

Report of the Committee on Personal Injuries 2019

This has been a busy year for the Personal Injuries and Insurance Committee, as there have been a number of areas where we have tried to improve insurance cover and payments made by the ECAS Board. We have also made submissions to Law Reform Committee Sub Committee on Interim Payments and continued to express our opposition to the introduction of Third Party Funding to mediation in Personal Injury Cases.

We have entered a new phase in that Mr. Justice Bharwaney has relinquished the PI Judge's chair and we now have had meeting with the new Judge Madame Justice Marlene Ng. It is now over 10 years since the old court system ended on April Fool's Day 2009, and the so-called Civil Justice Reforms have been implemented. This is time for a review, as we still have not achieved paperless court cases, exchanges of schedules of damages by disc and other basic tools of the second millennia.

We have decided to go full frontal on the Administration's failure to change the payouts of the ECAS Board, and jointly with the Law Society have made an approach to Matthew Cheung Chief Secretary to see if we can at least get the payout rates improved, now that the ECAS Board has reserves of over HK\$1 billion, and widen compulsory insurance cover for employees, by changing the definition of an employee, so there will be less claims on the ECAS Fund. As I write today the CFA has come out with its decision in *Wo Chen Wah et al v. ECAS Board* which has determined that there can be an order for costs made against the Board and it has authority to settle before a hearing. These are welcome steps forward, when the Board has been adopting a parsimonious stance in most cases. We hope to obtain some meaningful reforms in both administration and increasing the quantum of awards in 2020.

We have also been examining the low (and in some cases non-existent) compulsory cover for multi storey buildings, and to increase the low level of HK \$10m any one event cover for personal injuries.

We have had meeting to try to further our committee's desire to establish a "marine MIB", with the Law Society and the Marine Law Association, but members felt the demonstrations forced cancellation of the proposed meeting. Now they are the "new normal", we have tried to re-arrange the meeting.

We look forward to 2020 in trying to solve areas of under-insurance, and generally improve the lot of ordinary people who are injured in accidents in Hong Kong. I would particularly like to thank members of this Committee and in particular Christina Lee for her prompt and pertinent comments and Keith Lam our secretary for his support. Lastly I would like to thank Philip Dykes SC for his continuous support in this year, and attending meetings of importance in our area of work. Thank you all.

Membership:

Nicholas Pirie (Chairman)

Ruy Barretto, SC

Ashok Sakhrani

Christina Lee

Julia Lau

Kamlesh Sadhwani

Theresa Low

Edward Poon

Eric Tsoi
Cindy, Li Shantong
Keith Tam.

Nicholas Pirie
Chairman
Committee on Personal Injuries

20 December 2019