



# Are These Our Neighbours?

People suffering personal injuries in vehicle accidents

*“Care for the injured and the sick”*

*Esdras book 2 2:21*

## Background

The development of varied forms of compensation through insurance is relatively recent. The risks of living and dying were for thousands of years part of the natural sequence for most people. In time the development of trading over long distances under great hazards resulted in forms of mercantile insurance. By the 19<sup>th</sup> century mercantile insurers were offering personal property and accident insurance.

### Insurance:

A contract whereby one party undertakes to guarantee another against loss by a specified peril.

In the 20<sup>th</sup> century two new factors brought major changes to insurance: a stupendous increase in the number of automobiles used by the general population, and astronomical increases in the sums of money awarded to vehicle injury claimants by courts. Lawyers in the Western adversarial legal system look for events or issues which they can take before a court on the understanding that a successful claim will be well compensated by the claimant - sometimes to fifty percent of the claim. The practice of suing to obtain compensation for civil wrongs or injuries, i.e. torts, has become known as Tort Law.

## Problems

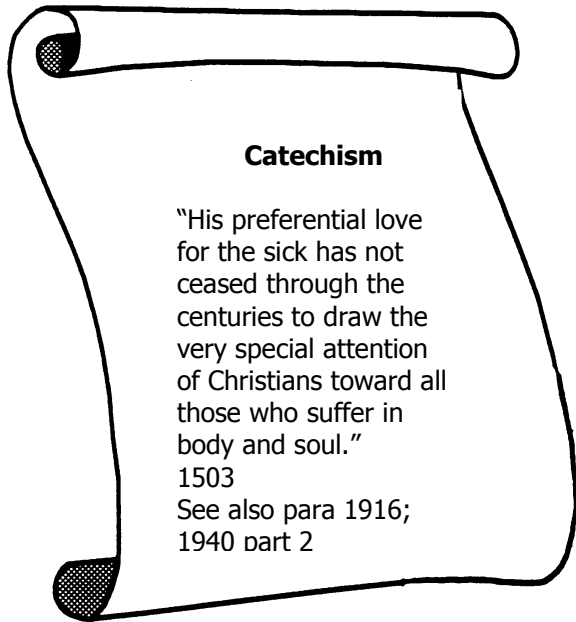
Although problems can develop in settling compensation for damage to vehicles, a more contentious issue is that of personal injury. Four components of any claim are the allocation of blame, the cost of medical care, the pain and suffering of the injured person and any degree of inability to follow a lifestyle or occupation envisaged before the accident.

People are more at risk of an accident during road travel than during any other daily activity. Despite advances in medical science, the human body is still subject to massive permanent injury during road accidents. This is in part due to the increased power and speed of vehicles without a commensurate increase in road and vehicle safety.

The problem of compensating for bodily injuries has caused difficulties in the insurance industry since court financial awards began increasing at an astonishing rate over the past several decades. The problem has been tackled in many parts of the world by use of no fault insurance. No fault insurance provides injury benefits to people regardless of the circumstances of an accident, but does not allow the right to sue for non-economic loss such as pain and suffering or the loss of a life style.

Insurance claims under Tort Law include the right to sue parties judged at fault on the chance that large sums of money can be won as compensation for pain or other wrongs. The only practical method of suing is with professional legal representation. Huge legal costs are a partial cause of the massive inflation in court financial awards.





*"The choice...is a choice of philosophies."*

*Larry Kozakevich – Insurance Brokers Association of Sask.*

### References

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Terry, Lorie, Pain Research and Management Commentary Summer 2002 [www.pulsus.com](http://www.pulsus.com)

### Speaker Resource

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### Discussion

1. What are the advantages of no fault insurance?
2. What are the advantages of tort insurance?
3. Should lawyers' fees be set at a given percentage by the Law Society?
4. Should a person be allowed to opt for either no fault or tort insurance after being involved in an accident? Why or why not?
5. Is there need for a type of ombudsman in this type of insurance to avoid the costs of using a lawyer?

### Action Suggestions

1. Explore further as a group the literature on this subject.
2. Consider what restraints can be placed on a tort system to prevent abuse.
3. Research evidence of abuses in the handling of injury recovery programs and possible conflict with medical ethics under no fault. Provide suggestions for on going monitoring.
4. Present positive recommendations to authorities and MLAs.

