injuries get compensation below Rs.10,000/-
- 61% of road traffic accident victims suffered by severe injuries get compensation between Rs.10,000/- to Rs. 50,000/-
- Only 1% victims suffering from severe injuries compensated more than Rs. 50,000/- and no one get a compensation more than Rs. 100,001/-

- Only 12% grievous accident victims satisfied with the amount of compensation that they received.
- Only 35% victims satisfied with the time duration taken to get compensation and 65% road traffic accident victims are not satisfied.
- Most of road traffic accidents deaths are among men, the economically active age ranges
- Most of the road traffic accidents victims are vulnerable road users
- High percentage of three wheelers have involved in these fatal accidents
- Shared negligence by the all involving parties is a main cause for the fatal and grievous accidents.



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CHAPTER 3: COMPENSATION SYSTEMS FOR ROAD TRAFFIC ACCIDENT VICTIMS

A study of pedestrian road accidents in Sri Lanka (in 1998) showed that only 5% of accidents reported to the police resulted in any form of compensation. Even where compensation was paid, the average amount was 500 rupees (about US\$ 5). The maximum compensation payable is only 100,000 rupees (about US\$ 1040) compared with the unlimited sum payable for damage to property, which amounts to millions of rupees.⁶

Probably in the most of low and middle income countries it could be observed that there was no proper compensation schemes to support the victims of road traffic accidents. Especially vulnerable road users are repeatedly vulnerable in the post accident process due to longer and more complicated legal and compensation processes.



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But some countries in the world, have taken innovative steps to mitigate and solve the problems in their systems. Probably many European countries such as UK, Sweden and some other countries like Japan and Hong-Kong etc. has reviewed the problem and the negative impacts to the society broadly and has implemented several schemes to compensate victims of road traffic accidents while given consideration for the reduction of traffic accidents.

This chapter discusses the compensation systems for road accident victims in a few countries such as UK, Sweden, Japan and Hong- Kong which have developed compensation systems for road accident victims and where such information is available.

⁶Cities on the move – A World Bank Urban Transport Strategy Review
(Source: Kumarage, 1998)

3.1 Road Safety and Compensation system in Sweden

The vision, which was first introduced in **Sweden**, states that the ambition or goal in the road safety campaign should be to strive for *Zero Traffic Fatalities and Serious Injuries*.⁷

The “Zero Vision”

The vision for the road safety work in Norway is to strive for zero serious injuries. The policy is referred to as “*the Zero Vision*”. The Swedish National Roads Administration first introduced this in 1997. It was adapted to Norway by the Public Roads Administration (PRA) in 1999 and passed by Parliament as part of the National Transport Plan in February 2001.

The zero vision focuses on the ethical necessity of preventing fatalities and serious injuries in road traffic. It maintains a scientific approach to road safety, seeing the road users, the vehicle and the infrastructure in relation to each other. A third tenet of the zero vision is that the system designers and the road users have a shared responsibility for road safety.



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This vision is built on three cornerstones namely, an ethical necessity, a scientific approach and a shared responsibility for road safety. There is agreement on the zero vision at the outset; all the informants see the zero vision as a positive thing. The findings show that what the informants agree on is the ethical necessity of the zero vision. As a concept, all the important road safety actors warmly welcome the vision. This focuses on a shared responsibility between the road users and the system designers, and the road users are portrayed as an important partner in the road safety work.

The zero vision is to a limited extent conceptualized and activated by the key actors. The PRA has done the most work in this respect. The Police had welcomed the zero vision, but it could be seen that they don't see it as something tangible that they can shape and fit into their existing work.

⁷Zero Traffic Fatalities and Serious Injuries, Public Road Administration, Norway

The zero vision challenges goals that are competing with road safety. The more vision is instantiated, the more it will challenge other goals, for instance mobility, the environment, economic efficiency and individual freedom. The informants view mobility as the most important competing goal. A vast majority of the informants, irrespective of organization, believe safety should be the main objective in the transport sector. However, the prioritizing between mobility and safety has not been challenged after the introduction of the zero vision. Mobility is it seems that still in the main objective in practice.

3.1.1 Compensation for personal injury in road traffic accidents in Sweden

- Swedish Law

When a road traffic accident occurs in Sweden, Swedish law and case-law are applicable. The issue of compensation is decided under Swedish Traffic Damage Act.

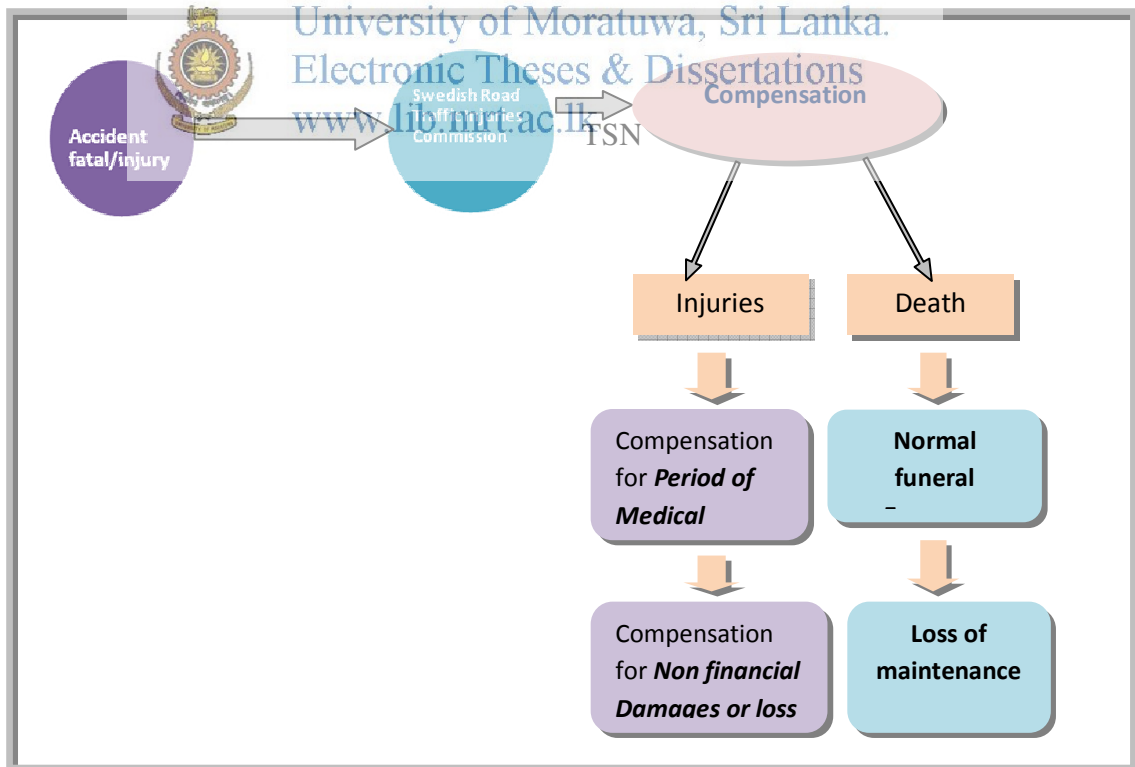


Figure 11: Process of compensation system in Sweden

The way in which the compensation is then determined and calculated is laid down in the Swedish Law of Damages, to which the Traffic Damage Act refers. However, the Law of damages is framed in a very general way, and so case-law is used as guidance. In addition, the nature of the right to compensation is largely decided by Swedish Road Traffic Injuries Commission.

Under the Swedish Traffic Damage Act (TSL) and the international Green Card Agreement, MTPL insurance for foreign-registered vehicles in Sweden is represented by TFF(Sweden's Green Card Bureau) in the case of a claim in Sweden. As Sweden's Green Card Bureau, TFF represents the MTPL insurer of the foreign registered vehicle and has the task of settling claims in Sweden on behalf of that company in accordance with Swedish law.

In Sweden, compensation for personal injury in road traffic accidents is rarely taken to court. This is because a special body, the Swedish Road Traffic Injuries Commission exists to settle such claims. The Commission hears major compensation cases and determines the compensation payable to the claimant.



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Under the law, all MTPL insurance companies and TFF are required to maintain the fund the Swedish Road Traffic Injuries Commission, referred to here by its Swedish abbreviation TSN. The TSN's constitution is approved by the Swedish government, which also appoints a legally trained chairman. Deputy Chairman, who is a legal practitioner, also serves on the Commission, as well as lay representatives of various interested organizations and of the insurance companies.

In addition to serving as an international agency, TFF has other functions that are laid down in the Swedish Traffic Damage Act. TFF also assumes liability for damage or loss caused by uninsured or untraced vehicles. This includes both personal injury and damage to property. On this basis, TFF deals with claims in the following 3 categories:

1. Claims involving foreign-registered vehicles
2. Claims involving uninsured vehicles
3. Claims involving untraced vehicles

If another party's vehicle is wholly or partly legally liable for the accident, the compensation paid is recovered from the MTPL insurance for the other party's vehicle. Personal injury claims are settled in the first instance under the MTPL (Motor Third Party Liability) insurance of the vehicle in which the person injured had either been travelling or had been in the vicinity of. It means in the case of unprotected passengers, cyclists and pedestrians' claims are made against the MTPL insurance of the vehicle involved, irrespective of legal liability.

According to the Swedish Traffic Damage Act, compensation for road accident must initiate proceedings within 3 years of the time. Such a claim may be split into pain and suffering, disadvantage and incapacity, loss of income, expenses and inconveniences, and may be submitted at different points in time, as knowledge of these claims emerges.

- **Period of Medical emergency**

The claim settlement process comprises two stages. First, compensation is decided for what is called the *Period of Medical Emergency*. This refers to the period from the time of the accident until the point when the medical situation of the victim has stabilized, in the best case, with a recovery to full health by the victim, or where any residual mal-positions, impaired movements or other residual adverse effects are more or less permanent and may be expected to remain so in the future.

In many cases, the disability is reported as temporary, meaning that from the end of the period of medical emergency a measurable disability stated as a percentage will exist for a specific period, for an example, two years, after which a new medical assessment has to be carried out. The degree of disability is considered definitive

when the person's medical condition has stabilized to a degree that any residual adverse effects are permanent and foreseeable.

Residual on capacities are allocated a Swedish-determined degree of disability of 1-99%. Any other assessment outside Sweden has no relevance to settlement of the claim in Sweden.

The length of the period of medical emergency varies according to the type of injury and the associated treatment and healing period. In many cases, the period is between a few months and a year, but considerably longer periods also occur.

Obviously, the assessment of degree of disability is a factor in determining the overall level of compensation, but by no means to the extent as in many other legal systems. This is because the financial disability is fully compensated, even if the degree of medical disability may be limited. The degree of medical disability is actually only a factor in deciding compensation for non-financial damage or loss.

