



Second Study Commission  
Civil law and procedure

Meeting in Madeira (Portugal), November 1982

Conclusions

MAIN PRINCIPLES OF CIVIL LIABILITY FOR ROAD ACCIDENTS

1. The law of tort should, in the first instance, provide that a person injured in a road accident is entitled to be fully compensated for the pecuniary loss and injuries suffered by him;
2. In order to achieve this object, the provision of insurance for owners and drivers of motor vehicles should be compulsory and they should be liable to pay such compensation to injured parties on the basis of no fault liability;
3. The injured party should only be deprived of such compensation if he was guilty of deliberate misconduct constituting gross negligence which caused or contributed to the accident;
4. The provision of compulsory insurance should not, however, relieve a negligent insured from a certain degree of responsibility for the consequences of his actions and this can be insured by an increase of premiums for such insurance and personal liability for an ascertained proportion of such compensation;
5. Compulsory insurance should be extended to gratuitous passengers and they should be entitled to compensation for personal injuries as a minimum;
6. The insurers of grossly negligent insured shall in the first instance be liable to injured parties but shall be entitled to recover payments made by them from the grossly negligent insured;
7. The Commission recommends that institutions be established to provide compensation for persons injured by the actions of a driver of a motor vehicle who is not insured by a policy of insurance or whose identity is unknown;
8. The Commission recommends that the law, with regard to compensation in road accident cases, should be harmonised internationally and should make adequate provisions by treaty or otherwise for the payment of compensation to injured parties irrespective of their nationality and provide all necessary facilities for the transfer of currencies to ensure payment.