Implementing A No-Fault Scheme For Motor Vehicle Accidents In Malaysia: Issues And Challenges

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ABSTRACT

Experiences with the operation of the traditional tort law as a personal injury compensation mechanism have convinced many jurisdictions of its incapability to function as a fair, just and effective regime in addressing many of the concerns and plight of injured victims of motor vehicle accidents. In Malaysia, calls for reform of the civil justice system made in good faith from concerned individuals and consumer rights groups have existed since the early 1980s and they insisted for the replacement of the present system with an appropriate statutory no-fault compensatory model. Under the new scheme benefits to the injured would be provided automatically regardless of who was responsible for the accident thus avoiding the need for costly and potentially stressful and lengthy litigation to obtain compensation. Social justice and community care for the beneficiaries of the scheme are the essence of modern no-fault systems which have taken precedence over conventional notions of individual responsibility and morality that underpin the present fault-based structures. Nonetheless the question arises whether the workability of the scheme in other jurisdictions would produce a similar impact in the Malaysian context. There are obviously a number of practical considerations that need to be taken into account before implementing an alternative compensation scheme. This article aims to examine some of the principal issues and challenges that are likely to be faced with the implementation of a no-fault compensatory model for injured road users. It also attempts to address several concerns and doubts as to the viability of implementing such a scheme in Malaysia.

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INTRODUCTION

Tort law has dominated the compensation mechanism for motor vehicle accident victims in this country. The mechanism has been widely adopted by legal systems throughout the common law jurisdictions to determine liability and assess compensation in personal injury cases. Under this system, an unsuccessful claimant is left completely uncompensated for his injuries and losses. Learning from the experiences of these countries, it has now become evident that the system on its own has failed in addressing the major concerns of personal injury victims of motor vehicle accidents and by and large the public appears to have lost confidence and faith in its capacity to function as a satisfactory compensatory model. Riddled with weaknesses and injustices it has led to abundant and frequent criticisms leveled against it, such as the: prolonged delays in obtaining compensation; ineffectiveness of tort law’s deterrent element; unsatisfactory coverage of the mandatory third party liability insurance; risks and uncertainties involved in litigation; a reduction made in awards to reflect the claimant’s share of liability; inaccuracies present in the “once-and-for-all” lump sum awards; strict court rules and procedures; absence of rehabilitation of injured claimants; and exorbitant costs involved in the administration of the scheme have been some of the arguments frequently raised against it (NaemahAmin and Nicholson, 2013).

A growing discontent with the present tort regime in its unaltered form as an unacceptable compensatory system in addressing the concerns of injured victims has developed among nations. Calls for a fresh approach to these problems were considered necessary (Woodhouse Report, 1967). Law reform was crucial to meet society’s changing needs and expectations. This moved governments in a number of countries to intervene and implement measures that either completely abandoned or often limited the application of common law principles with an appropriate alternative compensation model. Emergence of statutory no-fault compensation...
schemes shifted emphasis from the payment of benefits to victims of negligent conduct on the basis of fault to one that was based on resulting injury and losses suffered by the unfortunate victim. The implementation of the schemes in countries such as New Zealand and Australia has been generally considered to be a success and exemplary models for other jurisdictions (Todd, 2002).

In the Malaysian context, no-fault compensation schemes are not something that is new to the society. Workmen’s compensation schemes for industrial accidents and occupational diseases (SOCSO) have been known to apply no-fault liability principles and offer statutory benefits to all injured workers. Under the Employees Social Security Act 1969, an insured worker and/or his dependants are covered under the Act for personal injuries or death suffered during the course of his employment regardless of fault or negligence on the part of the injured worker. The SOCSO scheme was clearly a ‘no-fault liability’ compensation scheme. In return for guaranteed benefits offered by the Scheme, the Act had completely extinguished the common law right of an employee or his dependants to recover damages from his employer in respect of an employment injury. Similarly, the Workmen’s Compensation Act 1952 has incorporated ‘no-fault liability’ principles where the general object of the Act is to provide payment to the injured workman irrespective of the workman’s fault. Essentially, in the pursuit of social justice and for the advancement of collective or community care and responsibility for the members of its society, an alternative compensation model constructed on the concept of no-fault liability can be trusted to surmount the many shortcomings of the tort system. Individual rights and freedom of choice would have to be compromised for the greater good of the community.

