

## LIABILITY IN CASE OF ACCIDENTS CAUSED BY MOTOR VEHICLES IN MOTION

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**Abstract:** *Negative consequences of traffic are suffered by the whole of society. Some of these consequences are rehabilitated by insurance funds, a significant portion is related to damage to vehicles. In the process of compensation for damage to vehicles it is important to do quality-determining of the extent and amount of damage so that compensation is fair, and the injured suffer less impact. Liability is usually equated with guilt, even though this is not true, at least in legal terms, because if we take these two words as synonyms, we can talk about different types of liability. This paper entertains the responsibility in case of accidents in traffic through legislation.*

**Keywords:** *Liability, motor vehicle accidents, insurance*

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### INTRODUCTION

The use of motor vehicles has long ceased to be a luxury. Modern conditions of life imposed almost inevitable use of motor vehicles. This is influenced by the fact that vehicles have a number of advantages compared to other modes of transport. On the other hand, high-power at the disposal of motor vehicles increases the risk of damage. For this reason, motor insurance is necessary. Motor insurance today is the most represented branch of insurance in our country. The reason for this statement is certainly mandatory insurance. Motor vehicle insurance is of special importance in the development plans, which is closely linked to the development of the automotive industry. The automotive industry is one of the leading industries in the field of scientific, technological, technical and organizational research. It has a significant impact on the economic development of certain countries, employs millions of people, and there are hundreds of millions of motor vehicles around the world.

## 1. INSURANCE

Insurance is a complex economic-technical and legal system, and it is the subject of interest of various scientific disciplines. The essence of insurance should be sought in a technically organized company, which calculates an adequate premium for the risks assumed and managed. In essence, the insurance association represents all those who are exposed to the same dangers, with the aim to jointly submit the damage that will befall some of them [Lisov M., N. Zharkov, 2010: 2]. Man creates material goods that are often very vulnerable to sudden adverse effects of nature or human mistakes. Pre-assessing the possibility of an unwanted event, the insurance company reduces or erases the negative impact of the damage suffered by the individual or society. For the reconstruction of the destroyed goods funds are needed. Therefore, they must be assigned in advance, for the reconstruction of what can be destroyed in accidents or disasters timeline. In economic terms, this means that each produced well-defined insurance premium provides economic reparations in case of damage or destruction.

## 2. AUTOMOBILE LIABILITY INSURANCE

The car has long since ceased to be a means of transportation that only wealthy people have. As motor vehicles develop all around the world, the number of occurring traffic accidents is increasing, and they take many human lives. Damage cannot be removed solely by the funds of culprits for the accident because the indemnity payments to a third party threaten the existence of the driver or owner of the car that caused the fortunes [Manual for practice in the insurance and re-insurance, 403]. In car accidents about 50,000 people are killed annually, about 150,000 remain disabled, and about 1,600,000 get hurt and need to undergo hospital treatment. In 2005 the European Union in road accidents 41,600 were killed. Projections claim that in 2010 this number will amount to 25,000 people [Deiter Pscheidl, Terzić N., 2007: 277].

Motor insurance has a very wide application because it establishes a balance disturbed by damage. In this insurance legal relations are established between the three entities: the insurer, the insured and the third injured party [Sokal V., 1976: 152]. All modern states introduced the compulsory motor vehicle liability insurance to protect persons who were injured in traffic accidents. Victims of traffic accidents find it easier when they know that damage will be shouldered by organizations that are financially stable and well off. Automobile liability is mandatory (statutory) contractual insurance. Legal provisions on compulsory insurance generally have imperative character [Šulejić P., 2006: 287]. Regardless of the fact that this insurance is mandatory, it is also contracting by nature because legal issues do not arise automatically as the conclusion of insurance contracts. Compulsory insurance is also in the interests of injured parties and in the interests of the person who caused damage and for this reason it is considered that the compulsory insurance is the best means of protection that is acceptable to all members of society [Curkovic M., 1989: 15]. The effect of automobile liability insurance is associated with the vehicle, not the owner or the person who manages it, unlike the hull-insurance where insurance is linked to the owner and not

the vehicle. Insurance comes into force from the moment when the vehicle begins to be used. It is the responsibility of the insured to conclude the insurance contract before the vehicle involved in the traffic. It covers damage caused on the domestic territory because the compulsory insurance is introduced as compensation for damages in the domestic country. If the vehicle is operating in foreign countries, insurers will provide coverage if the damage occurred in the territory of a country with which our country has signed an agreement on the green card or other countries on the basis of specific provisions on the extension of the territorial coverage.

Also, foreign vehicles entering our country must provide proof of insurance valid on the territory of our country. If persons do not have valid documents or proof of the existence of insurance coverage, they are obliged to conclude border motor insurance with local insurance organization. It is highly important to note that the insurance covers also the damages resulting from the use of motor vehicles (cause-and-effect relationship can exist not only in the collision or impact to pedestrians, but also with the dazzling headlights, in case of fire, explosion, falling objects from the vehicle, etc.). On the basis of motor insurance, the right to compensation belongs to the owner or driver of the vehicle that caused the damage [Marovic B., 1996: 211]. When the means of transport is managed by a driver who is not the owner of the means of transport, the owner of the means of transport shall enable the driver during use of means of transport to have an insurance policy or other evidence of the concluded insurance contract. Automobile liability insurance only covers damage caused to third parties, which means that the third injured party is entitled to compensation, regardless of who managed the motor vehicle, whether it be the owner of the vehicle or another person [Law on Compulsory Insurance, 2009 Article 21.].

