

PROMOTE 2019

DGTCFM DAY

*“ PROCEDURES AND DIFFICULTIES TO
THE DILIGENT COMPENSATION OF
VICTIMS OF ROAD TRAFFIC ACCIDENTS”*

*By Blaise Abel EZO'O ENGOLO
Insurance Director*

TREASURY DAY PROMOTE 2019

- I – PROCEDURES FOR THE COMPENSATION OF VICTIMS AND BENEFICIARIES OF ROAD TRAFFIC ACCIDENTS
- II – DIFFICULTIES TO THE RAPID COMPLETION OF THE COMPENSATION PROCEDURE

PROCEDURES FOR THE COMPENSATION OF VICTIMS AND BENEFICIARIES OF ROAD TRAFFIC ACCIDENTS

DEFINITIONS OF TERMS

- 1) **COMPENSATION:** compensation for the damage suffered. It can be bodily or material; direct or indirect. Repair is a financial compensation financial. It does not replace the deceased loved one, nor the good lost
- 2) **VICTIMS :** the victim is the person who claims compensation following an accident. This is anyone who can justify having suffered an injury. The victim may be outside or inside the vehicle
- 3) **ACCIDENT:** This is the accident defined and covered by an insurance policy in force. This is in effect when the loss occurs during the period specified on the contract and when the premium has been paid.

PROCEDURES FOR THE COMPENSATION OF VICTIMS AND BENEFICIARIES OF ROAD TRAFFIC ACCIDENTS

I.1. COMPENSATION OF BODILY HARMED VICTIMS:

A/ WHAT MUST THE INSURED AND/OR THE VICTIM OF A ROAD ACCIDENT DO ?

- Declare the accident with his insurer or his representative, within five working days (art 12 Cima Code). The period starts from the knowledge of the incident; The insurance contract may conventionally set a longer period;
- Produce the documents requested by the insurer and listed in article 240 of the Insurance Code:

PROCEDURES FOR THE COMPENSATION OF VICTIMS AND BENEFICIARIES OF ROAD TRAFFIC ACCIDENTS

LIST OF DOCUMENTS TO PRODUCE PER INSURED/VICTIM

- the copy of the birth certificate and the copy of the CNI,
- the address where he can be contacted
- the proof of the professional activity and the amount of the monthly remuneration,
- the initial medical certificate,
- the final medical certificate,
- the list of third-party payers to pay benefits,
- The copy of the marriage certificate, if any,
- Proof of Medical and Pharmaceutical Expenses incurred
- the death certificate (or the equivalent when the death occurred outside a hospital) in original,
- the death certificate of the victim,
- the judgment of heredity not appealed ...

PROCEDURES FOR THE COMPENSATION OF VICTIMS AND BENEFICIARIES OF ROAD TRAFFIC ACCIDENTS

B/ WHAT SHOULD THE INSURER OF A VEHICLE IMPLICATED IN A ROAD ACCIDENT AND WHO RECEIVES A DECLARATION OF A CLAIM, DO?

1. Open an claims file and initiate the due diligence for the handling of the accident file;
2. Present the compensation offer within the time limit:
 - 12 months from the accident for the injured victim
 - 08 months from the accident for the deceased victim
3. Settle and pay compensation due

PROCEDURES FOR THE COMPENSATION OF VICTIMS AND BENEFICIARIES OF ROAD TRAFFIC ACCIDENTS

1. Opening of the claim file

- Enter all information necessary for a follow-up
- Enter an opening provision
- Refresh settings and provisions
- add all new elements

PROCEDURES FOR THE COMPENSATION OF VICTIMS AND BENEFICIARIES OF ROAD TRAFFIC ACCIDENTS

2. . Present a complete offer including all the elements compensable for the injury

- Medical expenses (limit of 2 times the price of public hospitals)
- Temporary incapacity
- Permanent disability or disability
- Economic harm
- The moral injury
- Third-party assistance
- Aesthetic prejudice
- The harm of pain (physical suffering)
- Career prejudice
- Funeral expenses
- The economic damage of the entitled persons
- The moral prejudice of the rightful claimants of the deceased victim

NO! the ability to trade or bargain is prohibited!

PROCEDURES FOR THE COMPENSATION OF VICTIMS AND BENEFICIARIES OF ROAD TRAFFIC ACCIDENTS

3. Settle the file once the offer is accepted

- No delay is required for the acceptance of the offer by the victim who must nevertheless inform the insurer by any means leaving a trace
- The victim or the entitled person has a period of 15 days to retract his acceptance

PROCEDURES FOR THE COMPENSATION OF VICTIMS AND BENEFICIARIES OF ROAD TRAFFIC ACCIDENTS

4. Proceed to payment

- the insurer is required to pay within one month from the date of acceptance of the offer by the beneficiary
- In case of withdrawal, the insurer makes a new offer that decides on the fate of the grounds invoked by the retractor.