Proposal for Reform:

There have been numerous proposals urging for the implementation of a better and fairer compensation mechanism for victims of motor vehicle accidents in the nation. Calls for the reform of the civil justice system made in good faith from concerned individuals and consumer rights groups have existed since the early 1980s. Azther Singh (1981) had identified a number of failings observed in the present system of compensation and called for its replacement with “No-Fault Insurance Law”. Similarly Harun (1995) suggested that an alternative scheme based on no fault liability be established to compensate road accident victims. A statutory fund will have to be set up under the scheme where victims will be automatically compensated and paid out of the fund regardless of fault. Zaid Ibrahim (2004) was of the view that such a scheme “can only serve to bolster public confidence… at the same time we will solve the backlog of accident cases and give the public a reprieve from unscrupulous lawyers who charge excessive fees”. The Consumer Association of Penang (CAP) (2011), a strong campaigner of consumer rights in the country, in expressing dissatisfaction with the present fault based scheme, reaffirmed its position that the fault based liability scheme will not benefit accident victims and should be scrapped. They have asked the Government to put the interest of road accident victims above that of private interest parties which supports such a scheme that continue to profit them financially.

The constant wave of proposals for change were influential in moving the Government in 2007 through its Attorney-General to consider a statutory no-fault liability scheme for motor accident victims where those injured can be expected to receive prompt benefits regardless of who caused the accident and without having to go through the formalities of having to file a claim in court. Initial minimum payments that may be made within a week of the claim being filed under the Scheme will assist the injured person in the immediate aftermath of the accident. It would provide fair and expeditious relief to the injured person at a time when the victim needs it most thus allowing him to maintain a reasonable standard of living. The object of the scheme is to reduce the burden of the people. The Attorney General noted that under the present scheme it takes several years for victims to obtain justice through the courts and finally, the compensation that is received forms only a fraction of what the injured claimant is entitled to. He also stressed that under the present fault-based system a failure to establish fault leaves an innocent victim without a remedy, adding that the proposed Scheme will remove completely the option of a civil action. While acknowledging that the quantum of benefits will probably be less than would be awarded in a civil action, he noted that if one considers the costs of litigation, payment of the lawyer’s fees and the lengthy wait for compensation, the proposed Scheme would certainly be more beneficial to the injured claimant. The source of funding of the scheme, although it was yet to be determined, is likely to come from comprehensive motor vehicle insurance premiums that cover everyone, including the vehicle owner. Besides, he was convinced that insurance premiums would tend to be lower as less money would be needed to be spent on legal and administrative fees. The move will also reduce the present backlog of cases clogging the courts (AnizaDamis, 2007).

However, owing to a number of objections to the proposed scheme raised by private insurance companies, the Road Transport Department, the Minister of Finance and the Bar Council of Malaysia, the idea was shelved. The Bar Council, in response to the Attorney General’s proposal, suggests to find solutions within the system by improving it rather than to look outside the system. The Council also expresses its concerns and reservations to the scheme and argues that the new scheme will only turn the queues away from the courts and to the offices of the bureaucratic machinery especially with the anticipated increase in claims arising from the no-fault system (Ambiga, 2007). The Council did however recognise that a major grievance of the claimants under the
present fault-based scheme has been the inordinate delay in obtaining compensation which the Council attributed to a number of factors, such as, the large number of cases pending in courts, obtaining relevant documents such as the Road Transport Department’s confirmation, police documents, and medical reports delay by insurers in making offers of settlement and even in paying the judgement sum necessitating the need to file separate recovery proceedings, problems of dual representation of the claimants, delay in lawyers prosecuting claims, and delays caused by the filing of interlocutory applications and appeals. Despite the complaints from consumer groups against the exorbitant fees charged by lawyers, the Council appeared to be confident that the problem could be resolved by the introduction of scale fees or a structured contingency fees system for motor accident cases.

Opposition to the scheme can also be expected to come from other groups who find that the introduction of the scheme is likely to harm their financial interests. One such interest group are the private insurance companies who, under the proposed scheme, would no longer be allowed to issue compulsory third party motor vehicle insurance policies to cover third party risks for personal injuries and death. Their role would be undertaken by a statutory commission created by the proposed Accident Compensation Act which will be conferred the sole issuing authority for all no-fault compulsory motor insurance policies, not limited to third party cover and neither would coverage under the scheme be subject to the negligence of a driver as a pre-condition to statutory entitlements. However whether there is convincing reason for insurance companies to be fearful of going out of business is highly debatable. Obviously the insurers would still continue to be at liberty to issue comprehensive motor insurance policies covering theft of vehicles, property damage to the insured’s vehicle and third party vehicles. One can also anticipate a rise in top up coverage for personal accidents as people are encouraged to take additional insurance to protect them from losses resulting from personal injury and death. Other concerns and reservations to the scheme include a potential lack of country’s affordability due to large national population, increase in road accidents and fraudulent claims. The following discussion attempts to address these concerns and doubts as to the viability of implementing a no-fault scheme in Malaysia.

