

Inefficiency of currently used assessment methodology in MTPL insurance in Poland – insurer's, injured person's, and judiciary's perspective

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MTPL Insurance

financial equivalent of health (well being) lost in the car accident



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MTPL insurance in Poland

each year in Poland there are **50 000** body injuries registered in people with MTPL insurance cover

Annual cost of personal injury claims paid exceeds **1 billion PLN** (equals 260 mln euro).
This amount rises each year despite decline in number of reported claims

Medical assessment of personal claims in MTPL insurance in Poland is based on labor and civil law dated **1968**

„Tabela ZUS”

Tabela w Rozporządzeniu Ministra Pracy i Polityki Społecznej z dnia 18 grudnia 2002 r. w sprawie szczegółowych zasad orzekania o stałym lub długotrwałym uszczerbku na zdrowiu, trybu postępowania przy ustalaniu tego uszczerbku oraz postępowania o wypłatę jednorazowego odszkodowania. (Dz. U. z dnia 28 grudnia 2002 r. na podstawie art. 11 ust. 5 ustawy z dnia 30 października 2002 r. o ubezpieczeniu społecznym z tytułu wypadków przy pracy i chorób zawodowych (Dz. U. Nr 199, poz. 1673)).

Social Security Bodily Injury Table / ZUS Table

Regulations of the **Minister of Labor and of Social Policy** of 18 December 2002 concerning the **rules of assessment of permanent and long term bodily injury**, mode of proceedings in the process of its assessment and proceedings in the process of compensation lump sum payment (Journal of Laws dated 28 December 2002 in accordance to article 11 section 5 of the Act dated 30 October 2002 on Social Insurance in relation to accident at work and occupational diseases (Journal of Laws No. 199, item 1673).

Social Security Bodily Injury Table / ZUS Table

- Consist of **list** of injuries
- Concordant with human **anatomical structure**
- Prescribed **percentage** of bodily injury or loss of function
- In relation to **total body injury equal to 100%** (total invalidity)
- enables **summing up** different injuries
- valid only in relation to **accident at work** or **occupational disease**

ZUS dismemberment scale / table

□ **Clavicle**

100. defectively healed fracture of clavicle in relation to the degree of deformation and restriction on movement :

(R) 5 – 25% ; (L) 5 – 20%

□ **Shoulder**

106. habitual dislocation of shoulder documented with medical evidence :

(R) - 25 % ; (L) - 20%

Accidents at work

structure of the assessments in ZUS by location in years 2013-2014 r.

- injuries of metacarpal region and fingers 29,8 %
- other injures of upper extremity , 14,8 %
- injures of lower extremity 38%
- injuries of head and neck 4.8%
- Injuries of other locations 12.6 %

average injury 5,1%

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structure of the bodily injuries assessments by location

PTMU own studies of 3000 cases in 2015 (aggregated data)

- injures of neck region 33,0 %
- Injuries of the head 23,0 %
- injures of lower extremity 21,0%
- injuries of the thorax and abdomen 12,0%
- Injuries of other locations 11,0 %

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structure of the bodily injuries assessments by location

PTMU own studies of 3000 cases in 2015. (drivers only)

- injures of neck region 42,8 %
- Injuries of the head 25,4 %
- injuries of the thorax and abdomen 13,4,0%
- injures of lower extremity 8,7,0%
- Injuries of other locations 11,0 %

Distinctiveness of MTPL insurance – it is not only bodily injury

- ❑ Temporary inability to work (sick leave)
- ❑ Permanent inability to work (TPD)
- ❑ Health care costs
- ❑ Nursing costs
- ❑ Transport costs of accompanying person
- ❑ Convalescent home – sanatorium
- ❑ Pension annuity
- ❑ Incommodiousness of treatment
- ❑ Deterioration of QoL

Disfunctionality of the ZUS Table (introduced in 1968 , mod. in 1974 and 2002) – most commonly applied assessment standard in MTPL insurance in Poland

- **Unidimensional** assessment based on functional loss
- Restricted numbers (2) of injury types – only **permanent** and **long term** (6 months) bodily injury
- **Wide range of scale** – lack of clear guidelines regarding assessment
- Excludes assessment of **subjective claims**
- Disregards **arduousness** of treatment
- Does not take into account **changes in QoL**

Market practice of medical assessment of personal injury claims in MTPL insurance in Poland

- Lack of clear legislation regulating the claim issues of MTPL insurance
- Some Insurance Companies apply modified ZUS Tables developed for dismemberment insurance policies
- ZUS Table remains the basic benchmark for whole market

Since 1968 up to date the assessment practice in insurance – either social or commercial – is based on data provide in tabular format

Market practice of medical assessment of personal injury claims in MTPL insurance in EU countries – lack of uniformity

- ❑ **Austria** – Das Schmerzensgeld in medizinischer und Juristischer Sicht
- ❑ **Finland and Sweden** – highly specified tables but also other rules of claim payment like „no – fault” payment
- ❑ **France** – Clasification Dintilhaca -Tables - Le deficit Fonctionel Temporaire (DFT), Le Deficit Fonctionel Permanent (DFP) plus several tables for assessment of loss of esthetical function, sexual abilities etc.
- ❑ **Great Britain** – Guidelines for the Assesment of General Damages in Personal Injury Cases
- ❑ **Scotland** – Actuarial tables regularly published in of „Book of Quantum
- ❑ **Germany** – Schmerzensgeld Betrage, Schmerzensgeld tabelle....
- ❑ **Italy** – Tables - Danno Biologico (Microlesioni, Punto di invalidita), Danno Morale, Danno Esistenziale
- ❑ **Netherlands** – Smartengeldgidis – regular publications in ANWB Smartengeldboek , showing average compensation assessed by court for particular injuries
- ❑ **Spain** – Road traffic Liability Act (LRCSCVM) – Tables I,II – accidental death in traffic, Tables III,IV,V – chronic organ failure , Table VI – temporary organ failure

Market needs in MTPL insurance in Poland

- ❑ Uniform rules
- ❑ Standardization of the procedures
- ❑ Individualized but reproducible results
- ❑ Objective assessment
- ❑ Restriction on subjectivity
- ❑ Standardization of health costs acceptance procedures
- ❑ Entitlement to a permanent insurance annuity according to standardization on the procedure

Proposal of standardization of personal injury assessment in MTPL insurance in Poland

System HBT Index – Human Body Trauma Index

Project was developed under the patronage of two scientific medical association

Polish Association of Forensic Medicine and Criminology

Polish Association of Insurance Medicine



Characteristic of a new assessment system for personal claims management in MTPL insurance in Poland - System HBT Index

- ❑ **Multifactorial**
- ❑ **Tabulated but**
 - no maximal body injury value
 - 7 steps of injury severity in almost 1000 sites within the body
 - minor injuries assessment included
- ❑ **Special module to asses ;**
 - subjective claims in objective way
 - Hardship of treatment in tabular format
 - influence of injuries on QoL



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Thank you.

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