1. – Automobile Insurance and Society

**1 - Compensation of Auto Accident Victims**

Under the legal system in the US, persons who are injured or who incur property damage losses as the result of auto accidents that are the fault of other drivers are entitled to compensation and damages.

Automobile insurers and state governments have designed these approaches to compensating auto accident victims:

**Tort Liability System**

**The Tort liability system, which is based on fault, is the traditional and most commonly used method of seeking compensation for injured auto accident victims in the US. Most tort liability cases arise out of negligence. If a driver operates an auto in a negligent manner that results in bodily injury to another person or in damage to another’s property, the operator can be held legally liable for damages incurred by the injured person. Under the tort liability system, injured auto accident victims must prove that another party was a fault before they can collect damages from that party.**

The major advantage of the tort liability system is that it provides a remedy for victims of negligent or irresponsible drivers who cause accidents. The tort liability system may also act as an incentive for drivers to act responsible in order to avoid lawsuits.

Disadvantages of the tort liability system include, substantial time delays in reaching a settlement either through negotiations or through the courts, significant legal and administrative costs related to settling lawsuits or pursuing a case to judgment, punitive damage awards by juries that may be considered excessive.

**Financial Responsibility Laws**

**Financial responsibility laws require motorists to provide proof of financial responsibility (such as liability insurance) under these circumstances:**

* **After an auto accident involving bodily injury or property damage exceeding a certain dollar amount**
* **After a conviction for certain serious offenses, such as drunk driving or reckless driving, or after losing a driver’s license because of repeated violations.**
* **Upon failure to pay a final judgment that results from an auto accident**

Motorists who fail to provide the required proof of financial responsibility can face suspension of their driver’s license and vehicle registration. Proof of financial responsibility can include an insurance policy, a certificate of deposit, a surety bond, or a certificate of self-insurance, depending on the jurisdiction.

These laws work in conjunction with the tort liability system to ensure that at-fault drivers will not only be held liable for accident they cause, but also that they have a mechanism in place to pay for the financial consequences of those accidents.

**Some potential disadvantages of financial responsibility laws include these considerations:**

* **Most financial responsibility requirements become effective only after an accident, a conviction, or a judgment**
* **Financial responsibility laws do not guarantee payment to all accident victims. Persons injured by uninsured drivers, hit-and-run drivers, or drivers of stolen cars might not be compensated**
* **Injured persons might not be fully indemnified for their injuries even when injured by motorists who can prove financial responsibility. Most financial responsibility laws set minimum financial requirements, which may not fully compensate a victim**.

**Compulsory Auto Insurance Laws**

**Most states have enacted compulsory auto insurance laws that require auto liability insurance for all motorists to drive legally within the state.** In lieu of auto insurance, a motorist can post a bond or deposit cash or securities to guarantee financial responsibility in the event of an auto accident.

**One advantage of compulsory insurance laws, as compared to financial responsibility laws, is that the motorist must provide proof of financial responsibility prior to an accident. By requiring proof of financial responsibility prior to an accident, compulsory insurance laws go beyond financial responsibility laws by ensuring that accident victims are compensated for their losses**.

Frequently cited disadvantages of compulsory insurance:

* Does not guarantee compensation to all accident victims
* Provide incomplete protection
* May not reduce the number of uninsured motorists
* Restrict their freedom to select profitable insureds, insurers fear that state regulators might deny needed rate increases, resulting in underwriting losses
* Consumer advocates argue that if insurers are allowed to increase rate to compensate for accepting all applicants for insurance, rates might become unfairly high for good drivers
* Compulsory insurance laws do not prevent or reduce the number of accidents

**Low cost auto insurance is intended to decrease the number of uninsured drivers by making liability coverage available at a reduced cost. Low cost insurance programs are intended to provide some level of protection at a reduced cost to assist lower income drivers in purchasing the insurance coverage required to comply with compulsory auto insurance laws**.

No pay, no play laws prohibit uninsured drivers from initiating lawsuits for noneconomic damages, such as pain and suffering. Only a few states have such laws, and some of those laws apply not only to uninsured drivers, but also to those driving under the influence of alcohol or using a vehicle while committing a felony.