There are several reasons why the claim settlement process comprises 2 stages. Compensation during the period of medical emergency includes expenses, loss of income and pain and suffering. The latter item represents one of the three categories of compensation payable for non-financial damage or loss. "*Pain and suffering*" refers to distress during the period of healing, with the extent of the compensation being determined by the type of injury, the treatment and the length of the period of medical emergency. The compensation for the period of medical emergency is settled by the vehicle's MTPL insurer without TSN having to be contacted. However, if there is any dissatisfaction, TSN may be requested to state an opinion.

The expenses incurred by the claimant for medication, nursing, travel to doctor etc. are reimbursed in the normal way. In addition, of course, other injury-related costs may be reimbursed.

In establishing compensation for loss of income, the calculation is based on the loss of annual income that is attributable to the injury. Deductions from this amount are made for loss of income compensation received in the form of sick pay, occupational injury compensation or other comparable social insurance benefit. Also deducted are any employer's sick pay and any other compensation paid under a collective bargaining agreement, or paid by the employer under another scheme. In the case of some claimants' resident outside Sweden, their insurance benefit may be tax-exempt, if so, this is taken into account by paying benefit for the net loss.

- **Compensation during period of disability**

If the degree of medical disability is 10% or more, the insurance company is obliged to refer the case to TSN to establish the amount of compensation during the period of disability. Cases may also be referred to TSN in other circumstances. It is necessary to establish the extent of the injury-related costs and loss of income that are attributable to the incapacity and that may be foreseen for the future.



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The calculations are made in annualized amounts. As far as loss of income is concerned, pension and similar payments are deducted. In Sweden, the loss of income is normally determined in the form of an annually calculated annuity, payable until normal pensionable age, and reduced by a certain amount thereafter.

According to Sweden's Law of Damages, compensation must be paid in the form of an annuity if the compensation is of essential importance as a means of support to the claimant. However, compensation may be paid in the form of a capitalized lump sum amount if justified by particular circumstances. Such particular circumstances could be said to include the case where the claimant is a foreign national and is resident outside Sweden.

Paying a capitalized lump sum avoids the possibility that the annuity will be eroded by currency fluctuations and national inflationary losses. Under the law, the annuity must in fact be based in and paid from Sweden. Another factor justifying a lump sum payment is that this form of compensation is standard in the majority of countries.

Even after the compensation has finally been determined via agreement or court judgment, the issue of compensation can be reviewed if the conditions on which the compensation was established have changed materially.

Major increase in injury-related costs, for nursing, medication etc., can compensate via a “cost annuity”, which in such circumstances may include compensation for other inconveniences.

- **Compensation for non-financial damage or loss**

Actually Swedish system of compensation is complex and is also difficult to grasp for people familiar with other legal systems. From 2002, certain standards amounts referring to these compensation categories are included in the tables for compensation of incapacity, making it easier to gain an idea of the overall level of compensation.

The concept “*specific inconveniences*” deals mainly with any major difficulty at work, over and above that which is covered by the disadvantage and incapacity table. When a road accident victim with an injury-related disability returns to work, the person concerned may in many cases be able to perform the work itself in a completely satisfactory way, but will feel a greater or lesser degree of strain while performing the work.

The point may be that pain or the condition of tiring more easily may make leisure time more necessary for rest etc. What is involved here is compensation for non-financial damage or loss that more subjectively takes account of the victim’s situation and circumstances at work etc. This is distinct from the categories of compensation

“Pain and Suffering” and “Disadvantage and incapacity” where the objectively measured consequences of injury dominate.

The age of the victim is irrelevant in determining compensation for pain and suffering, unlike disadvantage and incapacity and “*special inconveniences*”, in which younger claimants receive higher benefit than older claimants. This, is because younger claimants will have longer to live with his or her incapacity. It should also be mentioned that compensation for non-financial damage or loss is payable on objective grounds to all categories of road accident victims. No legal liability has to be proven against any other party.

However a vehicle driver who sustains an injury may have the amount of compensation reduced. Most commonly, this will be because he has been found guilty of driving at above the legal blood alcohol limit and without due care and attention. The amount may also be adjusted if it is found that the driver was partly responsible through gross negligence or intent. However, major medical costs are allowed and compensation for loss of income is adjusted to 90% of the person’s estimated income uninjured. The social function of the compensation weighs heavily.

○ **Compensation in the event of death**

Compensation is paid to cover funeral expenses and reasonable other costs in connection with the death, and for loss of maintenance. For claims after 1st January 2002, compensation is payable for personal injury which as a result of the death is caused to a person with a particularly close relationship to the deceased.

Compensation is paid for normal burial and gravestone costs. Reasonable compensation may be considered for the immediate family’s travelling costs. Certain expenditure on mourning wear may also be compensated. If the deceased had no connection with Sweden, compensation to cover the cost of transportation and burial

in his/her country of residence may also be contemplated. What is considered a “normal funeral expenses” will be assessed against the background of religion and custom.

Survivors who have a legal entitlement to maintenance by the deceased, or who otherwise are financially dependent on the deceased, may qualify for compensation for loss of maintenance. This compensation, together with the person’s own income and benefits, such as pensions is required to provide the survivor with the same financial situation as if the accident had not happened. It should be emphasized that a genuine maintenance need must be involved. Normally; maintenance is paid in the form of an annually calculated annuity. In the case of foreign nationals’ resident outside Sweden, compensation may for the reasons stated earlier be converted into a capitalized lump sum amount.

Compared to systems in other countries, the Swedish claim settlement procedure is very long-winded. This is explained by the way the system of compensation is built up, particularly the way it is coordinated with the social insurance system. Another factor is the principle that all aspects of loss must be thoroughly examined in a way that allows for a simple overview of the case in the future. A case will then be the subject of several reviews at TSN and settlement of the claim may not be concluded for several years.

In complex cases, the claimant may need assistance from a specialist representative, usually a lawyer. When a claim is found indemnifiable, the MTPL insurance bears the costs of necessary and reasonable representation. Representation cost is paid for reasonable time incurred, according to a specific maximum hourly rate applied in Sweden. In this system, the principle is that remuneration to the representative is unrelated to the amount of the MTPL compensation, and it is also intended that the claimant should not feel compelled to use his compensation to pay his costs of representation.

Table 3: Summary of the Swedish road accidents compensation system

	Description
Statutory limitation	<ul style="list-style-type: none"> • Within 3 years claim should be initiated for the compensation
Main Responsible Institutions	<ul style="list-style-type: none"> • TSN(The Swedish Road Traffic Injuries Commission) hears major compensation cases • Road traffic accidents rarely taken to court
Legal liability and Compensation	<ul style="list-style-type: none"> • Swedish law (Swedish Traffic Damage Act)and case law (the law of damages is framed in a very general way, so case-law is used as guidance)
Payment of Compensation	<ul style="list-style-type: none"> • MTPL insurance companies and TFF are required to maintain and fund the TSN
Compensation Stages	<ul style="list-style-type: none"> • Two stages in the claim settlement process <ol style="list-style-type: none"> 1. period of medical emergency 2. period of permanent disability
Features	<ul style="list-style-type: none"> • Claim settlement procedure is very long-winded and complex • The driver entitle to compensation ,irrespective of legal liability • Non financial damage or loss is divided into 3 categories <ol style="list-style-type: none"> 1.Pain and suffering 2.Disadvantage and incapacity 3.Cost and specific inconvenience • Compensation for future loss of income is normally paid in the form of an annuity, while non-financial compensation takes the form of a lump sum payment.

3.2 Traffic Accident Claims in UK

Figures published by the Department of Transport in UK in September 2006 state that over 3000 people were killed on Britain's roads in 2005 and over 28,000 were seriously injured. Keeping this in mind UK government has provided a methodology "*no win no fee*" for the accident victims and through these victims can claim his liabilities successfully.

"No Win No Fee"

"*No win no fee*" came to the UK in 1998 when legal aid was withdrawn. It was replaced by the *Conditional Fee Scheme*. A Conditional Fee Scheme means that the solicitor is only entitled to be paid his legal fee if he wins the case. The solicitor's payment is made by opponent or their insurance company and does not come out of any award of compensation. It means the losers of the case (Insurance Company and/or defendant) pay the legal fees and costs and in this way claimant will receive full compensation and reward for the full amount of claim in a *no win no fee* arrangement. This provides solicitors with an excellent incentive to win the case.

The idea of *no win no fee* compensation can give victim a little peace of mind in the end. Victim's personal injury lawsuit can be opened without fear of losing money or facing any additional hardships. A *no win no fee* claim also stands to be quite successful for the injured party in providing compensation. These types of claims hold numerous advantages over a typical civil case.

General Damages

Compensation can be claimed for "*General Damages*", which can be difficult to calculate. They include 'Pain and suffering' (for both the initial injury and for any continuing suffering or disability) and "loss of amenity" which is loss of the enjoyment of life. For example if someone can no longer partake in a leisure activity due to injury. Compensation may also be awarded for loss of earnings caused by

permanent injury. Future losses are also included in accident claims calculated according to the estimated annual loss to arrive at a fair figure for compensation.

Special Damages

In addition “*special Damages*” can be claimed, these include items that are usually easier to calculate accurately, such as loss of earnings whilst injured, prescription charges and medical costs, property damage, insurance excess, damage to vehicle, special care aids and equipment, adapted transport, car hire, travel expenses, cost of assistance, costs of care, adapted accommodation, therapy, out of pocket expenses etc.

