



Persatuan Pengguna Pulau Pinang Consumers Association of Penang

檳城消費人協會 பிளாங்கு பயனீட்டாளர் சங்கம்

10 Jalan Masjid Negeri, 11600 Pulau Pinang, Malaysia
Tel: 604-8299511 Fax: 604-8298109
email: consumerofpenang@gmail.com

Websites:
www.consumer.org.my

Letter to the Editor

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NO FAULT LIABILITY: LET THE PEOPLE DECIDE

The Consumers' Association of Penang (CAP) strongly believes that consumers will benefit from the NFL just as employees benefit from the Social Security Organisation (SOCSO) which operates on the principle of NFL. If SOCSO has been overwhelming successful for more than four decades why can't NFL.

CAP disagrees with former Bar Council chairman Kuthubul Zaman Bukhari's statement that "any move to introduce the No Fault Liability (NFL) scheme will result in motorists having to pay a higher insurance premium". His assertion is baseless.

Under the current system about 30 per cent of the premium goes to the insurance agents' commissions and management expenses. If lawyers' fees are deducted then the victim will receive less than 50 per cent.

A NLF scheme on the other hand does not charge commissions and there are no lawyers' fees to be paid. Moreover, the NFL administrative expenses would be less than 10 per cent of the amount collected as can be seen from SOCSO's audited account. Thus 90 per cent of the amount is available to compensate and rehabilitate victims and to provide them with other benefits. Therefore, on the contrary to what Kuthubul claimed, the premium of NFL should be lower.

The Actuarial Society of Malaysia had pointed out that it expected the detariffication of the current fault-based system motor vehicle insurance to cause the premium to increase. It had explained that "upon de-tariffing of the tariff and Motor businesses, the premium rates are expected to go up for Motor businesses which would result in an improvement of the motor loss ratio from the current loss making or break even position".

The operational cost of NFL would be minimal, essentially eliminating lawyers and touts from the current fault-based system. Moreover, the fault-based system often take years for victims to be compensated as a result of the long and tedious court process. In the meantime, the victim will be burdened with medical and hospitalisation fees besides having other miscellaneous expenditures which can be substantial.

Once the compensation is paid, the lawyers will charge contingency fees amounting to between 20 and 30 per cent of the award. After whatever amount remains is used to cover medical/hospitalisation bills or funeral expenses (if the victim had died), leaving a paltry sum or nothing at all is left for the family. If the victim needs long-term medical treatment/rehabilitation or if he is permanently disabled, then the victim's family might be driven into debt or financial despair.

In a 2016 report it revealed that touts would lure a relative of an accident victim by ‘giving’ about RM1,000 for expenses then requesting the victim or the next-of-kin to sign documents to commit the case to a legal firm that the touts represent. Once the compensation is obtained, the tout would impose a ‘service charge’ as high as 25 per cent of the amount besides claiming disbursements that he had spent on the case. He may eventually get as much as 40 per cent of the entire insurance claim.

NFL on the contrary ensures that motor accident victims are taken care of financially and receive medical treatment (if need be, for the rest of his life in cases of permanent disability) without having to wait for the outcome of expensive and tedious legal procedures.

NFL is an obvious threat to lawyers as an accident victim does not need them to prove that he is innocent in court to receive compensation for his medical bills.

We are of the opinion that the financial needs of the injured and the dependents of the deceased is of greater importance and has to be addressed soonest possible without having to wait for the outcome of the legal process. Prosecuting and punishing the motorist responsible for the accident can be done under the law governing traffic accidents.

Why did Bank Negara Malaysia (BNM) not recommend the introduction of the NFL scheme to the government instead of detariffication which would only serve to increase the profits of the insurance companies while leaving the exploitation of accident victims untouched?

S. M. Mohamed Idris
President
Consumers Association of Penang