Viability of Implementing a No-fault Scheme:

While adopting a no-fault compensation scheme for Malaysia would seem to be a preferred and attractive option in the light of the present ill designed tort mechanism for injured road users, there are nevertheless a number of practical considerations that may have to be taken into account when assessing its viability for the nation.

Population:

There have been doubts whether no-fault schemes that have been adopted in states with a much smaller population would equally be financially feasible for its implementation in a nation with a much larger population. The size of the population in Malaysia is considerably larger if one were to compare to New Zealand or the State of Victoria or the Province of Quebec where similar scheme are currently in operation. New Zealand, for instance, has a national population of only 4.5 million. However, the provinces of Quebec (8 million) and Ontario (13.5 million) in Canada with a combined population size of 21.5 million people that make up about 62% of the Canadian national population of 35 million apply no-fault arrangements. In Australia, currently the states of Victoria, Tasmania, Northern Territory and New South Wales apply no fault principles for motor vehicle accidents. These states collectively have a combined population of 13.65 million which account for about 60% of Australia’s total population of 23 million. Inspired by the successes of their respective State models, it has recently been reported that steps are being undertaken by the Federal Government of Australia to design and operate a common scheme based on no-fault arrangements throughout the nation. Measures have also lately been put in place by the Australian government to introduce a National Injury Insurance Scheme that would provide lifetime care and support services on a no fault basis to all persons who have a catastrophic injury as a result of a motor vehicle accident. The scheme to be set up by the end of 2013 would provide reasonable and necessary attendant care services; medical and hospital treatment and rehabilitation services; home and vehicle modifications; aids and appliances; educational support; help for people to have a greater role in the workforce and socially; and domestic assistance. It will be funded from existing insurance premium income sources and from local rates (Productivity Commission, 2011).

The size of the Malaysian population should not therefore be viewed as a hindrance in the implementation of a no-fault scheme. With a population of about 28 million, it is not relatively far off in comparison with the size of the populations of Australia and the combined populations of Quebec and Ontario where no-fault schemes have been successfully applied. What is more important is to be able to put in place proper structures that would facilitate effective and efficient management of a scheme for cater to a slightly larger population.

Eligibility Criteria:

Doubts have also been expressed whether the Malaysian public has attained that level of social consciousness to accept a scheme which extend the same benefits to all injured persons without making a
distinction between the offending negligent driver and his innocent non-negligent victim (Ambiga, 2007). Concerns have been raised that the no-fault scheme treats all victims who suffer injuries as a result of their own negligence in the same manner as the victims who are injured through the negligence of others. It is true that the proposed scheme promises to provide benefits to all persons who have suffered personal injury, and in the case of death, loss of dependency or support benefits, as a result of a motor vehicle accident occurring within the territory of Malaysia. The statutory entitlements are provided automatically regardless of who was responsible for the accident thus avoiding the need for costly and potentially stressful and lengthy litigation in order to obtain compensation.

Nonetheless, the scheme’s coverage is subject to certain qualifications. The proposed scheme will exclude benefits to an injured person who was involved in an accident as a driver or passenger in a motor vehicle while participating in an organised motor-car race or a speed trial. Where the injured person was involved in an activity that is dangerous he must be understood to have freely and voluntarily consented to the obvious risks that flow from the person’s participation and would therefore be expected to have provided personal protection against such incidental risks. Moreover, it is often the contractual duty of event organizers to shoulder responsibility for such foreseeable risks of harm resulting from such an event and provide the injured participants the necessary cover. The same principle would extend to apply to a person who engages in conduct that creates a substantial risk of injury and recklessly ignores that risk, notwithstanding whether the injured person is a driver, passenger, pillion rider, pedestrian or cyclist. It would include offences for causing death by dangerous and reckless driving under the Road Transport Act 1987 as well as circumstances where the accident results while the vehicle was being used in the commission of a crime. It is an offence to drive while under the influence of intoxicating liquor or drugs and where the injured person is convicted of such an offence under the Road Transport Act 1987, he or she will not be entitled to certain benefits like loss of earnings while other benefits like medical and rehabilitation benefits will be reduced.