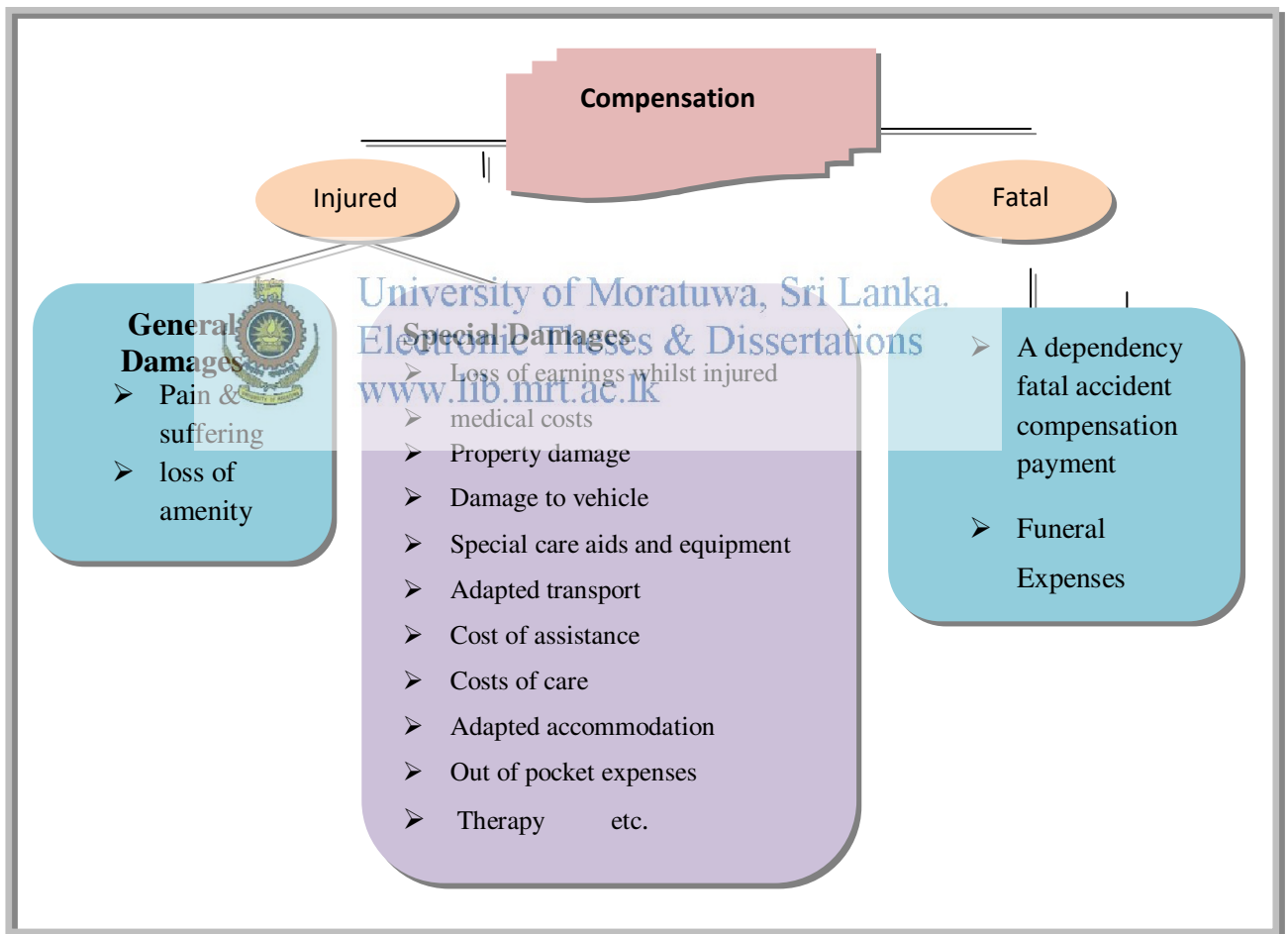


Figure 12: Types of traffic accidents compensation in UK

A motorist owes a “duty of care” to other road users, is a duty not to hurt other people, whether other drivers, passengers (including passengers in own vehicle), pedestrians, cyclists etc. Where the motorist who is at fault is either uninsured or untraced, then a safety net for innocent victims is provided by the Motor Insurers’ Bureau(the MIB),which provides a fund that can be claimed against in these circumstances.

Fatal Accident Compensation for the death of an individual in a UK accident

There are primarily three main groups of people who are entitled to claim fatal accident compensation following the death of an individual in a UK accident:

- **Dependants of the deceased**
- **Close relatives of the deceased**
- **Deceased’s estate**

A dependant could claim followings:

- A dependency fatal accident compensation payment

This is a sum taking into account the income of the deceased and the number of dependants relying on that income. Dependency claims can also be for a sum for caring if a mother died or even if adult children die who have supported their parents –the amount awarded depends upon the facts of each individual claim.

- **Funeral Expenses**

The sum can vary depending on the amount actually spent and the amount it was reasonable to spend.

Considered a dependant for the purpose of making a fatal accident compensation claim if someone of the following:

1. *Husband, wife or Civil Partner*-There is no requirement for any specific minimum duration of marriage and former husbands, wives and civil partners (same sex relationships) are also included. The word former is used broadly to include not only divorced partners, but even annulled partners.
2. *Cohabiting partners*-To be classed as a dependant as a cohabiting partners you must fulfill the following conditions.
 - a) Have been living with the deceased in the same household for two years immediately before the date of death: and
 - b) During the whole of the two year period you must have lived as though you were husband or wife or as civil partner even though you did not have a specific title as such.
3. *Parents or ascendants*-This includes grand and great grandparents. It also includes those treated by the deceased as apparent.
4. *Child or other descendant*-This includes not only blood children of the deceased and their children; but also any person treated as the child of the deceased ,such as through adoption or through marriage or civil partnership(such as child of a married partner who was not the blood child of the deceased)
5. *Brother, Sister, Aunt or Uncle* -Dependants also include the child of a brother, sister, aunt or uncle of the deceased.

In UK a road accident victim has only three years from the date of an accident to start the claim at court otherwise it is too late in the eyes of the law. This time period is called a “limitation period” for obvious reasons. There are some exceptions to the three year period which include:

- Less than 18 years of age at the time of the accident -Have to stay until 21st birthday to start a claim. For an example, if someone had a road traffic accident on his/her 16th birthday he/she would have five years to start claim for compensation.
- A victim suffer in some way from a mental infirmity or incapacity either prior to or as a result of your accident

The time period to start the compensation claim will depend on how long the mental incapacity lasts.

With effect from spring 2010, a completely new process for road accident admits liability immediately; the claim should normally be finalized in a matter of a few months.

Stage one

First, the injured person's lawyer will have to email a very detailed Claim Notification Form to the insurers via a central website operated by the Ministry of Justice.



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Once they have received the form, the insurers have only 15 business days to state whether or not they accept liability. The insurers will benefit because the legal costs they have to pay will be much reduced and the injured person will benefit from a far simpler and faster process.

Stage Two

If the injured person owns the car driven in the accident, then his or her lawyer will probably arrange for either the repairs, or an inspection and valuation if the vehicle is a write-off. As far as injuries are concerned, the lawyer will arrange to have the person assessed for treatment and an examination by an independent medical practitioner who will prepare a medical report in the format required by the new process. This will

cover the extent of the injuries and their likely ongoing effects on such things as the ability to work and go about normal daily activities.

This medico-legal report, together with further details of the claim, must be emailed to the other driver's insurers within 15 business days of it being approved by the injured person.

The final settlement pack

When the claim is ready to be settled, the lawyer must discuss and agree with the client the amount of compensation to be sought. The compensation claim, together with a list of the injured person's out of pocket expenses, will then be submitted electronically through the website to the other driver's insurers in the form of a Settlement Pack.

The insurers then have a further 15 business days either to agree the amount sought or make a counter offer. After that a further 20 business days are allowed to enable negotiations to continue.

The Interim Settlement Pack

If the medical report indicates that further medical evidence may be needed at a later date before the claim should be settled, the injured person's lawyer should ask for a payment on account of the claim of 1000 pounds, which cannot be refused. They can seek more than this where valid reasons are provided. The claims process is then put on hold until they can produce the final medical evidence at which point the final settlement process is followed.

If the insurer do not accept liability, do not comply with the time limits described above, deny that the symptoms referred to in the medical report were caused by the accident ,or if they allege fraud ,the claim leaves the new process and the matter is then handled by the current more lengthy and expensive process.

Generally, it will not be in the interest of insurers to allow the claim to leave the new process as the legal costs they will have to pay, if the claim succeeds, will be far greater.

Stage 3

If no agreement about the value of the claim has been reached after the period allowed for negotiations has expired, it remains in the process, but the insurers must pay the value of their last offer and Court proceedings are then issued. These can take the form of an oral hearing, or (if both side agree) by means of detailed written statements sent to the court so that the District Judge can value the claim.

Whilst the District Judge at the Court will be aware that settlement offers have been made by both sides, the amount of the final offers will be kept in a sealed envelope until after the amount to be awarded has been decided.

Getting it right here is very important because if the District Judge awards more than the insurer's highest offer, the insurer must pay both side's legal fees of the Stage 3 process and the court fees. However, if the amount awarded is less than that offered by the insurers in Stage 2, the injured person will be liable for the costs of both sides of the stage 3 process.



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Table 4: Summary of the UK road traffic accidents compensation system

	Description
Statutory limitation	<ul style="list-style-type: none"> • Within 3 years claim should be initiated for the compensation
Main Responsible Institution	<ul style="list-style-type: none"> • Motor Insurers' Bureau , District Courts
Payment of Compensation	<ul style="list-style-type: none"> • Insurance companies
Compensation Stages	<ul style="list-style-type: none"> • Two stages in the claim settlement process <ol style="list-style-type: none"> 1. If accept liability by insurers the process is simpler and faster 2. If not accept liability it applies the more lengthy and Expensive process
Features	<ul style="list-style-type: none"> • Claim settlement procedure is very simpler and faster for stage 1.(If accept liability by the Insurer) • There are stipulated compensation amounts(compensation Guides) and has published them in the web sites(Higher level of accessibility for compensation information) • Compensation can be claimed for “General Damages” and “Special Damages”, in a very wider range. <p>Compensation for future loss of income is normally paid in the form of an annuity, while non-financial compensation takes the form of a lump sum payment.</p>



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3.3 Compensation Standards for Traffic Accident Victims in Japan

It could be observed that there are two different systems and also two different policies operating to compensate the road traffic accident victims in Japan. They are namely-

- *Compulsory Automobile Liability Insurance (CALI)* and
- *Voluntary Automobile Liability Insurance.*

CALI was established and has been operated under the Automobile Liability Security Law, which was promulgated and became effective in 1955. This insurance only covers bodily injury liability, and the law specifies the limits of insurer's liability for death, each grade of permanent disability and bodily injury.

On the other hand, *Voluntary Automobile Liability Insurance* includes third party insurance liability coverage (bodily injury liability and property damage liability), self-incurred personal accident coverage, protection against uninsured automobiles coverage, passengers personal accident coverage and coverage for damage to the insured's own vehicle.

The premium rates for the two kinds of automobile insurance described above are worked out by the Non-Life Insurance Rating Organization of Japan (NLIRO) on the basis of the data gathered from the insurers which are members of NLIRO.

Japanese Law

Before the enactment of *Automobile Liability Security Law*, the tort liability regarding traffic accidents were mainly governed by *Article 709* and other provisions of the *civil code*. Under the provisions, the victim of a traffic accident was able to claim for damages only he/she could prove a willful act or negligence on the part of the party at fault. Normally, however, it is difficult, sometimes even impossible, to prove this.

Furthermore, a lack of financial resources to pay for damages on the part of the party at fault often made it difficult for the victim to obtain compensation.

To ensure financial relief to such victims of traffic accidents, *the Automobile Liability Security Law* was enacted in 1955. The law, which came into effect in February 1956, imposed on every automobile user a kind of strict liability with respect to traffic accidents resulting in death or bodily injury to a third party. The law also obligated, with very few exceptions, every automobile user to effect CALI in order to secure funds for compensation.

At the inception of the CALI system, the insured amounts required by the law were very modest compared with today's standards, namely 300,000yen for death, 100,000 yen for serious injury and 30,000yen for slight injury. As a result of several revisions, the limits of insurer's liability are 30,000,000 yen for death and 40,000,000yen for permanent disability respectively.

