

Chapter 11

Road Accident Fund (RAF)



11.1 Background

The RAF's purpose is to compensate victims for loss or damage wrongfully caused by driving of motor vehicles. In turn, the driver of the motor vehicle is indemnified against liability incurred for loss or damage wrongfully caused. The RAF has unlimited liability and therefore all damages proven must be paid by the Fund. However, claims of certain categories of passengers are limited against their own driver (to R25 000). The principles regarding apportionment of fault do apply. The RAF is therefore a public compensation/insurance system based on fault.

The RAF is financed through a levy on fuel sold. This type of financing is unique internationally. The current system of compensation can be described as social benefits with elements of insurance.

The Committee has considered the following difficulties relating to the RAF:

- Some attorneys are said to unnecessarily delay claims, running up high costs and grossly overstating claims. Similarly, medical specialists are often said to prepare medico-legal reports exclusively for claimants. Some assessors are said to assist in lodging fraudulent claims and are rendering inflated and false accounts.
- The legislation is found to be very complex, with the result that the whole system has become extremely legalistic and virtually incomprehensible to the average member of public.

- The many confusing and antiquated provisions result in real or perceived unfairness, encouraging expensive litigation.
- The delictual basis of a claim requires extensive investigations and these are also costly.
- The claims procedure is said to be cumbersome, time consuming and very expensive to administer. A claimant has three years in which to institute a claim against the RAF. In the case of a hit-and-run claim, the period is two years. The RAF then has to conduct an investigation and more often than not it is difficult to obtain documents and evidence.
- The settlement of claims is held to be the most painstaking procedure of it all.
- The high accident rate seems to be one of the major causes of the RAF's desperate financial position.
- One of the main reasons for the depletion of available funds is the payment of huge medical expenses. This benefits in particular those who make use of the private hospital system.

11.2 Conclusions

The Committee is not in a position to make final recommendations concerning future directions for the RAF. After consultations with the Satchwell Commission, and a review of some of the processes underway, the Committee has chosen to make certain observations that can serve as inputs into more substantive processes.

In some countries there is only one accident compensation system, covering both employment-related and road accidents, and often also other accidents outside the employment and road spheres. Where separate schemes exist for occupational injuries and diseases and road injuries, certain problems can arise:

- The possibility of double compensation
- Victims shopping around for the best possible compensation
- Different definitions of quantum of damage creates uncertainty
- Double administration costs.

However, in South Africa the long history of two separate schemes probably prevents the likelihood at this stage of one integrated scheme for all instances of compensation as a result of injury.

It is, however, clear that some ambiguities could be eliminated by, for example, adopting one model of assessing damages, eliminating fault as requirement for liability in both schemes, and creating an integrated computer data basis as to eliminate double claims. As suggested in Chapter 9, a case can be made for the introduction of an integrated system that offers life, disability and health insurance cover for all accidents and diseases.