Bodily injury claims in Motor Insurance

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Lets talk about ...

• Bodily Injury claims in Europe
  – Case studies
  – "BI Landscape"

• "Moral Damages"
  – Some examples from Germany
  – Going forward

• Safety Features
  – Impact of technology on claims
Bodily Injury claims in Europe
BI Landscape
Historical background

• In the late 90th Swiss Re started to use a hypothetical victim approach to understand and analyse the development of severe bodily injury claims

• In 2004 the Swiss Re DRIVE network followed up on the idea and started to collect data regarding severe bodily injury claims

• Outcome published in "European Motor Markets" (2005, 2007)

• Model case (hypothetical victim) expanded to include paraplegic to better reflect the composition of Swiss Re's claims portfolio

• 2007: Project BI Landscape launched

• 2009: BI Monitoring project launched

• 2010: BI Landscape Tool developed
BI Landscape

Goal

• Understand and analyse the different claims components and the drivers of severe bodily injury claims

• Compile data of past and future trends to show tendencies and to enable a better predictability of future claims cost

• Identify one-off changes in legal environment leading to inflationary spikes and exceeding long term average claims inflation level and other economic factors

• Identify the cost components which drive superimposed inflation

• Increase and broaden knowledge of BI claims and their drivers for a more accurate planning, costing and reserving

• Establish a quantitative benchmark for accident victims with a severe bodily injury
Swiss Re approach
A hypothetical victim

- 30-year-old man
- average income from dependent employment
- Married with 2 children (aged 2 and 5)
- Wife without own income
- 3 pre-defined injury scenarios
  - Tetraplegic, with highest level of assistance
  - Paraplegic
  - Fatality
Swiss Re approach
Normalizing assumption

Court award and final settlement within accident year

As a consequence, results
• represent compensation levels in a specific year
• contain net present values for pension components
• are comparable (economic view)

but do not represent ultimate values

➔ Uniform and homogeneous approach across countries
Scope of BI Landscape

Countries
16 European countries
6 Asian countries

Future Scenarios
1. Baseline scenario
   - all claim components are driven by future wage index
2. Reference line scenario
   - future wage increase + average superimposed inflation past 5 to 10 years
3. Probabilistic scenario
   - extrapolation of past or future trends by single claim component
Tetraplegic, claims scenario 2*
Total claims cost

1. Loss of Earnings  
2. Assistance/care, incl. medical treatment costs  
3. Pain and Suffering  
4. Remainder

*Swiss Re Data, April 2015
Heads of damage
MTPL

• Material (non-moral) damages
  – Medical costs (medical treatment, rehabilitation)
  – Loss of earnings
  – Care cost and assistance
  – Additional needs (prosthesis, wheelchair, modifications to housing, housekeeping, etc)
  – Funeral cost, if ...
  – Alimony to family members (spouse, children, etc)
  – Legal fees (lawyers, court, ...)

• Moral Damages
  – Pain & suffering of the injured, incl. compensation for potential disfigurement
  – Non-material compensation paid to relatives
Pain & Suffering
Some principles valid for Germany

• Pretium pro doloribus = Money for pain (17th century)
• Claim to compensate for non-material damages
• Pain must be substantial (threshold)
• Compensation is hard to set, and cases can hardly be compared
• Preferably cases shall be settled out of court
• If not, numerous documented cases and tables available for reference
• Shall not offset other payments
• No deduction because of joint liability
• Claim is inheritable

Highest award so far:
700,000 €
Pain & Suffering Awards to close relatives in Germany

• Generally not available to be claimed by a plaintiff, but ...

• Discussions on all levels (social, legal, political) about introducing pain and suffering awards for (close) relatives in case of fatalities or serious injury of close family members

• According to Supreme court (BGH) rulings close relatives can claim for Pain & Suffering if he/she has witnessed the accident and/or suffers a psycho-pathologically relevant shock ("Schockschaden") and possibly other adverse health damage after being informed of the event

• "Usual mourning", however, is insufficient as a basis for such a claim

• General accordance about the difficulty to measure "mourning" and to assign a monetary value to it
Pain & Suffering awarded to close relatives
Selected cases of Motor and General TPL

• 1994: Death of daughter, 19, homicide
  
  P&S awarded to the mother: 5,000 DM

• 1997: Death of three only children of married couple in motor accident
  
  P&S awarded to the father/mother: 70,000 DM / 40,000 DM

• 2002: Death of husband, GTPL
  
  P&S awarded to wife: 10,000 Euro

• 2004: Death of wife and mother, US-citizen (!), Railway accident
  
  P&S awarded to husband/children: 15,000 € / 7,500 €

• 2012: Death of wife, age 20, Motor accident
  
  P&S awarded to husband: 3,000 Euro

• 2012: Death of a pet in a motor accident causing a nervous shock on the owner
  
  P&S awarded: ... ?
A 2012 draft proposal of a law to improve the situation of relatives of traffic victims stipulates

(1) In case of killing or injuring or causing serious and permanent damage to someone's health, the liable person shall have to indemnify close relatives of the victim for non-material ("moral") damages they have suffered as a result of the events

(2) As close relatives qualify: husband/wife/spouse, parents, and children

The legislator expects only immaterial consequences for the total claims amount, i.e. no implications for the insurance industry, especially with regard to our rate making

The insurance industry (GDV) challenges this view
Pain & Suffering
Outlook

• Supporters of the initiative point to the legal situation in other European countries, where relatives can claim damages for Pain & Suffering
  – France, UK / Ireland, Switzerland, Turkey, Greece, Poland, Hungary, Slovenia, Croatia, Serbia
  – Portugal and Italy for fatalities only

• EU-Working Group* "European Tort Law" supports the introduction of this "new" head of damage

• German council on jurisdiction in MTPL ("Deutscher Verkehrsgerichtstag") supports the initiative
  – In a ballot the majority of members voted in favour of it
  – Representatives of the insurance industry declined

• Trend to align heads of damages across Europe

*Prof. Helmut Koziol, Vienna; Prof. H-P Schwintowski, Berlin
Pain & Suffering for relatives
What we need

• It will not go away, but ...
  – It needs to be "predictable" to be reflected in the premium appropriately

• That is one of the core principles of insurance
  – Unpredictable risks can only be carried by state backed resources

• Thus: Need of a legal framework (!)
  – No strict rules, but principles
  – Codified guidelines
  – "No-surprise" policy
  – Similar to other frameworks ("Gliedertaxe", BRAGO, BAREMO, etc)

• No "predictable surprises"

... there is a parallel ...
Safety Features
Technology & Insurance

• Imagine ...
  – we stopped using seat belts in cars
  – and motorcyclists did not wear helmets any longer

• Safety features can be deceiving
  – Remember ABS
  – Most sophisticated safety feature: "Eyes on the road, hands on the wheel"

• Increasing use of Advanced Driver Assistance Systems (ADAS)

• Usage of telematic devices still rare, but growing
  – Different motivations
  – Can influence driving behaviour

• Loss frequencies likely to further decline

• Severity?
Lets talk ...
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