Liability under the Automobile Liability Security Law



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Any person who operates an automobile for his/her benefit shall be liable to compensate for death or bodily injury caused to any other person arising from the operation of the automobile unless she/he is able to prove all three of the following conditions:

- Neither he/she nor the driver failed to exercise due diligence in operating the automobile,
- There was an intention or negligence on the part of the victim or a third party other than the driver, and
- There was no structural defect or functional disorder in the automobile.

Under the CALI system, no automobile shall be operated unless a contract for CALI as provided in the law. The purpose of the law is to protect victims of traffic accidents

through the introduction of a liability system which forces a party at fault to secure funds to pay for damages.

In the case of death or permanent disability resulting from bodily injury, indemnities are assessed separately for the loss incurred prior to death or stabilization of the state of the permanent disability. Under CALI, the amount of indemnification is subject to the respective limits of insurance.

According to the Article 13 of the law and Article 2 of the Enforcement Ordinance, the limits of insurance currently in force are as follows:

Under CALI the insurer is excluded from liability for indemnification only for damage caused by malicious intent of the policyholder or the insured (Art.14 of the Law). The insurer can exclude such loss, but the victim is protected under the insurance. The victim is entitled to make a claim directly against the insurer and he/she can directly recover the amount of damages from the insurer. In this case, the insurer, which has indemnified the victim, may claim compensation from the Government for the amount it paid as damages.

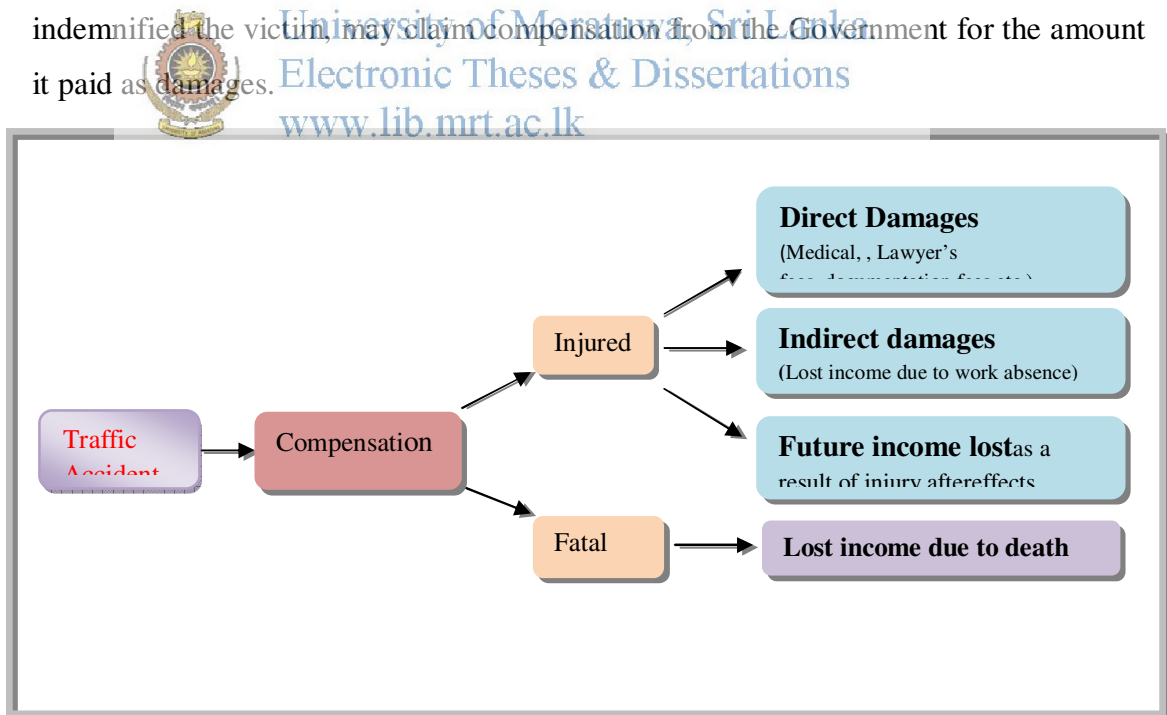


Figure 13: types of compensation for road traffic accident victims in Japan

1. Damages for bodily injury

I. Direct damages-expenses incurred by the victims

- a) Medical – related expenses (examination fees, hospital fees, outpatient fees, miscellaneous expenses etc.)
- b) Documentation fees
- c) Other expenses.

II. Indirect damages – Lost income due to work absence

The court determines the actual lost income based on pre-accident income and will consider it as the damages resulted by the consequent inability to work due to the injury. In the case of housewife victims the court will determine the actual lost income based on the statistic average wage of female workers for the period during which injured housewives cannot carry out their household duties.



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In the case of unemployed worker victims Court will determine the actual lost income based on the average wage of workers if they have ability and desire to work. But the Court will consider the damages at less than average wage.

In the case of student or child victims the court will approve no lost income. But if students have side job income the court will approve lost income according to the rule above mentioned.

III. Damages for pain and suffering

2. Damages for permanent disability

- (I) Future income lost as a result of injury aftereffects.

For calculating lost future income, the court will consider relative decline in work ability, change of income, potentiality of future promotion that of occupation change, that of unemployment and relative inconvenience in daily life. For calculating lost future income, court will consider the level of decline in work ability, according to the Chart of the Work Ability Lost Ratio in Chief's Circular of the Labor Standard Bureau in the Labor Ministry.

(II) Damages for pain and suffering

3. **Damages for death**

(I) Funeral expenses

(II) Loss of future earnings

(III) Damages for pain and suffering on the part of the victim and his/her survivors



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In the case of the fatally injured victims the court will determine the actual lost income based on pre-accident income. In the case of house wife victims, unemployed worker victims, students or child victims the court will determine the actual lost income based on the statistic average wage of workers. In principle the court will consider that victims had worked from the age of 18 through the age of 67.

In order to facilitate the protection of victims, the assessment of claims should be performed carefully. In particular, if the victim or survivor contests the assessment of negligence or the level of permanent disability determined, such a dispute must be evaluated by experts such as lawyers and doctors. Hence, NLIRO established a "CALI (CALMA) Claim Assessment Board" system from April 2002. Under this system, the board and related task forces are composed of outside experts, with the purpose of assessing difficult claims that need a high degree of expertise, or claims in which assessment is contested.

In Japan court calculates the consolation money for physical injury on the basis of the time period required for hospitalization and / or attending a hospital. It's something like damages for pain and suffering.


In general tort liability cases, the principle of comparative negligence applies. However, under CALI, the amount of indemnity is reduced only when a victim has shown gross negligence, 70% or more in the accident. The ratio of reduction, in case of death or permanent disability, is limited to 20%, 30% or 50% depending upon the degree of the victim's negligence. In the case of bodily injury other than permanent disability, the ratio of reduction is only 20%

In the case where a victim of a traffic accident suffers bodily injury and is a beneficiary of the social insurance schemes, he/she can either receive a benefit from a social insurance such as health insurance or workers compensation insurance, or receive an insurance claim payment under the CALI scheme. However, he/she cannot receive double benefits under both CALI and other social insurance schemes with respect to the same loss.

Under the amended law, which was enforced in April 2002, the CALI dispute settlement scheme was newly introduced in order to facilitate fair and appropriate settlement of claims. In cases where a victim of a traffic accident or the insured contests the insurer's settlement of claims, he/she may apply for mediation through the Dispute Settlement Organization for Compulsory Automobile Liability Insurance Claims, a corporation established in the public interest and designated by the Minister of Land, Infrastructure and Transport and the Prime Minister.



Table 5: Summary of the Japanese road traffic accident compensation system

	Description
Statutory limitation	<ul style="list-style-type: none"> • Within 3years claim should be initiated for the compensation
Main Responsible Institutions	<ul style="list-style-type: none"> • Ministry of Land, Infrastructure and Transport • NLIRO,PCIRO,FSA, CALI Council • Police, District Courts
Legal liability and Compensation	<ul style="list-style-type: none"> • Automobile Liability Security Law and Case law
Payment of Compensation	<ul style="list-style-type: none"> • As stipulated in the compensation guide
Features  <p>University of Moratuwa, Sri Lanka. Electronic Theses & Dissertations www.lib.mrt.ac.lk</p>	<ul style="list-style-type: none"> • High degree of fairness • Standards adopt, fixed forms and fixed amount methods of calculation for quick and impartial handling • Effective mediation/appeal process

3.4 Traffic Accident Compensation scheme in Hong Kong

The *Traffic accident victim's assistance scheme* has been in operation since May 1979 and it aims that providing early financial support to traffic accident victims, or their dependents, regardless of who was at fault in causing the accident. Payments are made for personal injury or death only, while damaged property is not included. However the scheme does not affect the applicant's right to make other claims for legal damages in the usual way. Those beneficiaries of the scheme, who receive damages or other compensation outside the scheme in respect of the same accident, will be required to refund either the payments they have received from the scheme or the amount of the damages or compensation, whichever is the less.

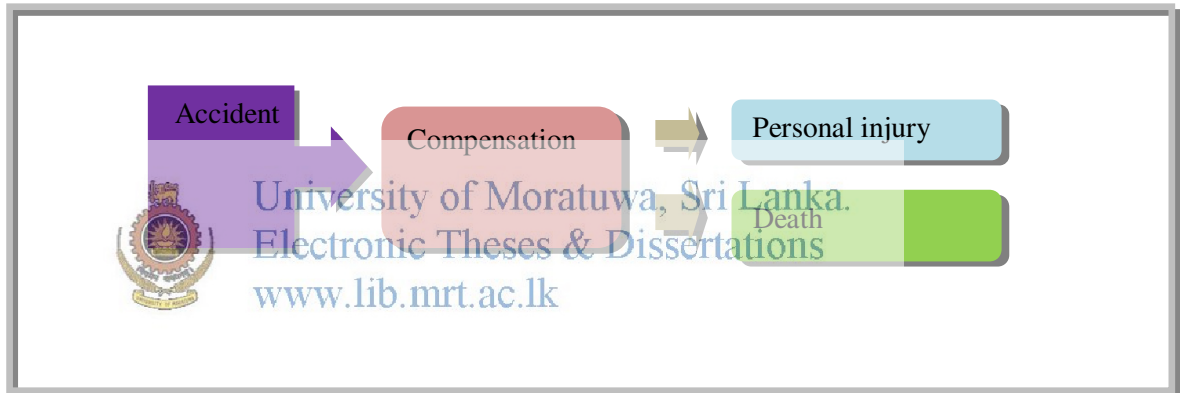


Figure 14: Road traffic accident compensation system in Hong-Kong

Eligibility Criteria

The scheme is non-means tested. Eligibility depends on the following criteria:

- The accident happens on or after May 1,1979 and must have been reported to the police
- The application must be made within 6 months of the accident.

- In the case of injury not causing death, a least 3 days' sick leave must be evidence by hospitalization or by certification by a registered doctor.

