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◆No-fault liability scheme for motor vehicle accidents: Good news for consumers, but not lawyers

KUALA LUMPUR: Consumer groups and lawyers are at loggerheads over the attorney-general's proposal for a no-fault liability scheme for motor vehicle accidents.

Consumerists were delighted with Tan Sri Abdul Gani Patail's proposal, as reported in yesterday's NST, saying the move would benefit the people.
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National Consumer Complaints Centre director Darshan Singh said the government should implement it as soon as possible. "With the current system, it takes years for accident victims to be compensated and when they finally are, there will be heavy contingency fees charged by lawyers on top of the percentage of the award," he said. "People are being shortchanged by lawyers and this scheme will put an end to that."

Darshan said insurance companies would also benefit as lawyers' fees would no longer be a consideration since the scheme provided for minimal legal representation.

National Institute of Occupational Safety and Health chairman Tan Sri Lee Lam Thye, an advocate of the scheme, called for a body or mechanism to be put in place to make sure there was no abuse. "The A-G's Chambers must introduce a regulatory body to look into fraudulent claims and to determine what would be a fair amount to be given in compensation."

Lawyers claim that it would rob them of their livelihood.

Bar Council Malaysia president Ambiga Sreenevasan said she would understand if lawyers were unhappy because a large number of them would be put out of work. She urged the A-G's Chambers to consult with them before implementing the scheme, saying there were questions about the scheme, such as capping the kind and size of claims. "If implemented wrongly, the scheme could indirectly contribute to drivers being less careful as the potential for liability is taken away."

Jagdiv Singh Sandu, a lawyer for 35 years, did not think the no-fault liability scheme would work. He claimed that it would take nearly a year for a comprehensive medical report to detect long-term damage to a person in an accident, thereby making it impossible to award damages immediately.

He said the Subordinate Court Rules Act 1955 provided for interim payment, but was hardly used by judges. "Instead of the scheme, there should just be a modification of rules and procedures for accident cases. "Now, defence lawyers use the rules of evidence to create delays and to force claimants to accept much less than what is due"