

IMPOSING JUDICIAL PROCEDURES

Our member companies have always sought to cooperate with the judiciary in exploring and experimenting with different techniques to handle litigation expeditiously. American Insurance Association companies took the initiative in helping institute a masters' plan in a principal court in New York City, pursuant to which personal injury and property damage claims are heard by two masters—one from the plaintiffs' bar and one from the insurance company ranks—all serving as volunteers with no compensation. This masters' plan has been highly successful.

NEW SETTLEMENT PROCEDURES

All principal companies today are using settlement procedures which were unheard of a few years ago. First, they began with settling property damage liability claims without taking a release. In that way the claimant could obtain immediate reparation for his damaged car without waiting to determine the extent of his personal injuries. This idea has been greatly expanded. Today, companies are paying medical and hospital costs and loss of wages as incurred without taking any release; leaving to the future the final determination of the total claim. Results so far have been most gratifying from the standpoint of the injured person, who receives reimbursement for out-of-pocket losses when he needs it most.

NATURE OF LIABILITY POLICY

We believe there is a general misunderstanding of the purpose of an automobile liability insurance policy. It was developed many years ago as an accommodation to the tort liability system. Its purpose was, and in theory still is, to protect the assets of the negligent driver. It is a policy sold to a potential wrongdoer. It was not designed nor intended to provide benefits to traffic accident victims. True, the automobile liability insurance policy is a source of compensation to traffic accident victims, but in most states it is only supposed to provide these payments when the victim is free of fault and the insured is negligent, and then these payments are just an incidental benefit arising from the indemnification of the insured for his liability under law.

DEVELOPING REPARATION SYSTEM

The public attitude has been changing over the years. Today, the emphasis has shifted to compensating the traffic accident victim rather than protecting the assets of the wrongdoer. This suggests that the public now wants to see every injured person properly and fairly compensated for his losses rather than engage in protracted proceedings to determine who caused the accident. The industry has responded to this growing trend by adding coverages to the automobile policy based on the reparation approach. Medical payments and disability or loss of earnings coverages come under this category. Collision or physical damage coverages always have been on the reparation basis.

However, the present system cannot be evaluated on the assumption that it is a mechanism for providing adequate benefits to all traffic victims. If it were to be judged on that basis, admittedly, the present tort liability system is not an efficient system of making reparations to all traffic accident victims because it was not designed or intended for that purpose.

INDUSTRY STUDIES

American Insurance Association has been well aware of what appears to be a growing dissatisfaction with the present system. We have been engaged in our own studies, reviewing and analyzing the present system and all alternatives, including the basic protection plan proposed by Professors Robert E. Keeton and Jeffrey O'Connell.

We realize that cost is not the only significant factor in determining the kind of system which should provide benefits to accident victims. Nonetheless, we all know that cost is highly important. For this reason, we are now in the process of collecting data which will enable us to determine the prices of a variety of plans, including the Keeton-O'Connell basic protection plan. The raw data is being compiled by twelve participating member companies on the basis of claims currently settled in a stated period. It will cover all claims closed in the stated period by the twelve participating companies in seven states—California, Connecticut, Illinois, Massachusetts, New York, Rhode Island and Wisconsin.