Procedure

Applications must be made within 6 months of the accident on specified form. The Police officer who investigates the accident will normally introduce the scheme to the victim or to his next of kin at the first opportunity. Applications are considered to have been formally made only when they are received by the Social Welfare Department.

Unless prevented by special circumstances or immobility, the applicant will be required to attend an interview at the Social Welfare Department's traffic Accident Victims Assistance Section. For expediting the process of application, an applicant should provide the relevant information and bring along the following documents when attending the interview.

- Identity document (Hong-Kong Identity Card, Birth Certificate or other acceptable proof of identity –in fatal cases, identity documents of both the victim and his dependants are required)
- Proof of injuries sustained in the accident including death certificate (in a case of death), sick leave certificates, medical reports issued by medical institution
- Document relating to payment instruction such as bank pass book, electronic teller card etc.

To ascertain an applicant's eligibility and payment entitlement, the staff of the section contacts the applicants' family members and/or employer and other related persons in order to confirm what has been provided by the applicant concerning his personal as well as family particulars, and employment situation, where appropriate, is true. Reported circumstances of the traffic accident will be verified with the Accident Investigation Unit of the Police.

It is basic responsibility of the applicant to produce evidence in support of his temporary incapacity for work or any permanent disability resulting from injuries sustained in the traffic accident.

Statutory Obligation

As required by the traffic Accident Victims (Assistance Fund) Ordinance, the applicant will have to sign an undertaking, under which he must:

- Notify the Director of Social Welfare of any other claims or the bringing of any legal proceedings by him in respect of same traffic accident. Such notification should be given within one month from the date of initiating any such claims or legal proceedings.
- Notify any person, against whom he has made a claim in respect of the same traffic accident, of the amount of payment he has received from the scheme.

To willfully breach of this undertaking will be an offence, which carries on conviction a fine \$2,000 and an imprisonment for six months.



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Payments

Payments are made from the *Traffic Accident Victims Assistance Fund* which comes from 3 sources:

- Levies on licensed vehicles
- Levis on driving licenses
- Government's contribution

The levels of assistance under the scheme are based on those for the *Emergency Relief Fund*. The types of payment as well as the levels and conditions of grants are contained in the Payment Schedule of the *Emergency Relief Fund* which is subject to adjustment from time to time.

Modes of Payment

The assistance to be paid is normally credited to the applicant's bank account .In especial circumstances; payment of assistance may be made by the issuing of a crossed cheque to be collected at the social Security Payments Control Section of the *Social Welfare Department* or by special delivery of cash to him.

Normally, an applicant can get payment within four weeks after the application is received by the Social welfare Department, provided that all the necessary information can be produced without delay. Earlier payment can be arranged if there is an urgent need while investigation could be completed smoothly.

Appeal


The Government has set up an independent *Social Security Appeal Board* which comprises unofficial members. In connection with the scheme, any person may lodge an appeal to the board if he is not satisfied with the decision made by the Director of Social welfare respect of the following matters.

- Refusal of any payment
- The amount of payment offered or received
- The issuing of payment to a person other than the applicant.



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Table 6: Summary of the road traffic accident compensation system in Hong-Kong

	Description
Statutory limitation	<ul style="list-style-type: none"> • Within 6 months claim should be initiated for the compensation from <i>traffic accident victim's assistance scheme</i>
Main Responsible Institutions	<ul style="list-style-type: none"> • Social Welfare Department • Traffic Accident Victims Assistant Fund • Emergency Relief Fund • Social Security Appeal Board • Traffic Police
Legal liability and Compensation	<ul style="list-style-type: none"> • Traffic Accident Victim(Assistance Fund)Ordinance
Payment of Compensation	<ul style="list-style-type: none"> • Within 4 weeks
 <p>Features</p>	<p>University of Moratuwa, Sri Lanka. Electronic Theses & Dissertations www.lib.moratuwa.ac.lk</p> <ul style="list-style-type: none"> • The traffic accident victim's assistant scheme has been in operation since, 1979 • Payments are made for personal injury or death only(property damages not included) • Accident must have been reported to the Police • Scheme does not affect the applicant's right to make other claims for legal damages in the usual way. <p>If someone received compensation outside the scheme in respect of the same accident, require to refund either they received from the scheme or the amount of compensation, which ever the less</p>

CHAPTER 4: COMPENSATION SYSTEM IN SRI LANKA

The procedure involve in post accident process in Sri Lanka is filing action in magistrate court by the police if the accident is not settle between parties. Procedure for compensation for damages is filing a case in Civil Courts (District Courts).It could be observed that this process is often time-consuming. Many accident victims find it difficult to make a claim as they are unsure of the claims procedure. Sometimes they ignore the fact that they can get compensation for the losses suffered due to time-consuming long procedures.

The civil law in Sri Lanka provides victims with the right to sue for damages from the liable parties whose negligence resulted to the injuries that were sustained. People can be charged with liability claims under this ruling when the cause of the pain and suffering is an item or an action which the former is responsible for. If the victim is unable to attend the court sessions for any whatsoever reasons, the family members are the ones to represent the plaintiff. When a person contributed to the events leading to the injury of another party then the former becomes the defendant in a legal case.

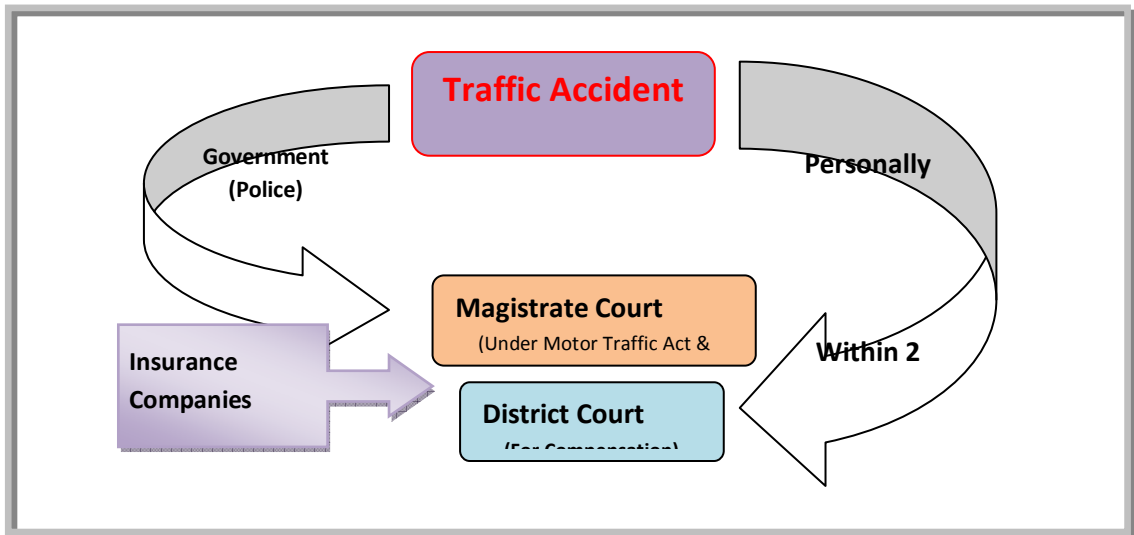



Figure 15: Legal system for road traffic accidents in Sri Lanka

Relevant Legal Provisions in Sri Lanka

- 328 of Criminal Procedure Code – **minor injuries**
- 329 of Criminal Procedure Code- **Major/Grievous injuries**
- 298 of Criminal Procedure Code – **Death from an accident**
- 149(1) – **Motor Traffic Act –General Duty of driver to avoid accidents**(Notwithstanding anything contained in section 148, it shall be the duty of the driver of every motor vehicle on a highway to take such action as may be necessary to avoid any accident).
- 151(1) - **Motor Traffic Act -Driving after the consumption of alcohol or drugs and reckless or Negligent driving**(No person shall drive a motor vehicle on a high way after he has consumed alcohol or any drug)
-  **151(3) – Motor Traffic Act -No person shall drive a motor vehicle on a highway negligently or without reasonable consideration for other persons using the highway.**

All motorists are required by law to have a valid insurance policy. This means that if someone injured, person can claim against them for compensation. After a road traffic accident the law requires stopping at the scene and calling the police, exchange insurance details etc., especially it is grievous or fatal accident. Indeed, if the offending party doesn't stop, the accident could be classed as a hit and run, which is a criminal offence.

Settlement Types

It could be observed that there are four (4) types of settlements in Sri Lanka

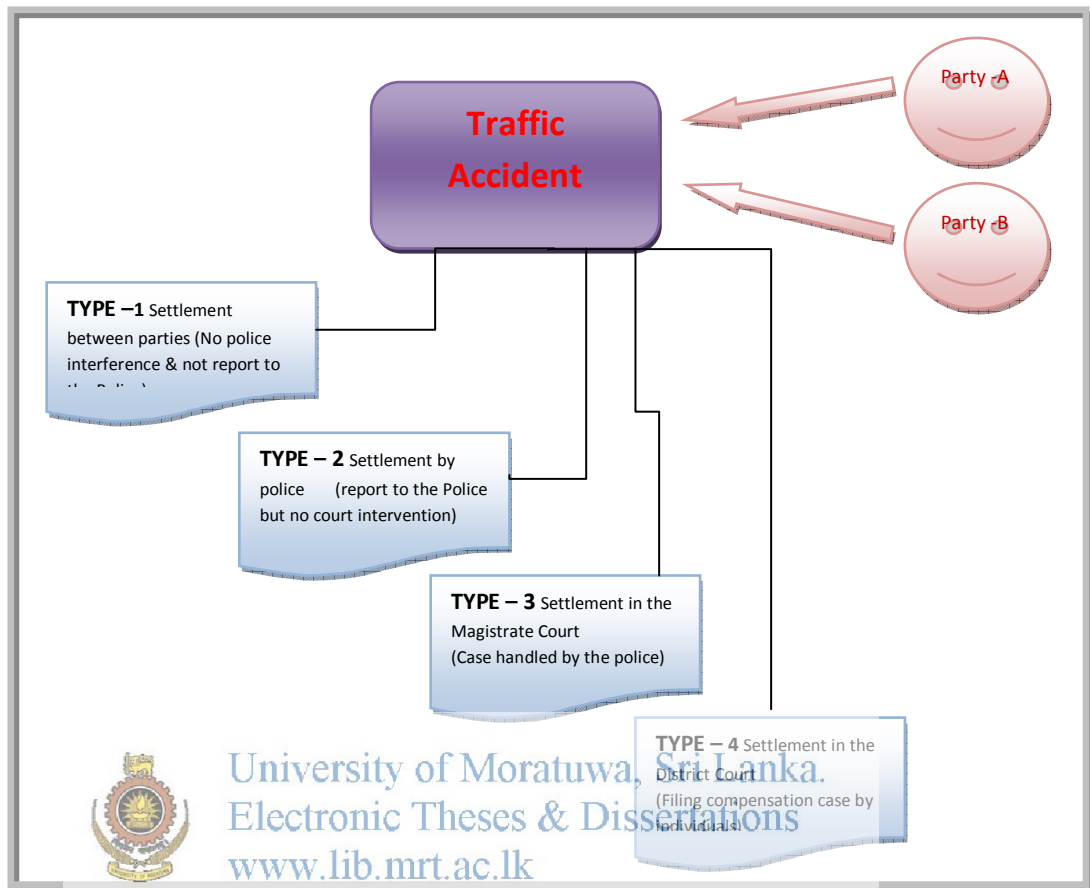


Figure 16: Settlement types for road traffic accident victims in Sri Lanka

Entitlement to compensation will not be immediate. Of course, have to allege and prove that injury is caused by the negligence of another. Once negligence has been proved and established, you may receive compensation for the property damage, medical expenses, economic damages etc.

