

26 August 2007<p>

</p><p>Attorney-General wants to introduce a No-Fault Liability scheme for motor vehicle

accidents</p><p class="abstract" align="justify">PUTRAJAYA: People who are injured in road accidents may no longer have to worry about how to pay for their medical treatment. </p><div align="justify"><table border="0" cellspacing="3" cellpadding="0" width="200"

align="right"></table></div><p align="justify">This is because the Attorney-General wants to

introduce a no-fault payment scheme for those involved in motor-vehicle accidents.

Under the proposed scheme, injured persons can expect prompt benefits, regardless of who caused the accident, without having to go to court.

Initial minimum payments, which will assist the injured person in the immediate aftermath of the accident, could be paid within a week of the claim being filed.

All a victim has to do is to submit two reports, a police accident report and a medical report, to receive compensation.</p><div align="justify"></div><p align="justify">

Although the source of the funding has yet to be determined, Attorney-General Tan Sri Abdul Gani Patail said it is likely to come from motor vehicle insurance companies ♦

from premiums paid by vehicle owners.

"The objective of this new scheme is to reduce the burden on the people," Gani said.

Instead of paying for third-party insurance (which only covers the person you knock down), vehicle owners are expected to get comprehensive insurance (which covers everyone, including the vehicle owner).

The scheme will apply to any accident in Malaysia involving motor vehicles registered in

Malaysia.

"Many people come up to me to tell me that they are not obtaining justice fast enough," said Gani.

"A few years ago, an old man told me that it took him several years to get his claim in court. At the end of the day, he got only a fraction of what he was entitled to.

"What was of most concern to me was that he didn♦ get the compensation at the time when he needed it the most ♦ at the time of recovery, soon after the accident."

Currently, under the fault-based system, a person has to wade through years of legal administration before he is awarded compensation.

In the fault-based system, if no fault can be established, then an innocent accident victim would be without remedy.

The prompt payment of benefits is expected to a "fair and expeditious relief" to the injured person during the period of incapacity, so that he may maintain a reasonable standard of living.

Benefits will include property damage, pain and suffering for injuries sustained, medical expenses, loss of earnings and, in the instance of death, funeral expenses and compensation for dependants.

However, the scheme will not be applicable to accidents caused by uninsured vehicles, or people who are "repugnant to justice", such as a driver driving under the influence of alcohol, or criminals who get injured while trying to escape from the law.

The scheme will do away with the fault-based liability system currently in force, removing the option for civil action. This will be enforced by legislation.

If there is any dissatisfaction as to the quantum, the party cannot go to court, but instead has to go through mediation.

"The quantum will probably be less than what you would get at the courts, but if you factor in what it would cost to have to go to court, pay the lawyer, wait several years, this way is more beneficial to the injured party in the end," said Gani.

Insurance premiums are also expected to go down since insurance companies would not need to spend money on legal or administrative fees in going to court because there is no need to prove fault.

"The No-Fault Liability (NFL) scheme will alleviate a lot of the backlog of cases in the courts, because it will free them to attend to other matters," said Gani.

As at July 1, last year, there were 11,890 insurance claims pending in the magistrate♦s courts, 621 in the High Courts, and 37,248 in the Sessions Courts.

Written by Administrator

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Compensation claims from road accidents ranked the second highest among the total number of civil cases filed. Gani said preparatory work on the new scheme started early last year and is now moving to the meeting stage with all stakeholders. "We have to consider what the impact will be on the public, insurance companies, and lawyers. "We won't know how this will impact insurance companies until we hear their views." Discussions will also focus on which body will administer the scheme. The A-G's Chambers is also finalising a Preliminary Issues Paper and questionnaire that will be opened to the public to take into account the public's comments. The paper is expected to be posted soon on the A-G Chambers website, www.agc.gov.my. Gani is hoping to set up the scheme as soon as possible. "If it is a good thing, and everyone supports it, then why wait?" The NFL scheme is currently being practised in various versions in New Zealand, the US and certain parts of Australia, Canada and India.

Amicable solution lies in No-Fault Liability scheme

THE No-Fault Liability (NFL) scheme is not completely alien to Malaysia, since we already have such a scheme in place, albeit in a small area. In 1957, the Treasury Collision Agreement was set up between the government and some insurance companies. Claims arising from collisions between government vehicles and vehicles insured by insurance companies that are parties to the Agreement, would be settled "without determination of liability". But if or when the scheme is introduced, it will change the legal landscape completely. Society will have to get used to the idea of not pointing the finger and trying to apportion blame in order to get benefits. The most liberating thing about the NFL scheme is that it removes the bitterness and negativity often produced when parties are caught in a legal tussle, which can affect the recovery of the injured person, says Attorney-General Tan Sri Abdul Gani Patail.

Benefits of the scheme

- ◆ Full protection for all motor accident victims, including victims of hit-and-run cases. All injured persons would be compensated.
- ◆ No need to prove fault of other party in order to get compensation.
- ◆ All a victim has to produce is two reports: A police report on the accident and a medical report.
- ◆ Prompt initial payment of benefits, which can be as fast as one week.
- ◆ Prompt medical attention and treatment of victims, because benefits can be used to pay hospital bills.
- ◆ Savings on legal and administrative fees
- ◆ victims no longer need to hire lawyers, go to court, or wait years for court-awarded compensation.
- ◆ Insurance companies will no longer be burdened with having to set aside funds for six years to meet claims for personal injuries or deaths