CHAPTER 11

Automobile Injury Reparation in England

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A. GENERAL PRINCIPLES OF THE LAW OF TORT RELATING TO AUTOMOBILE ACCIDENTS

The rights of the victims of automobile accidents in England depend on the ordinary law of torts. In practice, that means that the law of negligence is the only relevant tort. Except in one particular, there is little room for the operation of statutory negligence. That exception relates to the Highway Code, a set of directions for the guidance of persons using roads made under statutory authority by the Minister of Transport: it is enacted that failure to comply with any provision of the Code may be relied on as *prima facie* evidence of negligence.\(^1\) Apart from the Highway Code, there are of course innumerable statutory provisions concerning road traffic: about the construction and use of vehicles, about traffic infringements, and so on. When violations of statutes are held tortious in England, this is because English law recognizes a tort quite independent of negligence, the action for breach of statutory duty. If this action is to lie, the court must find an intention on the part of Parliament to confer on the victim a cause of action for the statutory violation—Parliament almost never expressly states such an intention. Here we notice a remarkable distinction between industrial accidents and road accidents. The courts uniformly hold that statutes laying down safety regulations in factories and mines impose a liability in tort upon those who violate them toward injured workmen. On the other hand, the courts have also held consistently that

\(^1\) Road Traffic Act, 1960, 8 & 9 Eliz. 2, c. 16, §74.
when motorists violate road traffic statutes, e.g., by having defective vehicles or no red rear lights at night, they do not thereby become liable for breach of statutory duty to accident victims. Why the courts read into factory legislation but not into road traffic legislation this implication of liability in tort is inexplicable. This different approach is the main reason why there are far more actions by workmen against employers arising out of industrial accidents than there are actions by traffic casualties. The workman can often succeed without proving fault; the traffic victim must establish negligence.

Where the plaintiff is guilty of contributory negligence, his claim is not thereby defeated, but the damages recoverable are reduced to such extent as the court thinks just and equitable having regard to the plaintiff's share in the responsibility for the damage: this is a general rule, which therefore also applies to road accidents. Similarly, where there are two or more wrongdoers, any wrongdoer may recover contribution from the others, the amount of contribution recoverable from any such other wrongdoer being such as may be found by the court to be just and equitable having regard to the extent of that person's responsibility for the damage.

There are no statutory restrictions on members of one and the same family suing each other for damage sustained in road accidents: parents may sue children, children may sue parents, and husbands and wives may sue each other. Nor are there any obstacles in the way of passengers suing the driver. English law has neither a family-car doctrine nor guest statutes. Nor is the doctrine of *volenti non fit injuria* applied so as to effect any important restriction on the claims of passengers: unless perhaps a passenger were to accept a ride from a driver whom he knew to be so drunk that he would be quite unable properly to handle the

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2 The Law Reform (Contributory Negligence) Act, 1945, 8 & 9 Geo. 6, c. 28, §1.

automobile, the passenger would not be deemed by the courts to have accepted the risk of careless driving.

Almost every claim for damages arising from a road accident is decided by a judge sitting alone, without a jury. This is not because plaintiffs prefer trials without juries, but because all tort actions (with a few exceptions, of which negligence is not one) are required by statute to be tried ordinarily by a judge. The Act does permit a court to allow, at its discretion, trial by jury at the request of a litigant, but in practice a request for a trial by jury would never be granted in an automobile case. No doubt plaintiffs would have trial by jury if they had the choice.

B. LIABILITY INSURANCE

Since 1930 it has been compulsory for users of motor vehicles to be insured against third-party risks; breach of these requirements is an offense punishable either by imprisonment or fine. The insurance must cover liability for death or bodily injury except to passengers and to persons employed by the insured who are injured in the course of that employment. What is required is that the insurance covers the user of the vehicle, not the personal liability of the individual driver. Thus if the user of the vehicle by the company which owns it is properly covered, it does not matter if the insurance does not cover the individual employee of the company who was driving for his personal liability to the person injured. It will be observed that compulsory insurance has no financial ceiling: the entire liability, however large, must be covered.