Amount of Compensation

In Sri Lanka, when a person wants to find out how much compensation can be gained for a personal injury, will have to wait until everything from the case is reviewed through the legal process. Normally the amount would depend on how severe the

injuries or damages are to the victim during the time that the accident had ensued. To be more specific the following are the claims can be satisfied here namely for medical and hospitalization bills, loss of income and employment due to the inability to work, as well as pain and suffering.

In practice the amount of compensation a person receives is worked out in two parts.

- I. The compensation one may receive is assessed by referring to similar cases.
- II. The compensation one may receive for financial losses and lost earnings is based on whatever the lawyer can prove within the legal guidelines.

One of the major challenges following a road accident is recovering damages for sustained injuries. Physical and psychological injuries are just two of the many injuries one individual can suffer from.

Any user of the road, being a driver, passenger, cyclist or pedestrian, is entitled to compensation for sustained injuries, provided that the accident was the fault of someone else. A victim or the victim's family may be entitled to damages of several types, including pain and suffering, loss of amenities, past and future loss earnings, hospital and medical expenses, real property damage, out of pocket expenses etc.

Legal Framework in Sri Lanka

The legal framework applicable in Sri Lanka is protective in some extent to victims of road accidents, through provisions of compulsory insurance for third party liability. But it seems not sufficient to meet existing problems in compensation system and need additional safeguards.

An accident victim is often powerless because of the amount of pain and agony that he or she experiences. Compensation for a generic road accident claim covers any damages to the vehicle. Unfortunately, most people do not realize that this is not all it covers. There are other damages that are incurred that are not easily noticeable and which may not require any medical attention. These are namely trauma and stress.

It is unfortunate that most people neglect to seek medical attention after an accident if they don't have any injuries. This should be the first or second step. A medical report is very important in supporting an accident claim. The doctor can confirm that the victim was involved in an accident and assess the potential psychological damage and other injuries incurred. Silent injuries include whiplash, caused most commonly by a collision from the back. These injuries are mostly not immediate. However, they may have long term effects causing a lot of physical pain and emotional distress.

However, trying to deal with insurance companies, handling extensive paperwork and getting a fair settlement is an overwhelming task for someone already dealing with serious injuries. Most individuals are not equipped to deal with these details following a serious accident and may not actively pursue their rights, thus losing occasionally substantial compensation awards.

Proof is very important in compensation cases. It may be easy to prove that a victim sustained an injury, but proving that somebody else is responsible for the victim's accident is not always as straight forward as it may seem. Have to prove that the other party or person has been negligent in the eyes of the law. Remuneration for injuries sustained is feasible as long as the victim able to prove his connection to the event, such as exhibiting police reports and hospital records.

Accidents are undoubtedly bad experiences for the ones' who are involved in it. The circumstances get complicated when parties disagree on events that led to the accident and on the fact that who is actually on fault. This allows the insured parties to voice their complaints with their own agents and to file the accident compensation claim against other party's insurance agent, asking to compensate them for the negligence of their clients.

Guidelines should be kept in mind when filing a claim. It is vital that filed a claim within two years after the event took place. However, the legal procedure in making

such a claim is too lengthy and discouraging especially vulnerable road users. And not stipulated compensations for victims of road/traffic accidents

Compensation Guide

But for many years in Sri Lanka there's a stipulated compensation scheme for who meet the accidents while working. No.19 of 1934 (later amended by 10 of 2005 and 15 of 2005) Workmen's Compensation Ordinance provides the provision to obtain compensation according to the stipulated amounts under the Ordinance. Please see Annexure iv

Under this Ordinance grant compensation:

- for the employees injured due to accidents while being engaged in service,
- to dependents of the deceased employees due to work while accidents
- to employees suffering from occupational diseases
- to employees afflicted with a disease that can be justifiably considered to have been caused due to the nature of the occupation.

According to the law under this Ordinance employers should deposit compensation with the Commissioner for Workmen's Compensation to be distributed amongst dependants of fatal accidents. Compensation regarding non-fatal accidents can be paid to the disabled employees by the employer with the prior approval of the Commissioner for Workmen's Compensation.

But still there are no stipulated compensations for victims of road traffic accidents in Sri Lanka. However, it's very essential for the victims for road traffic accidents as the amount of traffic accident victims increasing day by day. Sri Lanka can take better guidance from worldwide broader compensation systems and Sri Lankan systems such as Workmen's Compensation Ordinance etc.

CHAPTER 5: DISCUSSION

This chapter of the thesis presents a review and comparison of the compensation systems for the traffic accident victims in Sri Lanka and some other developed countries.

Table7: Comparison of different compensation systems for road traffic accident victims

	Country	Time period	Accessibility to the legal system	Data/information accessibility	Compensation amount Stipulated or not	Per Capita Income of the country -2010	Compensation amount
1	Sweden	lengthy	Poor (complex)	poor	Stipulated*	US\$ 49,000	-
2	UK	Shorter (If accept liability, Within 65 days) If not accept more lengthy and expensive legal process	High (Simpler)	High	Stipulated*	US\$ 36,200	-
3	Japan	Shorter	High	High	Stipulated*	US\$ 42,500	30,000,000yen(3,62,727 US\$) (100% loss) 8.5times of per capita income
4	Hong-Kong	Shorter (within 4 weeks)	High	High	Stipulated*	US\$ 31,900	-
5	Sri Lanka	lengthy	Poor	Poor	Not Stipulated	US\$ 2,200	-

*predetermined guide for compensation available

Among these five countries Sweden, Japan, UK and Hong-Kong have broader policies for road traffic accident victims. When we compared with other countries it could be seen that Sri Lanka as a country still bound by the traditional legal provisions in road traffic accident compensation process. Though the British and Dutch introduced us the laws in this field currently those countries have introduced and implemented very broader customer friendly laws, regulations and systems. But we are still in the older, narrow frame for centuries without adapting much new changes according to the modern world.

However, trends in other developed countries discussed in chapter 3, shows their great interest to develop systems for compensate road traffic accident victims. Apart from the humanitarian aspect, there is the very strong case to be made for action to prevent significant economic losses.

For an example Japan and UK have very broader systems with quicker compensation payment systems for victims. Their systems are not only faster but also fair and practicable. Sweden has a very broader compensation system, but it's little bit complex with lot of details.

However, most of these countries have pre-determined compensation guides for the claim process to ease victims of road traffic accidents. And all necessary data and information are available in their web sites.

It could be observed that a pre-determined compensation guide for the road traffic accident victims is very important and should be introduced while setting reasonable amounts for all parties.

On the other hand, by setting fix amounts for different types of accidents it could be eliminated the confusions and uncertainty that suffers each and every victim and for their families .Awareness on the amount of payment will give them high confidence to enter legal process and obtain compensation. It'll be reduced the level of dissatisfaction on compensation amounts that victims and/or their next of kin's of the

road traffic accidents received. At the same time, the time period taken to finalize the claim/compensation will be reduced dramatically and could be collected the compensation from a shorter period.

Hence to overcome lot of difficulties in the current process it should be introduced a new system, including followings:

Pre-determined compensation amounts/compensation guide

Separate court or body to settle road traffic accident claims

Government medical expenses reimbursement by the fault party's insurer

Especially, Separate court or body to settle road traffic accident claims is essential and it will make the process smooth and highly efficient. On the other hand due to some one's negligence, drinking or reckless driving many people suffers and government has a high economic burden. Every year Sri Lankan Government spent many billions to treat the thousands of traffic accident victims. Hence it could be proposed to introduce a system to levy certain amount/percentage from insurance of fault party as a reimbursement of the medical expenses borne by the government.

First and foremost prior to all these new steps Sri Lanka has to introduce proper, clear and stronger legal provisions to implement relevant system with broader improvements.

CHAPTER 6: CONCLUSIONS

Road traffic accidents are major social and health problem in Sri Lanka. On the other hand apart from the humanitarian aspects of road safety, road accidents are responsible for a loss of scarce resources that developing countries in particular can hard afford. These costs include hospital and medical resources, loss of production and the need to import vehicles and spare parts damaged in accidents etc. However after an accident a victim and family suffered by numerous difficulties and it affect society and the entire country very badly.

Since the pedestrians are the worst affected category of road users in this study area, it is very desirable to undertaken remedial measures to improve the safety of pedestrians. Not only the pedestrians but also the other vulnerable road users such as cyclists and motorcyclists which were faced high percentage of fatal and grievous accidents.

According to the police reports and available data, these accidents are caused mainly due to excessive speed of motor vehicles and the negligence of the road users. Another point indicated by data is that the shared negligence is a main cause for the fatal and grievous accidents. It shows the lack of awareness of all road users and time to take steps for a broader awareness campaign.

Analysis revealed that only 28% of victims who met grievous injuries get any amount of compensation. Victims who suffered by the severe injuries are not satisfied with amount of compensation that they received and the time duration taken to grant compensation.

Nearly 30% of grievous accident victims get the compensation within one month period after the road traffic accident. Over 35% of grievous accident victims get the compensation within one month to six months period after the road traffic accident.

Further analysis was carried out to identify amount of compensation received by the victims. It was revealed 38% of road traffic accident victims suffered by severe injuries get compensation below Rs.10,000/- and 61% of road traffic accident victim suffered by severe injuries get compensation between Rs.10,000/- to Rs.50,000/- only 1% victims suffering from severe injuries compensated more than Rs.50,000/- and no one get a compensation more than Rs.10,000/-.

According to the analysis only 12% grievous accident victims satisfied with the amount of compensation that they received. Only 35% victims satisfied with the time duration taken to get compensation while 65% road traffic accident victims were not satisfied.

The analysis indicated the trend for mutual settlements increasing while the settlement at police station or magistrate court dramatically decreasing. It seems that the victims' attitude on settlements and their decreasing interest to involve to the legal process to solve their matters or to obtain compensation. Most of victims believed it is a waste of time and energy to make a compensation claim due to current system for compensation for road traffic accidents in Sri Lanka.