**A few states have established unsatisfied judgment funds, which have these characteristics:**

* **An injured person can receive compensation from the fund after having obtained a judgment against a negligent driver and proving that the judgment cannot be collected**
* **The maximum amount paid is generally limited to the state’s minimum compulsory insurance requirement. In addition, most funds reduce the amount paid by any amount the injured person has collected from other collateral sources of recovery, such as work comp benefits.**
* **The negligent driver is not relieved of legal liability when the unsatisfied judgement fund compensates the insured person. The negligent driver’s license is revoked until the driver reimburses the fund**.

Unsatisfied judgement funds offer the advantage of providing injured accident victims some protection against irresponsible motorists. In addition, states with such funds attempt to keep uninsured drivers off the road by suspending their driver’s license until they reimburse the unsatisfied judgment fund.

**Uninsured Motorists Coverage**

**Uninsured motorist (UM) coverage compensates an insured for bodily injury caused by an uninsured motorist, a hit-and-run driver, or a driver whose insurer is insolvent.** UM insurance is mandated in many states and optional in the rest. Most states require that all automobile liability policies contain UM coverage unless the insured voluntarily waives the coverage in writing.

Because compulsory insurance laws have not substantially reduced the number of uninsured drivers, there is potential for unreimbursed losses if a driver is involved in an auto accident with an uninsured at-fault driver.

UM Coverage, however, has several disadvantages

* An injured person may not be fully compensated for his or her economic loss
* Before an injured person can collect under UM coverage, the uninsured motorist’s legal responsibility for the accident must be established
* Property damage is excluded in many states, UM property can be added at the insured’s option
* The victim is paying for insurance to protect against the failure of others to act responsibly

**Underinsured Motorists Coverage**

**Underinsured motorists UIM) coverage provides additional limits of protection to the victim of an auto accident when the negligent driver’s insurance limits are insufficient to pay for the damages.**

As with UM coverage, underinsured motorists coverage assists in compensating victims who would not be fully compensated otherwise.

A disadvantage is that even the underinsured coverage may be insufficient to cover all costs.

**No-Fault Automobile Insurance**

No-fault automobile insurance is another approach for compensating auto accident victims. Many states have not fault auto insurance law that restrict the filing of lawsuits against at-fault drivers. Other states allow some type of first-party automobile insurance but do not restrict lawsuits.

**Under a no-fault system, an injured person does not need to establish fault and prove negligence in order to collect payment for damages. In addition, certain no-fault laws place some restrictions on an injured person’s right to sue a negligent driver who causes an accident. In some states, when a claim is below a certain monetary threshold, the injured motorists collects for injuries under his or her own insurance policy**.

**No-fault laws were developed to avoid the costly and time-consuming process of determining legal liability for auto accidents under the tort liability system. By eliminating the need to prove fault, no-fault laws allow accident victims to receive benefits much sooner after an accident and, as a result, may allow for a quicker recovery from injuries**.

No-fault laws were developed to correct what was perceived as serious defects in the tort liability system based on fault. Proponents of such laws cite these advantages of no-fault laws

* They eliminate the need to determine fault
* They eliminate inequities in claim payments
* They expand the limited scope of the tort system
* They decrease the proportion of premium dollars used for claim investigation and legal costs
* The reduce delays in payments

Supporters of the tort liability system however, present various potential disadvantages of no-fault laws:

* Assertion of premiums savings and expense reductions are overstated and unreliable
* No-fault insurance may penalize safe drivers
* No-fault benefits do not include payment for pain and suffering
* No-fault benefits may increase fraud

**2 - No-Fault Automobile Laws**

Roughly one-half of the states in the US have auto no-fault laws, which allow auto accident victims to collect first-party benefits from their own insurers. **PIP benefits are determined by state no-fault laws**.

No-fault laws authorize or mandate auto no-fault insurance – often referred to as personal injury protection (PIP) – and they define the benefits that insurers can or must provide. This, insurers in no-fault states often avoid the costly and time-consuming process of determining legal responsibility for auto accidents and instead handle claims quickly so that the injured person can be compensated for their medical expenses and lost wages.

**Types of No-Fault Laws**

**Early proponents of no-fault insurance anticipated a system using a pure no-fault law. Under this system, an injured person would not need to establish fault and prove negligence in order to collet payment for damages, regardless of the injury’s severity. A pure no-fault system would abolish use of the tort liability system for bodily injuries resulting from auto accidents.** Opponents of a pure no-fault system would argue that it would unfairly eliminate the right to certain legal actions; consequently, no state has yet enacted a pure no-fault law.