In circumstances where compensation is payable under the Employees’ Social Security Act 1969 to a person in respect of an injury or death resulting from a motor vehicle accident which have arisen in the course of employment, the claimant will be excluded from similar benefits under the scheme. Compensation under the SOCSO scheme covers accidents that happen while travelling to and from home to an employee’s place of employment. The same prohibition will apply to exclude the case of a workman who receives comparable benefits under the Workmen’s Compensation Act 1952. On the other hand, where an injured person receive contractual monetary benefits or compensation from a personal accident insurance policy taken from a private insurer in addition to the statutory benefits provided under the Scheme, the value of such contractual benefits will not be taken into consideration when assessing the compensation to be paid by the scheme.

Benefits will also be excluded to persons found driving an unregistered or uninsured motor vehicle on private land. Coverage under the proposed Scheme is limited to injuries that result from an accident on a public road which is accessible to all motorists and may be excluded where the registration fee or road tax has been unpaid for a period six months or more or where the driver was unlicensed or the vehicle uninsured. Although the proposed Scheme guarantees minimum benefits to every person injured in a motor vehicle accident regardless of fault it does at the same time offer innocent non-negligent claimants the opportunity to pursue further a tort claim in court for supplementary damages for pain and suffering and loss of enjoyment of life benefits that are excluded from the statutory Scheme. The access to common law damages is however restricted to those non-negligent injured road users who have suffered “serious injuries”, thus eliminating all cases involving minor injuries which are dealt with on a no-fault basis. Both injured victims of an accident are not treated alike. The innocent claimant gets more out of the Scheme than his negligent counterpart.

**Funding:**

One of the main concerns of the new scheme lies with its source of funding. The Government must be convinced that the Scheme is to be financed from funds that come from sources that are justifiable without unnecessarily burdening its citizens. For the purposes of financing the cost of operating the scheme, a fund will be established. The funds will comprise of money earned from the sale of motor vehicle accident insurance policies; money earned from any property, investments, mortgages, charges or debentures acquired by or vested in the Commission; indemnities recovered from any persons or companies; appropriations from the Government; fuel tax and all other sums or property which may in any manner become payable to or vested in the Commission in respect of any matter incidental to its powers and duties. A major part of its funds will come from the purchase of insurance policies by motorists when they register a motor vehicle in the Federation of Malaysia. The insurance policy will be issued by the Commission which undertakes to cover the insured policy holder and those driving the insured vehicle with his express or implied permission against injuries and death arising from a motor vehicle accident. The policy will extend to cover injured passengers and pillion riders, in the event of a motor vehicle accident.

However, liability insurance for damage that is caused to the insured’s motor vehicle and damage caused to another’s motor vehicle or property, including theft of a person’s motor vehicle will not be covered by the
Deterrent Effect and Accountability Mechanism:

It had been argued that under the present system, insurance companies present a deterrent element by raising the premiums of motorists who are found to be at fault for accidents and that the no-fault scheme will find it difficult to tie premiums with driving behavior. Moreover, when people know that they will be compensated in any event, ‘there is a propensity to throw caution to the wind’ and hence there will be more accidents (Ambiga Sreenevasan, 2007). Historically, these arguments have been challenged when the tort of negligence was first introduced to deal with motor vehicle accidents. By threatening people to pay for the harms that they have caused, tort law forces them to take the interests of others into account and thus succeed in preventing injuries by deterring dangerous and harmful conduct (Stephen D. Sugarman, 1985). However, in contemporary era there exist contrary points of view that tend to challenge the validity of these beliefs. Two primary reasons have been advanced to explain why the deterrent function under tort liability may not be relevant in the area of motor vehicle accidents. First, the penal sanctions regulating the behaviour of road users that are found both in the Road Transport Act 1987 and in the Penal Code. It is more likely that the threat of
punitive sanctions for such negligent, reckless or dangerous conduct and for driving under the influence of intoxicating liquor and drugs provided for in these statutes would instill fear and compel the potential defendant wrongdoer to exercise reasonable care, obey the road traffic rules and avoid potentially dangerous conduct.