The government has to take steps to introduce a new faster claim process for the people injured by the road traffic accidents. It was observed that a predetermined compensation guide needs to be introduced to speed up the process of compensation for road traffic accidents victims. The Motor Traffic Act should clearly stipulate a reasonable and fair compensation for victims.

Also a separate court or a tribunal should be introduced to implement a new broader compensation system for the road traffic accident victims like office of the Commissioner for the Workmen's Compensation in Sri Lanka. It is very useful to eliminate the delays in Magistrate courts and civil courts. Provision of free or affordable legal aid to assist the poor victims is very important in making such claims and for counseling and rehabilitation in the case of the severely injured.

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Appendices



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Annexure I

Statistics of Reported accidents from the year 1977 to 2007

No. of Accidents 1977-2007					
YEAR	FATAL	GRIEVOUS	NON- GRIEVOUS	DAMAGE ONLY	TOTAL
1977	811	834	6158	7494	15297
1978	817	1030	6833	9607	18287
1979	854	1102	7123	10816	19895
1980	1038	1410	8873	12390	23711
1981	1173	1347	8947	13189	24656
1982	1180	1318	8155	13349	24002
1983	1308	1301	7900	13653	24162
1984	1258	1304	503	1449	24534
1985	1223	1233	7318	14410	24184
1986	1253	1471	8610	20597	31931
1987	1165	1525	8568	22036	33294
1988	1365	1348	7935	22380	33028
1989	1454	1287	7733	21222	31696
1990	1714	1703	9462	21584	34463
1991	1255	1899	9685	21305	34144
1992	1302	2112	10386	23977	37777
1993	1346	2299	11687	26163	41495
1994	1414	2554	11992	27855	43815
1995	1481	2588	12233	31837	48139
1996	1560	2615	11510	32990	48675
1997	1705	3310	10037	33481	48533

1998	1874	2393	11417	35275	50959
1999	1938	2632	11612	37333	53515
2000	1983	2992	11756	37508	54239
2001	1993	3390	11546	35165	52094
2002	2038	3286	12725	36862	54911
2003	1933	3919	13744	39848	59444
2004	2116	4560	13918	32864	53458
2005	2141	4968	14376	21686	43171
2006	2065	4710	11866	14698	33339
2007	2220	5074	11884	12803	31981
TOTAL	44757	68440	301608	706043	1120848

Source: Interim Report of the Select Committee of Parliament to look into the alarming increase in traffic accidents



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Annexure II

Fatal Accidents 2005-2009 (Total)

Column1	Accident Date	Day	Time	Location	Vehicles involved	Gender	Age		Gender2	Age2	Accident Cause
F1	03/Jan/2005	Saturday	2.45	near Makandana Bridge	L	M (D)	21				High Speed
F2	12/Mar/2005	Saturday	6.45	Piliyandala Bus Stand	PB	M	61	Ped	M(D)	55	Ped neg
F3	15/Mar/2005	Tuesday	17.00	near MakandanaSudarshana Mw.	TW	M	34	Ped	F (D)	50	Ped neg
F4	26/Mar/2005	Saturday	17.10	Near Bokundara wholesale shop	Van	M	35	Ped	M(D)	54	Ped left walking
F5	05/Apr/2005	Tuesday	18.05	Near No.14 house at Siddamulla	L	M	49	Ped	M(D)	55	ped. Left walking
F6	15/Apr/2005	Friday	1.30-7.00	Near ICC at Bokundara(Col-Horana Rd)	MB	M	30	Ped	M(D)	38	Ped. Left walking
F7	29/Apr/2005	Friday	23.30	Kottawa - Miriswatta Rd	MB	M (D)	22				High Speed
F8	30/Apr/2005	Saturday	20.20	At Batakettara on Madapatha Rd.	MB	M	24	Ped	F (D)	57	Crossing(L-R)
F9	15/May/2005	Sunday	17.15	At Mihiri Mw. At Kesbewa	L	M	42	MB-Rider	M(D)	49	overtaking
F10	17/May/2005	Tuesday	8.05	At Piliyandala	PB	M	60	Ped	M(D)	47	Crossing(L-

				round-							R)
F11	05/Jun /2005	Sunday	1.30	Near Nisala Stores at Jaburaliya(Kes-Bandaragama Rd.)	Car	M	27	Car Passenger	M(D)	40	High Speed + Drunken
F12	02/Aug /2005	Tuesday	21.30	Near Mahanama Paint Shop(Kotta-Piliyan Rd)	MB	M	24	Ped	M(D)	51	
F13	30/Oct /2005	Sunday	10.55	At Siddamulla Junc.	Car	F	31	Tw(2)	M,M	35,04	overtaking
F14	29/Nov /2005	Tuesday	18.30	At KanattaRd, Batuwandara(kes-Bandaragama Rd)	MB	M	21	Ped	M(D)	66	
F15	14/Jan /2006	Saturday	22.00	Mandavila Junction	Van	M	31		F(D)	1.8	Negligence
F16	16/Apr /2006	Sunday	6.00	Jaliyagoda	MB	(D)	23				High Speed
F17	22/Apr /2006	Saturday	1.40	Mirisawatha	MB	M	27		M(D)	24	High Speed
F18	22/Apr /2006	Saturday	1.40	Mirisawatha	MB	M	23		M(D)	21	High Speed
F19	16/May/2006	Tuesday	22.30	Saranagala Mw - Col - Horana Rd	Van	M	42	Tw(Passenger)	F(D)	2.5	overtaking
F20	23/May/2006	Tuesday	18.00	Piliyandala Bus Stand	SLTB - Bus	M	43	Passenger	M(D)	60	Negligence
F21	11/Jun /2006	Sunday	10.45	Near Filling station Miriswattha	Car	M	52	Ped	M(D)	62	
F22	07/Sep /2006	Thursday	18.30	Batuwandara Junction	TW	M	39	Ped	M(D)	68	
F23	04/Oct /2006	Wednesday	9.30	Thumbovila	L	M	45		M(D)	16	
F24	07/Jan	Sund	10.00	Near No	MB	M	68				

	/2007	ay		136/1 Bokundara, Mah- Nivanthidiya Rd		(D)						
F25	26/Jan /2007	Frida y	17.30	Mirisawath tha junction	MB	M	35	Ped	M (D)	59	Crossi ng(L- R)	
F26	30/Jan /2007	Tues day	22.00	Suwarapol a (Pili - Moratu Rd)	L	M	22	Cyc	M (D)	38	overta king	
F27	25/Feb /2007	Sund ay	11.50	Piliyandala Bus Stand	TIPPE R	M	22	Ped	F (D)	55	Crossi ng(L- R)	
F28	05/Mar /2007	Mon day	21.30	Near No 343 , Pili - Maha Rd	MB	M	34					
F29	06/Ma y/2007	Sund ay	19.15	Piliyandala Bus Stand	P B	M	28	Ped	M (D)	81		
F30	13/Ma y/2007	Sund ay	03.30	Piliyandala - Moratuwa					M (D)	51	Overt aking	
F31	21/Ma y/2007	Mon day	5.35	Near Kesbawa Bandaraga ma Rd	P B	M	25	Ped	F (D)	67	Neglig ence	
F32	28/Jun /2007	Thurs day	21.15	Near 38/1 ,Makandan aRd,Kesba	Van	M	25	Cyc	M (D)	17	overta king	
F33	27/Oct /2007	Satur day	0.30	Near 1/1 Niwungam a	MB	M	18	Ped	M (D)		High Speed	
F34	13/Jan /2008	Sund ay	11.45	Near Bokundara School	MB	M	23	Ped	M (D)	65	Crossi ng(L- R)	
F35	08/Mar /2008	Satur day	0.30		MB	M	50				High Speed + Drunk en	
F36	05/Apr /2008	Satur day	16.15		MB	M (D)	26	Lorry	M	42	High Speed	
F37	14/Apr /2008	Mon day	13.30	Vikanampe ruwa Bend	TW	M	55	Van	M	49	Turnin g	

											without signals
F38	12/May/2008	Monday	6.30	Near No 209, Batakettara - Deltara Rd		M	21	Ped	M (D)	43	
F39	26/May/2008	Monday	22.15	Near SikuradaPola Junction	L	M	33	Ped	M (D)	60	Pedes Drunken
F40	29/May/2008	Thursday	20.45	Miriswattha Junction	TW	M	33	Ped	M (D)	75	
F41	18/June/2008	Wednesday	5.30	Kesbawa - Bandaragama Rd	PB	M	49	Ped	F (D)	67	
F42	11/Aug/2008		7.10	Near Ambasevana Montisory	P B	M	42	Ped	F (D)	72	
F43	23/Aug/2008	Saturday	8.10	Near Dharmasena Atigala	MB	M	31	Ped	M (D)	81	overtaking
F44	01/September/2008	Monday	17.20	Siddhamulla	TW	M	29	Passenger	F (D)		Falls Sleep
F45	15/September/2008	Monday	19.3	Gadabuwana	MB	M/F(2D)	26	Wall			Out of control
F46	25/November/2008	Tuesday	21.45	Atigala Mw.(Col-Horana Rd)	TW	M	52	Cyc	M(D)	35	overtaking
F47	29/December/2008	Monday	1.30	Vishwakala -Samagi Mw.	Van	M	49	Bus(Parked)			Out of control
F48	03/January/2009	Saturday	10.00	Vidyala Mw.- Horana Rd.	PB	M	54	Ped	M(D)	81	Turning without signals
F49	31/January/2009	Saturday	20.00	PalenWattala	MB	M (D)	29	MB	M	28	Overtaking
F50	27-February-09	Friday	18.45	Horana Rd.-Near	TW	M	44	Ped	F(D)	60	Crossing(L-

				Pradeep Stores							R)
F51	4-Mar-09	Wednesday	20.30	Batakettara-Near the bakery	MB	M	24	Ped	M(D)	68	Crossing(R-L)
F52	30-Mar-09	Monday	21.3	Deltara	MB	M(D)	20	electricity post			Out of control
F53	8-Apr-09	Wednesday	18.3	1st Lane-Thoranawila SOS Rd.	MB	M	36	Cycle	M(D)	57	Turning without signal s-cycle
F54	23-Apr-09	Thursday	11.3	Makandana Junction	MB	M	25	Ped	M(D)	34	Crossing(L-R)
F55	25-Apr-09	Saturday	9.45	Near Wishwakalawatta	MB	M	21	Ped	M(D)	62	Walking on left side
F56	26-May-09	Tuesday	23	Miriswatta-Near Saman Auto Motors	Hit Run				M(D)	53	
F57	15-Jun-09	Monday	22.3	Siddhamulla-Sangarama Rd.	Van	M	24	MB	M(D)	37	Overtaking
F58	12-Aug-09	Wednesday	23.3	Near sandakirana Mw.-Bokundara-Colom Rd.	Van	M	30	MB	M(D)	32	Turning without signal s-mb
F59	14-Oct-09	Wednesday	8.15	Near Thoranawila Junc.	TW	M	33	Cyc	M(D)	41	Turning without signal s-cycle
F60	25-Oct-09	Sunday	20.1	Halpita-Koduruwa	MB	M	40	Ped	M(D)	67	Walking on left side

