

The Society of Actuaries in Ireland

Personal Injuries Assessment Board – clash over whether it is the answer to motor insurance problems

Lack of reform of legal system a barrier to cheaper car insurance

“If the state requires insurance to be compulsory, it must ensure that a fair price is being charged for it,” said Dorothea Dowling, Chairperson of the Motor Insurance Advisory Board (MIAB) and the Personal Injuries Assessment Board (PIAB). Speaking at a seminar today (Friday, 22 November 2002) on Motor Insurance organised by the Society of Actuaries in Ireland, Ms. Dowling said that the establishment of the PIAB would help to solve many of the problems of the motor insurance industry, leading to a simpler, faster and more transparent system.

“What started off primarily as a concern about the cost of motor insurance has now taken on an additional dimension to improve the quality of justice for the genuine victims of negligent accidents and provide a fast-track system where they get what they are entitled to and they get it quickly,” she said.

“A referral of a case to the Personal Injuries Assessment Board under the legislation which we are introducing will be mandatory. If the case involves any issues regarding legal liability, it will get a release certificate from the PIAB and will go to the courts through the usual system.”

“If it’s an assessment only case, it goes through the PIAB and an amount of money is awarded. Each party has a period of time to accept or reject that. If a claimant decides they want to go to the court system, they will then be faced with a situation where it is not an appeal from the PIAB; they themselves go back to square one in the courts.”

“If this happened, the defendants would undoubtedly lodge in court the amount that was awarded by the PIAB at the outset, so if the claimant proceeded through the court system and got less than was awarded by the PIAB, then that claimant would be responsible for all the legal costs.”

Pat Rabbitte TD, Leader of the Labour Party, however, said that he believed the recent establishment of the PIAB would not dramatically affect the cost of cover for motorists or address the problems of young motorists in respect of getting affordable cover.

“The creation of a Personal Injuries Assessment Board is not the answer to the problem of motor insurance. There was in the last five years inordinate and inexcusable delay on the part of the Minister of State in implementing a simple, clear-cut recommendation that he inherited. Now the Tánaiste seems to believe that the Board is the solution to all our problems. It is not. It is a small reform in the scheme of things.”

“For larger more complex cases, whether in the realm of personal injury or in other areas of dispute, there are other problems of a much deeper nature. From the point of view of access to justice, there are real and perceived shortcomings in our public civil litigation system – the adversarial system. This system is in crisis. It is now hugely expensive, time-consuming, full of delays and disruptions, ever more complex and – for many people – characterised by real unfairness. A key principle, real access to justice, is utterly compromised.”

While disagreeing with Deputy Rabbitte’s view of the limited effect that the PIAB might have, Ms. Dowling, agreed with his criticism of current cumbersome legal system, highlighting the fact that people waited between four and six times longer to have their cases dealt with in Ireland than in the UK.

“There’s a lack of transparency not just in the insurance industry, but in the whole legal system at the moment. Who knows what a broken leg is worth? At the moment we give people no option but to go to lawyers to find an answer to that question.”

“In Ireland, 70% of motor cases involve a barrister compared to 1% in the UK.”

“The legal system we’ve had up to now has been unpredictable and adversarial, results depending on how well the barristers are arguing on either side or on which judge is sitting. That unpredictability does not suit either defendants or plaintiffs because why should one plaintiff get x because they come up in front of a certain judge and another plaintiff gets x minus 50%?” she asked.

Defending the stance of the legal profession, Hugh Mohan SC from the Bar Council of Ireland, also warned that the PIAB should not be seen as the panacea of all the ills that are in the present system.

“The Bar Council advocates a root and branch reform that will speed up the delivery time for cases and radically reduce costs. There has been too much focus on legal costs as being the main cause of the problem of high motor insurance costs, where any examination of the system would in fact disclose that the greater problem lies with the management of the insurance industry.”

Giving the industry viewpoint to the Society of Actuaries in Ireland seminar, David O’Connor, Risk Management Director with ALLIANZ, said there was little cause for optimism on Motor Insurance costs in the short term.

“The core issues behind expensive Irish Motor Insurance, the number and cost of accidents, remain as apparently intractable problems. They will require decisive action by Government and attitude change on the part of individuals. Reform or replacement of the compensation delivery system will be difficult to execute.”

Qualifying this however, Mr. O’Connor said that motor rates had generally reached more sustainable levels. “Successful implementation of the Motor Insurance Advisory Board recommendations as well as the prospect of renewed competition in the sector should contain premium costs over the medium term.”

The seminar was also addressed by Jimmy Joyce, Consulting Actuary with the Department of Enterprise, Trade and Employment.

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