In their absence, tort liability operating independently is unlikely to deter such misconduct on the road. Robinson in agreement argues that for motorists, considerations of personal safety, fear of licence suspension and the threat of criminal sanctions may be enough to deter dangerous conduct (Robinson, M. A., 1987). Similar views are shared by other writers that in relation to accident avoidance the incentives provided by regulatory instruments such as criminal law sanctions combined with regular supervision are more effective in the domain of individual torts (Patrick Hubbard, 2006). Second, the introduction of compulsory third party liability insurance has further complicated the perceived deterrent element under tort law. In Malaysia, legislative intervention in the tort mechanism through the enactment of Section 90(1) of the Road Transport Act 1987 that require motor vehicle users to have in force a policy of insurance that must cover the user in respect of any liability which may be incurred by him in respect of the death of or bodily injury to any person caused by the use of the motor vehicle on a road have shifted the financial deterrent pressures from potential wrongdoers to the insurers.

Besides, it has also been stressed that since the risk of injuries to third parties resulting from a driver’s negligent driving would be approximately equal to the risk to him, the driver’s no-fault insurer will likewise increase his insurance premium. Hence, premium increases in both fault and no fault regimes will be quite similar. Premiums are charged based on risks and a potentially negligent driver would find himself subject to the same increased premium in both systems. Moreover, the adoption of a no fault system does not prejudice anyone as both motorists are potential plaintiffs and defendants in any accident. For instance, a motorist who drives his vehicle at a dangerously high speed would no doubt endanger third parties but it would simultaneously endanger himself and is therefore contributorily negligent for the injuries he suffers as a result of his own negligent conduct. His recovery of damages is proportionately reduced (Schwartz, G. T., 2000).

Thus, the fact that a motorist is assured of compensation is not likely to make him any less careful to avoid an accident since he can neither forecast nor control the gravity of the resulting injuries. Similarly, the care a driver exercises would depend on his concern for his own or other people’s safety as well as safety of his passengers who could be members of his family rather than having any thought of compensation or liability. The question of whether replacing tort liability by a no-fault scheme would remove a deterrent on accident-producing activities was considered by the New Zealand Law Commission and it concluded that the alleged deterrent role of tort was not significant citing a study of traffic accidents in New Zealand which found that the removal of tort liability for personal injury had no adverse effect on driving habits (Brown, C, 1986). Todd in support of this finding argues that there is no clear evidence to show an unequivocal link between the impact of imposing tort liability for causing injury with lower accident rates (Todd, 2011). Similar findings were also reported by the Road Accident Fund which had observed that “the increase in the number of road accidents since the introduction of compulsory third party insurance in 1946 gives no indication that liability based on “fault” has had any deterrent effect” (Road Accident Fund Commission, 2002).

Rise in Claims:

Worries have also been expressed that the introduction of a no-fault scheme will result in an increase in claims as the scheme extends its coverage to include claimants at fault and those involved in single vehicle accidents. The present mandatory insurance is limited to cover risks to injuries and death to third parties subject further to the proof of negligence of the insured driver. An unsatisfactory feature of the compulsory insurance scheme is in the nature of its exclusiveness leaving a considerable number of road accident victims completely uncompensated for their injuries and loss. The mandatory coverage has been denied to negligent persons, the insured driver and his permitted driver in single vehicle accidents, motor cyclists and their pillion riders, travelling passengers in his vehicle including passengers taking free lifts (unless there is a term in their contract of employment requiring them to travel on the insured’s motor vehicle) and those independent contractors travelling under a contract for employment or service and not travelling pursuant to a contract of employment.

The underpinning belief of the proposed compensation scheme is to extend coverage to all road accident victims who have been unfortunately left out of the present compensation arrangements. It assumes the character of a social justice scheme designed to promote community care and support for the less fortunate members of the society and a consequent rise in the number of injured claimants would be consistent with its desired outcome. It is a Scheme intended for all and not one that is limited to a few and it would be a misconception to perceive this rise in claims as a translation of an increase in the costs of funding the Scheme. Besides, to deny injured victims prompt and expeditious redress would run contrary to the very essence of the proposed no-fault scheme.
**High Costs of Operation:**