**Modified No-Fault Plans**

In contrast to pure no-fault plans, modified no-fault plans place some restrictions on the right to sue an at-fault driver but do not entirely eliminate the right.

**Under a modified no-fault plan, injured motorists collect economic losses (such as medical expenses and lost wages) from their own insurer through the PIP benefits mandated by the plan. After collecting economic losses through their no-fault coverage, injured persons can sue at-fault drivers for any economic losses that exceed the no-fault coverage limits.**

Additionally, injured motorists can sue at-fault drivers for noneconomic losses (such as pain and suffering, emotional distress, and disfigurement) if their injuries exceed a threshold stated in the law. The threshold can be either a monetary threshold (dollar threshold) or a verbal threshold (set forth in the statute).

**Add-On Plans**

**An add-on plan is appropriately named because it adds no-fault benefits to auto insurance policies, but it differs from a modified no-fault plan because it places no restrictions on the injured person’s right to sue a negligent party for damages. An add-on plan offers the insured the option of collecting for economic losses through is or her own insurer.**

**Choice No-Fault Plans**

**A Choice no-fault plan enables the insured to choose whether to be covered on a modified no-fault basis at the time the policy is purchased or renewed. Under a choice plan, insured who choose the modified no-fault option have limitation on the right to sue for certain types of auto injuries.** Insureds who do not choose the modified no-fault option retain full rights to seek compensation from the negligent party, but they pay a higher premium than those who choose the modified no-fault option.

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| **Right to Sue in No-Fault Plans** |  |
| **Type of Plan** | **Restrictions on Right to Sue?** |
| Modified No-Fault Plans | Yes |
| Add-On Plans | No |
| Choice No-Fault Plans | Only if modified no-fault is selected |

**Benefits Required by No-Fault Laws**

**Benefits required by no-fault laws typically include these:**

* **Medical expenses**
* **Rehabilitation expenses**
* **Loss of earnings**
* **Expenses for essential services (household tasks)**
* **Funeral expenses**
* **Survivors’ loss benefits**

Insurers provide no-fault benefits by adding an endorsement to an auto insurance policy, typically called a PIP endorsement (or in some states “basic reparations”).

Nearly all no-fault laws specify coverage only for bodily injury. No-fault laws generally exclude property damage for several reasons: property damage amounts are relatively small and damages are usually confined to vehicles.

Some states require that insurers offer (for an additional premium) optional benefits higher than the minimum prescribed by no-fault laws.

Efforts to combat PIP fraud – among changes being considered is one that would reduce time frames for reporting auto accidents (sometimes sixty (60) days) to allow insurers to review treatment plans earlier and avoid unnecessary treatments. Some states impose precertification guidelines for treatment of certain injuries, particularly soft tissue damage. The use of verbal rather than monetary thresholds helps avoid driving up medical costs unnecessarily.

No-fault laws typically allow the no-fault insurer to collect payments (through subrogation) from at-fault parties to the extent that no-fault benefits were paid.

**3 - Automobile Insurance For High-Risk Drivers**

**For those drivers who cannot obtain insurance from private insurers in this voluntary market, states have created mechanisms to make insurance available in a residual market (also called the shared market).**

Residual market – the term referring collectively to insurers and other organizations that make insurance available through a shared risk mechanism to those who cannot obtain coverage in the admitted market.

**Voluntary Market Programs**

**Insurers of high-risk drivers in the voluntary market accept their own applications, service their policies, pay their claims and expenses and retain full responsibility for their own underwriting results. Insurers of high-risk drivers in the residual market may accept applications and service policies, but responsibility for underwriting results is usually transferred to a pool or shared proportionately by all insurers in the market in one of several ways**.

Many voluntary insurers offering high-risk driver programs encourage insureds to drive responsibly through safe driver insurance plans (SDIPs). Under these plans, premium credits are given to insureds who have no auto accidents or traffic convictions within a specified time period.

**Residual Market Programs**

States have developed various programs for high-risk drivers in the residual market including these:

**Automobile Insurance Plans**

**Most states offer an automobile insurance plan, often called an assigned risk plan, for high-risk drivers who cannot obtain auto insurance in the voluntary market. Under state’s automobile plan, all auto insurers doing business in the state are assigned their proportionate share of high-risk drivers based on the total volume of auto insurance written in the state**.