PROCEDURES FOR THE COMPENSATION OF VICTIMS AND BENEFICIARIES OF ROAD TRAFFIC ACCIDENTS

5. In case of delay: pay the penalties provided for by the law

- Offer penalty. Where the offer has not been made or has been made in violation of the deadlines of 08 months or 12 months as the case may be (Article 231), the amount of the indemnity automatically produces a late interest equal to 5% by month of delay.
- Payment penalty. Payment of the agreed sums must be made within one month after the expiration of the 15-day notice period (Article 235).
- In the opposite case, the unpaid sums automatically produce an interest for late payment equal to 5% of the amount of the indemnity per month irrespective of the claim of the victim (art. 236).

NB1: the delay must be attributable to the insurer

NB2: late payment interest is 1% per month of delay (offer and payment) for claims occurred before 1 August 2014.

NB3: the cumulative amount of default interest may not, however, exceed three (03) times the amount of compensation due in principal.

PROCEDURES FOR THE COMPENSATION OF VICTIMS AND BENEFICIARIES OF ROAD TRAFFIC ACCIDENTS

I.2. PROCEDURE OF COMPENSATION OF MATERIAL VICTIMS

- Declaration of the claim on time
- Opening an claims file
- The determination of responsibilities
- Damage assessment
- The compensation offer
- Payment of the indemnity

PROCEDURES FOR THE COMPENSATION OF VICTIMS AND BENEFICIARIES OF ROAD TRAFFIC ACCIDENTS

- The determination of the responsibilities in particular by findings of the Judicial police, but also report of bailiff, amicable report
- The verification of the effectiveness of the commitment of the insurer (damage warranty and / or RC warranty and / or defense recourse)
- Damage assessment by any means, including approved technical experts

PROCEDURES FOR THE COMPENSATION OF VICTIMS AND BENEFICIARIES OF ROAD TRAFFIC ACCIDENTS

I.3. THE IDA CONVENTION

- Purpose of the Convention: Accelerate the compensation of victims of traffic accidents for material damage to their vehicles.
- Accidents concerned: Accidents in Cameroon involving vehicles insured in Cameroon for damages to the vehicle.

PROCEDURES FOR THE COMPENSATION OF VICTIMS AND BENEFICIARIES OF ROAD TRAFFIC ACCIDENTS

Exclusions: Damage to clothing and personal belongings worn by the driver and passengers of the insured vehicle;

- Damage to goods or objects carried in the vehicle;
- Vignette and registration fees;
- The depreciation allowance;

Damages excluded by the agreement may give rise to a classic remedy.

PROCEDURES FOR THE COMPENSATION OF VICTIMS AND
BENEFICIARIES OF ROAD TRAFFIC ACCIDENTS
CONVENTION IDA

The proof of the incident in the IDA convention

- The reports of the police or gendarmerie authorities;
- The amicable report signed by the two (02) drivers.
- Written statements of witnesses

PROCEDURES FOR THE COMPENSATION OF VICTIMS AND BENEFICIARIES OF ROAD TRAFFIC ACCIDENTS

Case of contradiction between the evidence:

- Report of the Authorities and friendly report: the report of the Authorities prevails
- Two amicable findings: If several amicable findings signed by the two drivers are established, only their common elements are taken into account;
- Amicable statement and testimony: the amicable report signed by the two drivers prevails over the testimony.

PROCEDURES FOR THE COMPENSATION OF VICTIMS AND BENEFICIARIES OF ROAD TRAFFIC ACCIDENTS

convention IDA

Remedies:

The direct insurer has a period of 03 months from the date of the accident to present his appeal. After this period, he loses the benefit of the conventional remedy.

Dispute: To contest an appeal, the direct insurer has a period of 03 months from receipt of the appeal form.

Recourse Settlement: At the end of each calendar half-year, the ASCA establishes a situation for each insurer showing the outstanding balance of actual, payable and / or receivable claims. Accounts Receivable insurers undertake to pay their balance within 30 days of receipt of the ASAC situation.

II. DIFFICULTIES TO THE RAPID COMPENSATION OF VICTIMS

Definition

Difficulties are facts, acts or circumstances that occur during the compensation process that have the effect of delaying the payment of the compensation due.

II. DIFFICULTIES TO THE RAPID COMPENSATION OF VICTIMS

Non-exhaustive list

- Difficulties in contacting the victim / beneficiary
- No production or delay in the production of parts
- non consolidation of the victim
- Liability and Evaluation Challenges
- Pluralities of claims and determination of the legitimate beneficiary
- Referral to courts
- Whimsical claims

II. DIFFICULTIES TO THE RAPID COMPENSATION OF VICTIMS

What solutions?

With regards to origins and causes:

- Victims and rights holders
 - Insurers
 - Administrations, and third parties
-
- The competition of each other is necessary;
 - A stronger involvement of the regulator is synonymous with improving the lot of insured and victims of the road.

TREASURY DAY PROMOTE 2019

THANK YOU FOR YOUR ATTENTION

*INSURANCE DIRECTORATE
FEBRUARY 2019*