What is the position of the victim if the motorist has failed to carry out his statutory obligation to insure? The surprising answer is that he will still recover any damages to which he is entitled. A consortium of automobile insurers, known as the Motor Insurers’ Bureau, has entered into a formal agreement

4 Administration of Justice (Miscellaneous Provisions) Act, 1933, 23 & 24 Geo. 5, c. 36.
with the Ministry of Transport. The Bureau will satisfy any judgment obtained in respect of a liability compulsorily insurable against any person or persons, irrespective of whether covered by a contract of insurance or not, insofar as it is not satisfied within seven days after it has become enforceable. The Bureau must be notified of the litigation so that it has the opportunity to defend: in effect it then handles the claim just as an insurance company handles one against its assured. The agreement between the Bureau and the Minister of Transport confers no legal rights on traffic victims, but their de facto rights are as valuable as if the driver were properly insured. The operations of the Motor Insurers' Bureau presumably are not to be regarded as pure philanthropy on the part of insurance companies: probably the cost is merely shifted to the insured motorists in higher premiums, and perhaps the insurance companies feared nationalization of road traffic insurance by the Labour Government in office at the time if they did not sign the agreement.

Although such insurance is not compulsory, a very large number of motorists take out a comprehensive insurance which covers also damage to property, including automobiles, and liability to passengers. There are no official figures on the proportion of motorists who take out comprehensive cover beyond the compulsory third-party insurance. In parliamentary debate in 1961 the Ministry of Transport seemed disposed to accept that one-third of England's motorists (i.e., two millions) are not insured against liability to passengers; in addition almost none of its two million motor cyclists will have insurance cover for injuries to pillion riders.5

C. THE EXPENSES OF MEDICAL TREATMENT

Under the National Health Service Act, 1946, everybody is entitled to medical and hospital treatment free of charge; the

5 A "pillion rider" in British argot is the motorcyclist's passenger who rides on a saddle behind the cycle operator.
patient has to pay 2/- ($.28) for each medicine or drug prescribed.

There is a significant difference between American and English law with regard to the recovery of damages for medical and hospital treatment. In the United States it is generally accepted that the basis of recovery is the generalized value of these services. English courts are not explicit about the basis of recovery; it might be on the ground that expenses reasonably incurred in alleviating injuries are recoverable, but probably they are recoverable as reasonable expenses likely to be incurred as a nonremote consequence of the defendant's wrong. There is no support in English cases for the view that the value of the services is recoverable as such. It follows that when a person is treated free under the National Health Service he has no claim against a wrongdoer for the value of that treatment; he has incurred no expense, and therefore he has no claim. The National Health Service legislation does not empower the fund to recover the cost of medical services from the wrongdoer, and no principle of English common law supports such a right of recovery. Ordinarily, therefore, whenever a person has medical or hospital treatment under the National Health Service for injuries occasioned by a tort, the wrongdoer has to make no contribution either to the victim or to the State toward the cost of that medical and hospital treatment.

There are some special rules which affect traffic casualties only. Whenever an insurer makes a payment to a traffic victim under a road traffic policy, and that victim has, to the insurer's knowledge, received hospital treatment, whether as an inpatient or as an outpatient, the insurer is required by Section 212 of the Road Traffic Act, 1960, to pay to the hospital the reasonable cost of such treatment, not exceeding in all £50 ($140) for each inpatient, and £5 ($14) for each outpatient. This section applies to injuries to all victims covered by the policy; so that where a passenger is injured and the policy is comprehensive the insurer is
liable for the cost of hospital treatment although insurance against harm to passengers is not compulsory.

Section 213 provides that where medical or surgical treatment or examination is immediately required as the result of bodily injury to a person caused by the use of a motor vehicle on a road, any hospital or qualified medical practitioner rendering that treatment is entitled to recover 12s.6d. (\$1.75) in respect of each person treated from the person using the vehicle or his insurer. Liability under this section is incurred regardless of whether the car user has committed a tort.