There are fears amongst opponents of a no-fault scheme whether the high cost of operating the scheme will have to be borne by motorists in the form of an increase in premium rates. To reassure those who harbor these suspicions there are evidence that convincingly suggest the contrary, that premium rates are more likely to be lower than what they are now. In the operation of a new scheme, it is crucial that administrative efficiency must be a significant feature (Woodhouse Report, 1967). The collection of funds and their distribution as benefits should be handled speedily, consistently, economically, and with minimum of formalities. In this respect, the common law tort compensation system has been widely criticized for its wasteful use of resources and administrative inefficiency. Evidence suggests that the high costs involved in the administration of the system, including legal fees and other charges, absorb a substantial portion of what is finally paid over to successful claimants (Lord Woolf, 1996). The Woodhouse Report thought that it is likely that more than 40 percent of the amounts paid into the tort system are for administrative and legal charges and if this is true, then it means that an overall sum equal to two-thirds of the amount finally received by the plaintiffs is swallowed up in administration of the system. To pay an injured victim RM30,000 in compensation, the system must collect RM50,000 in premiums as RM20,000 is absorbed by costs. Hence, no matter what achievements have been made by the system, they will be eroded if their benefits are delayed to the injured claimants, or are inconsistently assessed and provided, or the system itself is managed by methods that are economically wasteful.

However, in comparison with no-fault schemes, the administration costs of operating both the Victorian and New Zealand schemes had accounted for only 10.5% of the total premium revenue (Annual Report, 2012) and in the case of the Tasmanian scheme it amounted to only 6.3% of total premium revenue collected (Annual Report 2011-2012). The administrative expenditure of the SOCSO scheme accounted for a meager 6.55% of its total income (Annual Report, 2009). The Attorney-General of Malaysia in support of a no-fault scheme seemed convinced that insurance premiums can be expected to be reduced as less money is required to be spent on legal and administrative fees. The substantial amount of savings that is likely to be generated from its low administrative costs may be passed on to the beneficiaries of the scheme in the form of lower premiums and improved benefits (AG Chambers, 2007).

**Conclusion:**

The discussion has addressed and answered common worries and concerns that have been voiced regarding the no-fault system for motor vehicle accident victims. Certain drawbacks of the scheme cannot simply be disregarded. Nonetheless it has been argued that the benefits of the scheme outweigh its disadvantages. There are obviously strong arguments to support the viability of implementing such a scheme in Malaysia. The proposal for the introduction of no-fault scheme is not only founded on the argument that the existing law is inadequate to provide compensations to accident victims but it is also supported by strong practical considerations and cogent policy reasons. A no-fault approach is recommended to address the injustices perpetuated by the existing system and to make certain that claimants receive prompt and expeditious relief with minimum formalities regardless of who caused the injuries without the need of having to go to court. The scheme will remove the financial hardship and emotional distress of families of accident victims during the period of incapacity with the provision of guaranteed benefits that would preserve their quality of life and human dignity and make them useful citizens of the nation.

Thus, a fresh approach is recommended in selecting an appropriate model to address the concerns of victims of motor vehicle accidents. The hybrid or modified no-fault compensation scheme which is currently in operation in the State of Victoria, Australia will be the preferred choice of scheme (C.Nicholson and N.Amin, 2013). The scheme guarantees minimum benefits to every person injured in a motor vehicle accident regardless of fault while at the same time it offers innocent victims the opportunity to have access to limited common law benefits. Hence, the law will preserve the right of those who could prove fault to pursue further a tort claim in Court for damages for pain and suffering and loss of enjoyment of life subject, however, to a statutory maximum. The access will be restricted to those persons who have suffered serious injuries, thus eliminating all cases involving minor injuries which are dealt with by the no-fault scheme. A qualitative verbal threshold will be set designed to limit tort action to the more serious injuries and unless the claimant meets the defined criteria for a "serious" injury, he or she is precluded from bringing an against the defendant driver. In principal, the hybrid scheme would involve a trade-off between no-fault and common law arrangements for injuries that result in permanent and serious physical impairments. While a system that offers only common law coverage can produce unjust results, a hybrid system which guarantees no-fault entitlements is able to combine the best of both approaches in one system.

In the final analysis, the political will and resolve of the government is crucial for the introduction of the new law and to make certain its successful implementation. To promote social justice, community responsibility and public benefit as its priority, the government must take the bold and unprecedented decision to move in Parliament a Bill that would bring about a shift to the legal landscape when it introduces a fresh compensation model for injured victims of motor vehicle accidents. The nation will experience a movement away from the
traditional moral based fault regime towards a social justice no fault scheme. There are numerous challenges that the government would confront throughout the implementation and operation of the scheme, but a firm and unwavering commitment to the ideals of the scheme and a willingness to continually challenge what has been done and work on improving the way the scheme operates will be paramount in realizing its goal.

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