### 3. LIABILITY IN CASE OF ACCIDENTS CAUSED BY A MOTOR VEHICLE

Increased risk of causing damage during the use of motor vehicles in traffic made the legislators decide on specific standardized rules on compensation of damage in this area. Motor vehicles by their legal nature are characterized as dangerous goods. 2009 Law on Road Traffic Safety in its basic principles defines vehicles. According to this Law a vehicle is a means of transport that moves with the power of its own engine, and is by its construction, devices, components and equipment designed and trained for transport of persons, i.e. things to perform work or towing the trailer, with the exception of rail vehicles [Law on Traffic Safety]. Motor vehicles fall into dangerous things, and under them we considered movable and immovable assets that by their location and property pose an increased risk to the environment [Radisic I. 2004: 244]. If there is mutual fault each owner is responsible for the overall damages in proportion to the degree of guilt. If there is no guilt on the occurrence of the accident, the holders are equally responsible. This is true unless - for the reasons of fairness - something else is required. To the third injured party holders of clashed vehicles correspond independently of guilt and severally [Radisic I. 2004: 253]. The victim is granted the right to demand full compensation from any holder. The vehicle user is obliged to conclude a contract of insurance against liability for damage. This agreement is a condition for the registration of motor vehicles. This is a standard contract where one pays a certain amount and issue the insurance policy that identifies the owner of the vehicle. The failure to provide vehicle damage caused borne by the owner of the vehicle [Radisic I. 2004: 263]. The third

injured person requires the expense of the insurer who owes compensation for damages instead of the insured person.

#### 4. TYPES OF INSURANCE OF MOTOR VEHICLES

Motor insurance covers all types of motor vehicles and land vehicles. It is divided into voluntary risk insurance of motor vehicles (basically covers damage caused by the destruction, damage and theft of the vehicle) and liability insurance of motor vehicles (covered by damages for bodily injury or death caused by a third party, or damage caused to his property). In many countries this insurance includes insurance of passengers in a car accident. This branch of insurance is rapidly evolving with the development of motorization, especially in the last few decades. Today, in many countries it is one of the most important types of insurance [Marović B, Žarković N., 2002]. Motor insurance is divided into four groups [www.osiguranje.online.rs]:

1. Auto insurance
2. Collision Damage Waiver (full and partial)
3. Green card
4. Road Assistance.

Insurance of Motor Vehicle liability for damages arising from the use of motor vehicles to third parties, is today the most common form of compulsory insurance and unlike fully comprehensive insurance it is conditioned by the law [Pekija D., 2011]. "The owner of the vehicle has to conclude a contract of insurance against liability for damage caused by the use of motor vehicles cause to third parties due to death, bodily injury, damage to health, destruction or damage of things, except for the damage to property he received on the transport of [Law on Compulsory traffic insurance, Article 18]."

The owner of the motor vehicle or the person involved in a road accident is obliged to inform the insurance company of the accident within 15 days from the day of the incident. The insurance company shall, within 14 days of receipt of the claim determine the extent of the claim so that they can provide the applicant with a reasoned offer of compensation and pay damages. If the filed claim for damages is not complete, the insurance company is required to -within eight days of receipt of a written request - address the applicant and ask for the completion of documentation. If within 14 days of receipt of the claim it is not possible to determine the basis and the amount of that request, the insurance company is obliged to (within 45 days of receipt of the request for the damage to property and within 90 days of receipt this request for damages to persons) deliver to the applicant a reasoned offer of compensation, and in the further period of 14 days to pay damages. The insured person loses the rights of insurance in the following cases [Law on Compulsory Insurance in Traffic, Art.29]:

1. if the driver did not use a motor vehicle in accordance with its intended purpose;
2. if the driver did not have a driver's license to drive a motor vehicle of a certain category, unless the vehicle is operated by a person who is a candidate for the driver during the training to operate the vehicle, with respect to regulations under which this training is regulated;

3. if the driver's license revoked or he was banned from traffic or he received the prohibition to operate a motor vehicle or he is under protective measure prohibiting the use of foreign driving license in the territory of the Republic of Serbia.

4. If the driver operated a motor vehicle under the influence of alcohol above the permitted limit, narcotics, or prohibited drugs or other psychoactive substances;

5. If the driver intentionally caused the damage;

6. If the damage is due to the fact that the motor vehicle was technically defective and this is a circumstance driver was aware of;

7. If the driver after a car accident left the scene, but did not give their personal information and insurance information.

In case of accident, participants are required to complete, sign and mutually exchange the European report on the accident. The form of the European report on the accident is free and is provided by the insurance company with whom you provide the vehicle [<http://ltablice.com/>]. Duly filled-European report on the accident both the injured party and the insured can use as a claim for damages on the basis of automobile insurance. The insurance company is obligated to give the insured a policy of automobile insurance together with the European report on the accident. During operation of the motor vehicle in traffic, the driver is required to have a European report on the accident and to present it at the request of an authorized official.

## CONCLUSION

Compulsory motor insurance is one of the most important insurance, primarily because it protects the injured party. Today it is not enough to have coverage only in the country in which the vehicle is registered, and the reason for this is the large movement of motor vehicles from country to country. States have made efforts to facilitate each other by creating a system where compulsory motor insurance applies when crossing the border of the home country. The main objective of the international automobile liability insurance is to guarantee drivers with foreign registration plates cover for the damage in the same way that cover is provided for drivers of that country.

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