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November 25, 2009

PRESS RELEASE

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Third Party Laws Must Change!

The Consumer Council is emphatic that the laws on Third Party Insurance must be reformed in line with the intent and objective of the law, **which is to safeguard and protect third party victims from a vehicle accident.**

The Insurance Council of Fiji is contradicting its statement by saying - to address the real issues affecting the road accident victims is to address the "slowness of the court system". This it self indicate that there is a need to change the law so that victims receive their claim in a timely manner **without going to the court.** Why should a victim go to court to get a third party claim and not from the insurance company? Current laws are causing more pain to the accident victim, to the state in terms of court costs and the families who pick up medical bills.

The current third party policy creates a false sense of security through payment of a compulsory (annual) insurance cover which then is weaved in with various exclusion clauses in favour of the insurance companies who provide the cover. What is even more disturbing is that there is no ceiling set for the amount of compensation a victim can seek if he or she meets with an accident except for, bus accidents which is \$40,000 per bus. Since there is no ceiling under the current law makes victim knock on the door of the courts as an option to get fair compensation provided the victim can afford legal fees. Despite going to Courts, the ambiguity in law has not allowed for successful judgements as hoped for, in favour of the third party victims as seen with the trends in case law development in this area.

For example, in one case (*Ratu Peni & Others -v- Sun Insurance*), the ruling was in favour of the insurance company based on the Exclusion Clause where the third party was not awarded compensation because the driver was intoxicated. In another case, (*Sainaz Bibi -v- Sun Insurance*), the judgment was again not in favour of the third party because the policy owner did not fully disclose the intent of vehicle use.

In the case of *Pranish Chand -v- Sun Insurance*, the judgment again did not favour the third party. Here the Court made a valuable observation stating that **"the purpose of the statute is to protect the public against the consequences of negligence in the driving of motor vehicles by persons unable to meet substantial claims. That purpose may be defeated if approved insurers are permitted to avoid their liability to compensate victims of road accidents by reliance upon this term of the policies issued"**.

Clearly, these cases indicate that somewhere the true intention of having a third party insurance governed by a law of the land has not been effective enough to realise its purpose and intent to protect the victims of an accident. Therefore, why pay an insurance cover annually to insurance companies when it is not serving the needs of the vary target group it is there for?

Or why allow insurance companies to add exclusion clauses to the cover when a law has been designed with an intention to safeguard and protect third parties who fall victims of accident through adequate and fair compensation and exclusion clauses are denying that right.

What is then needed is a much clearer and firmer legislation defining a person(s) who falls in the category of a "third party" and their entitlement to maximum compensation under the law. This will avoid confusion for all concerned parties, particularly the insurance companies who will be required to pay out a decent compensation without attaching any exclusion clauses needing further interpretation from Courts.

Consumer Council is reiterating that the current laws and polices governing Third Party Insurance needs to be reviewed to ensure that there are more consistent compensation given to victims and there are no variations in judgements if the matter ends up there for action.

Foremost, such a law should be designed to ensure that there are no loopholes catering for exclusion clauses so that there is no need to go to court at all. This one stop redress system will alleviate financial and psychological stress of the unfortunate victims.

There are definitely no perfect laws but as debates and rhetoric escalates the Consumer Council wishes to bring to the attention of everyone involved that **"The Third Party Ordinance was set up to make provisions for compulsory insurance against third party arising out of the use of motor vehicles"**.

The Council's campaign initiative is largely designed to seek legal and policy reforms because the current laws governing Third Party Insurance are so ambiguous that it is difficult to clearly understand who falls within the ambit of the law to qualify for compensation as a "third party". While the current law makes it mandatory for a vehicle owner to pay third party insurance annually, neither the owner nor the third parties (passengers and pedestrians) are clear how the coverage works

It is time that all stakeholders review the intent of the Ordinance and think of the poor victims who often suffer silently.

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Mrs Premila Kumar