These provisions were originally introduced in 1930 at a time when most of Britain's hospitals were voluntary, and dependent on charity, but they were reenacted unaltered in the Road Traffic Act, 1960. Where in fact the user of the vehicle is not covered by insurance, the Motor Insurers' Bureau does not make these payments.

Hospitals are entitled to claim under both sections, whereas medical practitioners may claim only under the emergency treatment provisions of Section 213. Medical practitioners hardly ever do submit claims. If they are in the National Health Service, they are entitled to recover under the National Health Service regulations for any emergency treatment (whether arising out of road accidents or otherwise) to persons who are not their regular patients. (There is no English decision that a doctor who renders emergency treatment to a person who is not his patient is entitled to recover from the person treated the reasonable value of those professional services.) Medical practitioners who are not within the National Health Service scheme obviously regard the sums recoverable as too small to be worth collecting. The British Medical Association has asked the Government to increase the payments, but without success.

The Ministry of Health has laid down in a memorandum detailed rules on how National Health Service hospitals are to charge for further treatment under Section 212 (it will be re-
called that the rates for emergency treatment under Section 213 are prescribed by the section itself). They are to charge inpatients in the light of the net cost of maintaining a patient at the particular hospital; a fixed rate of 12s. 6d. ($1.75) is laid down for the first attendance of an outpatient, and 3s. 0d. ($0.42) for each subsequent attendance.\(^6\) Therefore all National Health Service hospitals do claim as a matter of course for both further treatment and emergency treatment.

In 1961 a branch of the Chief Financial Officers of the various hospital management committees under the National Health Service reported the results of their inquiry into the cost of hospitals' collecting income arising under the Road Traffic Act. They made a detailed examination of the accounts of 120 hospital groups representing over a 40 percent sample of the entire country. The total income received for emergency treatment under Section 213 was £38,750, and the cost of collection £34,676, i.e., 89.5 percent. In 37 of the 120 groups the cost of collection exceeded the income recovered. The income from further treatment under Section 212 was £130,455, and the cost of collection £20,434, or 15.7 percent. The total income in England and Wales for the tested year was £357,113, about which the following estimates may be made in the light of the sampling: that £82,000 income for emergency treatment cost £73,000 to collect, and that income from further treatment was £275,000 and cost £43,000 to collect. The Report pointed out that the maximum charge of £50 for inpatients was worth 15 weeks of inpatient treatment when it was fixed in 1930; the figure has never been changed since, and now is scarcely equivalent to two weeks' hospital treatment.

The Report considered three possible reforms with regard to claims by hospitals. First, that there should be an increase in the charges to take account of the rise in hospital costs since 1930. Second, that the system of payments should be abolished on the

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\(^6\) Ministry of Health Circulars H. M. (54) 76, (55) 79.
ground that it was an anachronism since the virtual disappearance of charity hospitals. Third, that insurance companies should make annual commuted payments to the state by agreement between the companies and the Treasury, based on the past claims records of the companies. Plainly, the present system, with its very high collection costs, is indefensible. Whether the effort of shifting a loss from the state to insurance companies and thence to automobile users is worthwhile is an open question; it is certainly not obvious why there should be such a system for road accidents and not, say, for industrial accidents, where insurance, though not compulsory, is virtually universal. This inquiry shows that case-by-case collection of hospital charges can never be anything but expensive. If the system is to continue, a scheme for commuted lump sum annual payments seems desirable. Similarly, if there is any case for paying medical practitioners who are outside the National Health Service scheme whenever they furnish emergency treatment to traffic victims, the present rate is far too low.

The vast majority uses the free medical facilities provided by the National Health Service. Section 2 (4) of the Law Reform (Personal Injuries) Act, 1948, provides as follows:

In an action for damages for personal injuries (including any such action arising out of a contract) there shall be disregarded, in determining the reasonableness of any expenses, the possibility of avoiding those expenses or part of them by taking advantage of facilities available under the National Health Service Act, 1946. . . .