F61	11-Nov-09		19	Near Deltara bend	TW	M	30	Passenger	F(D)	12	Out of control
F62	5-Dec-09	Saturday	23.3	Madapatha -Dampe	MB	M	22				Out of control

TW –Three-wheeler

M - Male

PB – Private bus

F - Female

MB – Motorbike

(D) - Death victim

L - Lorry

Ped - Pedestrian

Cyc - Cyclist



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Annexure III

Accidents in Piliyandala police area 2005-2009(monthly)

Description	2005												Total	%
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec		
Fatal	1	0	3	3	2	1	0	1	2	1	1	4	19	6%

Grievous	4	4	5	10	8	7	7	3	2	8	4	11	73	22%
Non grievous	7	3	10	3	2	5	6	8	2	4	0	5	55	16%
Damage only	16	14	7	14	12	8	17	12	13	14	4	15	146	43%
Police Accidents	0	0	0	1	0	0	0	0	0	0	1	0	2	1%
Hit & Run	6	6	4	3	2	2	4	4	3	4	0	6	44	13%
Total Accidents	34	27	29	34	26	23	34	28	22	31	10	41	339	100%
Deaths due to fatal accidents	1	0	3	4	4	1	0	1	2	2	1	4	23	

Description	2006												Total	%
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec		
Fatal	1	0	0	3	2	1	0	0	1	4	1	2	15	4%
Grievous	6	8	13	4	2	7	7	3	17	6	5	11	89	22%
Non grievous	2	6	4	7	6	3	3	10	8	3	3	5	60	15%
Damage only	14	19	17	7	19	20	10	14	10	16	25	21	192	47%
Police Accidents	0	0	0	0	0	0	0	0	0	0	0	0	0	0%
Hit & Run	2	6	5	3	3	3	6	8	4	3	7	6	56	14%
Total Accidents	25	39	39	24	32	34	26	35	40	32	41	45	412	100%
Deaths due to fatal accidents	0	0	0	5	6	1	0	0	1	4	1	2	21	



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Description	2007												Total	%
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec		
Fatal	3	1	0	3	2	0	0	0	0	1	1	2	13	3%
Grievous	8	7	9	7	6	11	6	9	6	6	9	10	94	24%
Non grievous	6	6	5	3	8	4	5	8	5	4	7	4	65	16%
Damage only	15	10	11	12	24	17	13	12	20	15	21	12	182	46%
Police Accidents	0	0	0	0	0	0	0	0	0	0	0	0	0	0%
Hit & Run	7	2	0	1	3	5	5	5	4	5	5	1	43	11%
Total Accidents	39	26	25	26	43	37	29	34	35	31	43	29	397	100%
Deaths due to fatal accidents	3	1	0	3	2	0	0	0	0	1	1	2	13	

Description	2008													
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total	%
Fatal	1	0	1	1	3	1	0	2	2	0	2	1	14	3%
Grievous	10	11	2	10	11	4	5	7	8	11	9	5	93	23%
Non grievous	2	5	3	3	4	1	7	3	3	2	2	3	38	9%
Damage only	12	14	27	17	25	11	20	11	10	15	12	20	194	48%
Police Accidents	0	0	0	0	0	0	0	0	0	0	0	0	0	0%
Hit & Run	2	8	7	3	8	4	7	2	4	7	3	8	63	16%
Total Accidents	27	38	40	34	51	21	39	25	27	35	28	37	402	100%
Deaths due to fatal accidents	1	0	1	1	3	1	0	2	2	0	2	1	14	

Description	2009													
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total	%
Fatal	2	1	2	3	1	1	0	1	0	2	1	1	15	4%
Grievous	6	7	8	4	4	3	9	13	6	4	3	6	73	19%
Non grievous	3	3	3	2	7	6	0	7	7	1	1	3	43	11%
Damage only	6	6	22	17	24	14	12	17	13	14	15	16	182	48%
Police Accidents	0	0	0	0	0	0	0	0	0	0	0	0	0	0%
Hit & Run	3	4	7	7	12	11	4	7	5	5	3	5	63	17%
Total Accidents	26	21	42	33	48	25	25	45	31	26	23	31	376	100%
Deaths due to fatal accidents	1	1	2	3	1	6	0	1	0	2	1	1	19	

Annexure IV

Compensation Guide in UK

	Injury	Amount
Head/Neck Injuries	Brain Damage	£ 9,875 to £257,750
	Minor head injury	£1,400 to £8,100
Facial Injuries	Cheek bones	£1,500 to £10,100
	Jaw fractures	£4,100 to £29,000
	Facial disfigurement	£2,500 to £62,000 (females) £2,500 to £42,000 (males)
	Eye Injuries	£2,500 to £172,500
	Ear Injuries	£8,000 to £70,000
	Whiplash/General Neck Injuries	£850 to £95,000
	Psychiatric Damage	Chronic fatigue syndrome	Up to £32,000
	Post-traumatic stress disorder	£2,500 to £64,250
Torso Injuries	Whiplash/General Neck injuries	£850 to £95,000
	Back injuries	£5,000 to £108,000
	Shoulder injuries	£2,750 to £30,750
	Chest and Lung Injuries	£20,000 to £35,000
	Fractured ribs	Up to £2,500
Arm	Arm injuries	up to £191500
	Shoulder injuries	£2,750 to £30,750
	Wrist injuries	£2,250 to £38,250
	Hand injuries	£600 to £129,000
	Finger injuries	up to £23,500

	Loss of thumb	£22,750 to £35,000
	Vibration White Finger / Hand Arm Vibration Syndrome	£1,900 to £20,250
Leg	Leg injuries	Upto £5,750 to £180,000
	Knee injuries	Up to £61,500
	Ankle injuries	Up to £ 32,000
	Foot injuries	Up to £128,500
	Toe injuries	Up to £36,000



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Annexure v

Compensation guide for road traffic accident victims in Japan

	Amount(yen)
• For death	30,000,000

<ul style="list-style-type: none"> • For permanent disability <ol style="list-style-type: none"> 1. For permanent disability requiring nursing care at all times or as needed <ol style="list-style-type: none"> 1st grade 2nd grade 2. For permanent disability (other than the above) <ol style="list-style-type: none"> 1st grade 2nd grade 3rd grade 4th grade 5th grade 6th grade 7th grade 8th grade 9th grade 10th grade 11th grade 12th grade 13th grade 14th grade 3. For other bodily injuries 	<p>40,000,000(at all times)</p> <p>30,000,000(as needed)</p> <p>30,000,000</p> <p>25,900,000</p> <p>22,190,000</p> <p>18,890,000</p> <p>15,740,000</p> <p>12,960,000</p> <p>10,510,000</p> <p>8,190,000</p> <p>6,160,000</p> <p>4,610,000</p> <p>3,310,000</p> <p>2,240,000</p> <p>1,390,000</p> <p>750,000</p> <p>1,200,000</p>
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Annexure VI

Proposed Compensation Guide for Sri Lanka

(List of injuries deemed to result in permanent /Partial Disablement due to road accident)

Injury	Percentage of loss of earning capacity
Permanent and incurable paralysis of the limbs or injuries resulting in being permanently bedridden	100
Permanent incurable loss of mental capacity resulting I total incapacity to work or any other injury causing permanent total incapacity of work.	100
Eye Injuries	
(i) Total loss of sight in both eyes	100
(ii) Total loss of sight in one eye	50
Hearing Injuries	
(i) Total loss of hearing	60
(ii) Total loss of hearing in one ear	30
Loss of Speech	
(i) Total loss of speech	75
Sensory Loss	
(i) Total loss of senses of smell and taste	50
(ii) Total loss of sense of smell	25
(iii) Total loss of sense of taste	25
Arm Injuries	
(i) Loss of arm at or above elbow	75
(ii) Loss of arm at or below elbow	65
Hand Injuries	
(i) Loss of both hands	100



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(ii) Loss of hand or loss of thumb and 4 fingers	65
(iii) Loss of thumb (both phalanges)	35
(iv) Loss of thumb (one phalanx x)	...	...	...	...	...	20
(v) Loss of four fingers	...	...	...	...	...	60
Loss of Index finger						
(i) Three Phalanges	...	...	...	...	...	30
(ii) Two phalanges	...	...	...	...	...	20
(iii) One phalanx	...	...	...	...	...	10
Loss of middle, ring and little fingers						
(i) Three phalanges	...	...	...	...	...	20
(ii) Two phalanges	...	...	...	...	...	10
(iii) One phalanx	...	...	...	...	...	05
Loss of leg						
(i) at or above knee	...	...	...	...	...	75
(ii) at or below knee	...	...	...	...	...	65
Foot Injuries						
(i) Loss of both feet	...	...	...	...	...	100
(ii) Loss of one foot	...	...	...	...	...	75
Loss of Toes						
(i) Great toe-both phalanges	...	...	...	...	...	20
(ii) Great toe-one phalanx	...	...	...	...	...	10
(iii) Other than great toe, if more than one lost, each	...	...	...	...	...	10
Miscellaneous						

(i) Total loss of genitals	...	...	...	...	...	...	75
(ii) Partial loss of genital	...	...	...	...	...	...	40
(iii) Severe facial scarring or disfigurement	...	...	...	...	...	...	75
(iv) Sever bodily disfigurement, other than facial scarring	...	...	...	...	...	...	50
or disfigurement a maximum of	...	...	...	...	...	...	50
(v) Loss of single tooth	...	...	...	...	...	...	05
(vi) Loss of any member or part thereof not mentioned above (e.g. nose, breast, ear etc) to be assessed by a medical officer up to a maximum of	50

Note: Assessment not to exceed 100% in any one accident



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Annexure VII

“SCHEDULE IV”

(Compensation Schedule under the Workmen’s Compensation Ordinance)

COMPENATION PAYABLE IN CERTAIN CASES

AMOUNT OF COMPENSATION

(1) Monthly wage of the workman injured		(2) Death of workman	(3) Permanent total disablement of workman	(4) Half-monthly compensation for temporary disablement of workman
Rs.	Rs.	Rs.	Rs.	Rs.
0	- 2,500	181,665.00	196,083.80	1,320.00
2,501	- 5,000	258,640.80	295,075.00	1,804.00
5,001	- 7,500	330,968.00	351,461.00	2,186.80
7,501	- 10,000	407,427.90	444,494.60	2,733.50
10,001	- 12,500	478,495.60	519,593.80	3,231.80
12,501	- 15,000	522,495.60	550,000.00	3,561.80
15,001	17,500	549,631.50	550,000.00	3,890.70
17,501	20,000	550,000.00	550,000.00	4,221.80
20,001	- And above	550,000.00	550,000.00	5,500.00



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