Although State automobile insurance plans vary, they usually have common characteristics:

* Applicants must show they have been unable to obtain auto liability insurance
* The minimum limits of insurance offered are at least equal to the state’s financial requirements
* Certain applicants may be ineligible for coverage (not a valid driver’s license)
* Premiums are generally higher than voluntary market

While states use the term “assigned risk” to describe automobile insurance plans, most insurers no longer use or recommend that term. Insurers prefer to avoid negative characterization of their high-risk drivers for marketing purposes.

**Joint Underwriting Associations (JUAs)**

**The state JUA sets the insurance rates and approves the policy forms to be used for high-risk drivers. The JUA designates servicing insurers that settle claims of high-risk drivers.**

In states that offers a JUA, all auto insurers pay a proportionate share of the total underwriting losses and expenses based on each insurer’s share of voluntary auto insurance written in the state, a portion of which can be sued to compensate the servicing insurers.

**Other Programs**

A few states have enacted laws to establish a special **reinsurance facility** for high-risk drivers. **Under this pool arrangement, insurers accept all auto insurance applicants who have a valid drivers license; the insurers issue policies, collect premiums, and settle claims. However, if an applicant for auto insurance is considered high-risk, the insurer has the option of assigning the driver’s premiums and losses to the reinsurance facility while continuing to service the policy. All auto insurers doing business in the state share any underwriting losses and expenses of the reinsurance facility in proportion to the total auto insurance they write in that state**.

**4 – Automobile Insurance Rate Regulation**

All of the states in the US require drivers to comply with state compulsory auto insurance laws in exchange for privilege to legally operate an auto. For most drivers, purchasing auto insurance is the only practical way to meet those requirements; therefore, the public often perceives purchasing insurance as a right rather than a privilege.

State rating laws vary, but they generally require insurers to use rates that are adequate to pay all claims and expenses, reasonable (not excessive) for the exposure presented, and not unfairly discriminatory.

**Rating Factors**

Rating systems vary by state and also by insurer. The rating of personal auto insurance is often computerized, but insurers decide which rating factors will be automated. All rating factors and discounts and credits reflect a change in the frequency and/or severity of a loss or in some way affect the cost of providing insurance.

**Primary Rating Factors**

**Primary rating factors are the major factors that most states and insurers use for determining the cost of personal auto insurance. They include these:**

* **Territory – where used and garaged**
* **Use of the auto – Typical (pleasure and driving to work)**
* **Age – young drivers less experience**
* **Gender – in the past women tend to have fewer accidents**
* **Marital status**

**Other Rating Factors**

In addition to primary rating factors, other factors also affect loss statistics.

* Driving record
* Driver education
* Good student
* Multi-car policy
* Years of driving experience
* Credit-based insurance score
* Type of auto
* Deductibles
* Liability limits

**Other Discounts and Credits**

* Anti-theft devices
* Passive restraints (airbags)
* Reduced auto use by a student
* Having more than one type of policy with the same insurer
* Multiple years of continuous coverage with the insurer

**Matching Price to Exposure**

**Insurer often divide auto insurance applicants into homogeneous classes, or rating categories, such as “preferred,” “standard,” and “nonstandard,” that reflect different levels of exposure to loss. Applicants who have good driving records and rating factors present minimal loss exposure and are categorized as preferred. Conversely, applicants who have poor driving records or rating factors present greater loss exposure and are categorized as nonstandard and charged higher rates**.

**Competition**

**Competition for profitable automobile business is often intense among insurers**. When insures are making a profit, they often compete with each other by lowering rates. However, insurers cannot decrease rate to the point at which they cannot longer cover the cost of claims and expenses. **Because of this tendency of insurers to consider competitive cycles in pricing personal auto insurance, regulators monitor rates carefully to ensure adequacy and reasonableness**.

**Other Regulatory Issues**

**Rising Healthcare Costs**

Increases in automobile insurance rates can often be linked to that portion of the premium linked to healthcare costs.

**Environmental issues**

Environmental issues can affect auto insurance coverages and rates because automobiles are primary source of pollution emissions.

California “pay-as-you-drive” regulation enables insurers to offer consumers rates that are base on actual instead of estimated miles driven.

**Vehicle Modifications**

The growing vehicle modification business adds performance parts and styling features that can affect auto insurance rates.

Modification can increase insurance costs for several reasons:

* Modifications can increase auto values
* Modified autos can attract thieves
* Auto performance modifications can result in more severe accidents.