If then a plaintiff has incurred medical or hospital expenses before trial, he will be able to recover them even though he could have obtained free facilities under the National Health Service Act, provided that the expenses are in other respects reasonable. A plaintiff who gives evidence that he intends to have his future treatment outside the National Health Service scheme is entitled to the full estimated expenses discounted to their present worth. The test of reasonableness of the expenses is
objective so that the plaintiff's station in life and his means must be ignored; and even if he states that only in the event of his winning the action will he go outside the scheme, he is still entitled to that full estimated expense.

In view of this predominant reliance on the National Health Service, private medical insurance is not taken out by many. Rather less rare is accident insurance whereby specific sums are payable for defined disabilities, e.g., the loss of an eye or a leg. In the leading case of Bradburn v. Great Western Ry., it was held that a sum received by the plaintiff in respect of such an accident insurance policy cannot be applied in reduction of the damages awarded to him for his personal injuries. It follows therefore that the insurer has no claim against the wrongdoer, who cannot be required to pay twice; nor is the principle of subrogation applicable to accident insurance. There is no decision on the proceeds of a medical and hospital insurance policy, as distinct from an accident policy, no doubt because such policies are few. Notwithstanding the general antiplaintiff attitude of the English courts on questions of damages (typified by a recent decision of the Court of Appeals that sums received by an American serviceman by way of disability pension must be deducted from an award of damages), it is thought that Bradburn's case would apply so that the plaintiff could recover his entire damages without deduction for the sums payable under a medical and hospital policy—the fact that the plaintiff has incurred a contractual obligation to the doctor should be enough to make them recoverable as medical expenses incurred by him. In that event, once more the insurers would be precluded by the double recovery rule from claiming against the wrongdoer.

D. Lost Income During Disability

Established civil servants, some other employees in public serv-

7 [1874] L. R. 10 Ex. 1.
ice, most persons holding administrative posts in private industry and many other white-collar workers will be entitled to a continuance of their salary or to a reduced amount of pay for some weeks each year during which they might be disabled through injury, whether sustained in road accidents or otherwise. Very few manual workers have such rights, although no doubt employers occasionally make *ex gratia* payments to long-service employees in great distress. No statistics are available, but it would be surprising if more than one half of the working population were entitled to receive salary or wages from their employers while off work through disability.

Britain has a comprehensive system of social security, the funds for which are provided in part by employees, in part by employers, and in part by the State. When a workman is injured in the course of his employment, he becomes entitled to industrial injury benefit for the first six months of his incapacity. When industrial injury benefit expires (after six months) he will then claim sickness benefit. If he has sustained some permanent or substantial loss of faculty, he will also be entitled to industrial disablement benefit, the rate of which is increased when constant attendance is necessitated. The rates of industrial injury and sickness benefit are uniform (regardless of the loss of earnings) and are increased where there is a dependent wife or children. About 10 percent of sickness benefit recipients will succeed in having these benefits supplemented by national assistance benefits on the ground that their needs cannot be met by sickness benefits alone. It would be pointless to state in detail the amounts of these various items of social security, all of which are weekly cash payments. In summary, from the wealth of statistical material available, one concludes that total benefits payable to men off work average rather less than one-third of the average weekly

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9 The "course of employment," as in the United States, excludes the ordinary trips between the worker's home and place of employment.
earnings of the male fully employed in industry. These social security benefits—whether for "industrial injury" or for "sickness"—provide no more than the bare minimum for subsistence at a very low level.

As we have observed, some take out private insurance to provide them with a lump sum in the event of specific forms of disability. It would be very rare for a victim of a road accident to be entitled by insurance to periodic payments in lieu of salary or wages for the duration of his disability. Charity is an even less important source of subsistence and can properly be ignored for this purpose.

If an employer who was under no prior contractual obligation to do so makes a loan or advance of wages to a disabled employee on the understanding that the employee will repay if he recovers it from a wrongdoer, the defendant is not entitled to deduct that sum from damages awarded against him. On the other hand, no English case has held that the employee can recover in full where the employer has contracted to pay money to his employee during his incapacity. In the present mood of the English judges, it is to be feared that they would deny the employee any such recovery; they would gladly seize on the argument, however fallacious, that his claim is for loss of wages, and that he has lost no wages when his employer has paid them during his disability. At the same time the Court of Appeals has held that where the plaintiffs were compelled by statute to pay an injured policeman at his ordinary rate of pay so long as he remained a policeman, they could not recover in quasi-contract or restitution from the wrongdoer who disabled the policeman those sums paid by them to the policeman. At one time the employer had another means

10 For a detailed working out of this from the Annual Abstract of Statistics by the Board of Trade, the Digest of Statistics Analysing Certificates of Incapacity by the Ministry of Pensions and National Insurance, the Census of Population Statistics, and the Ministry of Labor Gazette, see Street, Principles of the Law of Damages (1962), Chapter 5.


of redress in the shape of an action for loss of services in which these payments could be treated as an element of damage. Recently, however, the courts have gone out of their way to extinguish as many of these relational torts as possible, and they have taken the entirely new line that the action for loss of services is an anachronism to be confined to loss of the services of menial or domestic servants. There is a windfall for the defendant whenever he is fortunate enough to choose a victim whose employer is contractually bound to pay his wages: neither the employer nor the employee can recover them from him.

There is one expedient whereby the defendant can be made to pay. The Scheme of Conditions of Service of the National Joint Council for Local Authorities' Administrative, Professional, Technical and Clerical Services illustrates:

An officer who is absent as the result of an accident shall not be entitled to an allowance if damages are receivable from a third party in respect of such accident. In this event, the authority may, having regard to the circumstances of the case, advance to the officer a sum not exceeding the sickness allowance provided under this scheme, subject to the officer undertaking to refund to the authority the total amount of such allowance or the proportion thereof represented in the amount of damages received.

This provision seems fully effective to ensure that the employee receives his entitlement and that any tort-feasor responsible ultimately bears the loss. But there is no evidence that it is widely used outside the local government service. None of the precedents of service agreements in industry contained in the standard books has any such provision; regulations for civil servants are equally silent on the point. Therefore, in the large majority of cases where employers pay earnings or sick-leave allowances to the victims of

14 March 1958, para. 16 (3) (f).
When Britain's pattern of social security arrangements was drastically overhauled at the end of the 1939-45 war, there was controversy about the relation between social insurance and tort liability which led to the setting up of a committee by the Government. This Department Committee first pointed out in its Report\(^{15}\) that the scale of social security benefits would remain much below the amount of damages recoverable at common law so as to make a common-law action still worthwhile. There was a conflict on the Committee whether an injured person would recover both his social security benefits and his common-law damages. The majority reported that the same need would be met twice over if both were recoverable. The minority, consisting of trade union interests, argued that there was a close analogy between social security and private insurance, and dismissed as unimportant the risk of excessive litigation. The government compromised by enacting the following provision in the Law Reform (Personal Injuries) Act, 1948:\(^{16}\)

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\begin{align*}
(1) \text{In an action for damages for personal injuries (including any such action arising out of a contract) there shall in assessing those damages be taken into account, against any loss of earnings or profits which has accrued or probably will accrue to the injured person from the injuries, one half of the value of any rights which have accrued or probably will accrue to him therefrom in respect of industrial injury benefit, industrial disablement benefit, or sickness benefit for the five years beginning with the time when the cause of action accrued.}
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This section makes no reference to unemployment benefit. In the one first instance decision on that, the plaintiff claimed damages for loss of wages; although his injuries did not render him unemployable, it was assumed that they had caused him to be

\(^{15}\) Cmd. No. 6860 (1946).

\(^{16}\) 11 & 12 Geo. 6, c. 41, §2.
unemployed up to the date of trial. The trial judge deducted in full from the special damages for loss of wages the unemployment benefit received by him.\textsuperscript{17} Whether this decision will be followed is uncertain.

The Act of 1948 made no provision for the social security fund's obtaining any recoupment of the one half portion of benefits, and the common law does not permit such a recovery.

\section*{E. Damage to Property}

We have seen that a considerable number of motorists take out comprehensive insurance under which damage to the insured's automobile and any other vehicle is covered. The insured will then be indemnified to the full value which he has declared in respect of his own automobile, and will be covered without limit in respect of automobiles and other chattels of third parties which he damages.\textsuperscript{18}

Insurance companies have knock-for-knock agreements with each other whereby they never litigate in respect merely of damage to automobiles when each vehicle is insured. So accepted are knock-for-knock agreements that bodies like the Crown which do not have to insure their own vehicles have similar agreements with insurance companies in respect of collisions between Crown and private vehicles. These agreements are obviously an important factor in reducing the expenses of automobile insurance. Nonetheless, the commission and expenses of automobile insurance are more than 50 percent of the sums paid out on claims and about one-third of the gross premiums paid.\textsuperscript{19} Knock-for-knock agreements are unpopular with motorists, who often complain

\textsuperscript{17} Lindstedt \textit{v. Wimborne SS. Co. Ltd.}, [1949] 83 Lloyd's List L. R. 19.

\textsuperscript{18} British collision insurance is usually subject to no "deductible," or to a deductible of, at the most, five pounds (about $14.00). The usual policy form contains no indemnity limit other than that imposed by the value of the designated automobile.

\textsuperscript{19} The Insurance Companies Act, 1958, 6 & 7 Eliz. 2, c. 72, requires the annual publication by Her Majesty's Stationery Office of Statistics which include the items set out in the text.
that they are deprived of their no-claims bonus (reductions in annual premiums when no claim is made on the insurers) by settlements for accidents in which they were free from negligence.

Where the owner of the damaged vehicle has comprehensive cover but the owner of the other vehicle involved has not, he will obtain indemnity from his insurers, who will elect whether to pursue their subrogated rights against the other driver. A comprehensive policy normally insures baggage in the automobile up to a certain limit. Separate baggage insurance for baggage carried in one's own automobile is rarely effected. A comprehensive policy will cover damage to the clothing of third parties, but not to the clothing worn by the insured.

**F. Immediate Sources of Relief**

The problem of directly paying hospital bills does not arise for the average British traffic victim, for, as we have seen, he will receive his entire treatment free of charge under the National Health Service. If his car is comprehensively insured, he will normally proceed forthwith to have the necessary repairs to it carried out, leaving it to his insurers to meet the garage bill and to negotiate with the other driver or his insurers. Sickness benefit or industrial injury benefit is payable weekly and at once from the local office of the Ministry of Pensions and National Insurance, so that the bare subsistence needs are met throughout the victim's incapacity. He may also obtain national assistance to take account of inescapable additional financial burdens such as house rent. Still, it is obvious that pending satisfaction of any claim in tort the ordinary victim of a road accident will either have to draw on his savings (if any) or else reduce his living standards, for most of these victims will have neither private insurance nor sick pay.

Delays in litigation are not serious. If the claim does not exceed £400 ($1120) the local county court has jurisdiction, and there is no reason why the victim should not have judgment in three to six months from the accident. Claims above that
figure are tried in the High Court (unless both parties accept the county court as the forum) where the gap between accident and trial is more likely to be a year. Settlements are of course much more numerous than trial verdicts, and it is impossible to estimate the average delay between accident and out-of-court settlement. The very comprehensive national system of legal aid available for most actions (including automobile accidents) is relevant here. No litigant need be constrained to accept a harsh settlement or deterred from undertaking litigation because he lacks the necessary capital resources to initiate proceedings. Even if he loses, a legally aided person does not have to pay the legal costs of his opponent. The only category of plaintiff who is in a dilemma about whether to sue is the man who falls outside the fairly generous financial means test of Legal Aid, but who is not assured of success in his action: if he loses, he will have to pay not only his own costs but those of his opponent. (The system of contingent fees is forbidden.) He too is likely to be tempted by an offer of settlement, for if the defendant pays into court a sum by way of settlement which the plaintiff rejects, and, although the plaintiff then succeeds at trial, he is awarded a sum of damages less than that paid by the defendant into court, the plaintiff will still have to pay his own and the defendant’s costs since the date of that payment in. The legally aided plaintiff will receive all the damages awarded to him by the court. Other plaintiffs, because of the rule that the loser pays the winner’s costs, will rarely have more than £100 ($280) deducted for any additional expenses not to be borne by the defendant.

G. GAPS IN THE PROVISION FOR THE ACCIDENT VICTIM

Facilities for medical rehabilitation of traffic victims are adequate. Physiotherapy falls within the ambit of national health service hospitals and is amply available to all free of charge. Vocational rehabilitation is a matter for the Ministry of Labor, which has regional centers throughout the country providing free
residential services. At the same time, many doubt whether these facilities for vocational rehabilitation are as good as they should be. It is therefore doubtful whether accident victims can rely on obtaining all the useful vocational rehabilitation which they require. In theory they would be entitled to make fee-paying arrangements for private training and debit it to the defendant, but this rarely happens, especially because no such network of fee-charging institutions exists.

I have shown elsewhere that the level of damages in personal injury actions in England is inadequate. This is particularly true of the permanently and totally disabled, who will rarely receive full compensation for the loss of their future earning capacity: they will be fortunate if their total damages, i.e., including those for pain, suffering, and loss of amenities, equal their loss of earning capacity, and tax is always deducted in calculating earnings loss. The permanently partially disabled are also undercompensated, though by a lesser amount than the totally disabled. The lot of both is grave if they are to live out their lives in an era of inflation, for not only are the judges prone to undercompensate on the existing data, but they also make no allowance for future diminution of the pound's spending power. All damages are in the form of a lump sum, and there are no official facilities for managing these capital funds put in the hands of victims. There has been no research into the post-award careers of these disabled recipients, but it would be very surprising if many of them do not squander the sums awarded and live their lives in conditions of poverty dependent on state assistance for subsistence. The state, through the courts, does control lump sum awards to widows and infants, but it has been inept in its investment management. For instance, the High Court had lost 56 percent of the purchasing power of awards made in 1947 by some ten years later, and the court even lost 27 percent of the capital value of awards made in 1954 within the next four years.

H. Effects of Non-Tort Reparation on Tort Suits

England’s annual *Civil Judicial Statistics* is a meager document which does not make an independent breakdown of tort suits arising out of road accidents; insurance companies do not furnish any figures; no research on it has, it is believed, been carried out. In 1961 the Ministry of Transport stated that it had no information about how many traffic victims went uncompensated. Consequently, nothing is known about the number of suits relative to accidents either now or in any given previous year. It is a safe guess that the number of suits is very much smaller in relation to population and traffic density than in the United States. There are several possible reasons: the free medical and hospital services and the social security benefits normally ensure that the ordinary traffic casualty is not driven into debt; knock-for-knock agreements take care of much automobile damage; the level of awards is so much lower that litigation has little “gambling” attraction; the traffic victim will certainly not be touted by any lawyer or his representative, with a “contingent fee” bait; nor, unlike his fellow victim at work, will he have a trade union legal department at hand to take over his litigation; perhaps the unsophisticated Englishman is less claims-conscious than the American. There does not seem to have been any recent change in the relative number of suits by traffic victims.

I. Conclusion

Perhaps the main conclusion to be drawn from this report on how automobile accident victims fare in England is how little is known about the subject and how little interest has been taken by lawyers in it. The obvious legal problems, such as: Should there be liability without fault for automobile accidents? arouse singularly little discussion. Neither lawyers nor social scientists have made factual investigations into financial provision for victims of the kind carried out by Columbia University and now the University of Michigan. Nothing is published about solutions
attempted in other parts of the world. How much data motor insurance companies have accumulated and analyzed is unknown; they are notoriously coy at publishing information bearing on damages arising from traffic accidents. It would be wrong to assume from this that there is no problem in England; it simply has not been faced.