WHAT CONSTITUTES A TRAFFIC ACCIDENT? THE FINNISH APPROACH TO SOME DEFINITION PROBLEMS

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1. Since Ihering in the middle of the nineteenth century launched his famous doctrine "No suffering without guilt",[1] the law of torts in most countries has been based on the negligence rule. From the beginning of the present century, however, the great number of accidents resulting from industrialization and new means of communication (railways, motor vehicles, aviation) has led to the passing of special statutes governing the liability on new principles. Usually, there has been a shift towards strict liability for those persons, e.g. users of motor vehicles, who are involved in dangerous activities. This trend has been visible in the Scandinavian countries, in which special statutes governing the liability of automobile owners were passed at a relatively early stage (Denmark 1903, Norway 1912, Sweden 1906, and Finland 1925).[2]

From the point of view of compensation the normal system of tort liability of the private tortfeasor has two obvious disadvantages. First, when damage is caused and compensation has been paid, the actual harm has not disappeared or decreased; it has only been shifted from one person to another. Secondly, even if a tortfeasor is found liable, the possibility of the victim's achieving compensation will depend upon whether the tortfeasor is able to pay, which too often may not be the case. Both these disadvantages can be successfully counteracted by the method of insurance. When an insurance company is responsible and the insurance business is properly supervised, there is usually no problem regarding ability to pay. Through the insurance the costs arising from the accidents are divided among a larger group of people, and the consequences of accidents are thereby distributed among those persons who create danger. In the Scandinavian countries compulsory liability insurance schemes for automobile

[1] R. Ihering, *Das Schuldmoment im römischen Privatrecht*, 1867.

[2] The recent developments of strict liability in Scandinavia have been presented by Jan Hellner, "Tort liability and liability insurance", 6 *Sc.St.L.*, p. 131 (1962).

owners have been in force in Denmark since 1916, in Finland since 1925, in Norway (with a private bond as an alternative) since 1926, and in Sweden since 1929.

In the years 1951–57 law committees in all the four Scandinavian countries mentioned were preparing drafts of new laws on compensation for traffic accidents.[3] The four committees all recommended similar enactments. However, only Finland and Norway passed new laws. The Finnish statute was enacted in 1959 and the Norwegian one in 1961. The leading principle of the new system is that compensation shall always be paid by the company which has insured the vehicle. Thereby protection is given both to the victims and to those who otherwise might become personally liable, i.e. the owners, the drivers, and the passengers of the vehicle. There are special arrangements for compensation of damages and injuries caused by state-owned, non-insured, foreign, and unidentified vehicles, as well as by vehicles unlawfully used in traffic without insurance.

2. In a modern society many accidents happen within all fields of human activities, and this state of affairs brings pressure to bear upon any compensation system that opens an easier way for compensation than the ordinary negligence rule for the personal liability of a private person. In Finland a victim who proves that, for damage or injury caused to him, he should be compensated by the traffic insurance scheme is in a better position than others who suffer damage. As, on the other hand, the costs of the compulsory liability insurance are paid by a specific group of people, namely those who own motor vehicles, and foreseeability of risks is necessary for a proper insurance activity, it is necessary to draw some limits. One must define as precisely as possible in what cases damage suffered shall entitle to compensation from the traffic insurance scheme. The more precise a definition can be made, the greater is the likelihood that the victims of the accidents will come to agreements with the insurers, with the result that the costs will decrease accordingly. The more there will be of lawyers' work and of trials, the greater will be the part of the premium spent on other purposes than compensation.

The Finnish system is newly established. It has been said that it is the most modern in the world. This may justify an attempt to describe (*a*) how the Finnish Traffic Insurance Act of 1959 solves

[3] See also Hellner, *loc. cit.*, p. 146.

the problem of defining what damage is covered under the scheme and (*b*) what problems seem to appear in the light of actual cases concerning normal traffic.[4]

3. The Traffic Insurance Act, sec. 1, describes the scope of the scheme in the following words: "Damage to property or injury to person caused by the use of a motor vehicle in traffic shall be compensated by the insurer of the vehicle as hereafter laid down in this act." The application of a statutory provision of this kind, as of legal rules in general, can be described as a two-stage procedure. The text gives a verbal description of certain facts and information as to the legal consequences related to the existence of those facts. The facts at issue cannot be exactly the same as the words in the written text, there can only exist a correspondence between the facts at issue and the description in the text. Therefore, application of a statutory text, i.e. adjudication, has a first stage where meaning is given to the words of the text and a comparison is made in order to decide whether or not the facts at issue correspond to the description in the statute. The ensuing second stage of adjudication is of a purely logical character. If the facts at issue correspond to those described in the statute, the legal consequence must follow. If they do not, the consequence will not follow. Thus, if the adjudicator comes to the opinion that the facts presented by a victim of an accident do correspond with the definition of the Traffic Insurance Act, sec. 1, "damage to property or injury to person caused by the use of a motor vehicle in traffic", the victim must be compensated for his losses.

The factual description contained in a statutory text may be more or less detailed. If only the main characteristics are described by a few general words, the description becomes short but remains on a high level of abstraction.[5] A lower level of abstraction would require more words and a longer description. In Finland, the legislators prefer the short text on a high level of abstraction. In case law, however, the same problem is met when on the basis of several precedents a general legal rule is said to apply. Therefore, as pointed out by H. L. A. Hart, there

[4] For further information concerning the Finnish Traffic Insurance Act, see the present author's study *Liikennevahinko,* 1967 (with a summary in English).

[5] "Level of abstraction" is used here as, e.g., in Hayakawa's well-known book *Language in Thought and Action.*

is not such a great difference between written law and case law as is generally assumed.[6]

A person who studies the thousands of various accidents in motor-vehicle traffic has to admit that the description of a traffic accident in sec. 1 of the Finnish Traffic Insurance Act is highly abstract. Hundreds of people suffer losses in such a way that one can reasonably ask whether compensation should be paid by the traffic insurer or not. In the following pages some of these borderline cases will be discussed and the following question posed: Is it possible to formulate legal principles which would help us to decide the problem what constitutes liability?

4. The problem how to define a motor-vehicle accident can be divided into three parts: (1) Was a motor vehicle used? (2) Was damage to property or injury to person caused? (3) Is there such a connection between the vehicle and the loss that the loss can reasonably be said to have been caused by the use of a motor vehicle in traffic?

In answering question (1) further help is given by the Traffic Insurance Act, sec. 3, in which the following definition is laid down: "Any vehicle or machine built to move on the ground by machine power, or in connection with such a vehicle, vehicles on rails however excepted, is a motor vehicle within the meaning of this Act." In an Ordinance concerning the application of the Traffic Insurance Act a list is given of vehicles which formally correspond to this description but which need not be insured. Thereby a group of slow, less dangerous devices, such as lawn mowers, loading trucks, etc., are excluded from the definition of motor vehicles within the meaning of the Traffic Insurance Act.

No motor vehicle may be used in Finland without prior approval by the authorities. The design of an approved type may not be changed without a new approval. Therefore, it seems to be rather easy to classify all devices moving on the ground so precisely that the question whether a certain device is covered by the Traffic Insurance Act should seldom arise. The definition of a motor vehicle works in two ways: it describes the vehicles covered by the traffic insurance scheme, and it also lists those devices which cannot be object of a traffic liability insurance policy under the traffic insurance scheme.

Question (2), what constitutes damage to property or injury to

[6] H. L. A. Hart, *The Concept of Law*, 1963, pp. 124–26.

person in the meaning of the Traffic Insurance Act, is more difficult to answer. Guidance can be found in the traditional law of torts, according to which certain types of losses are compensated, others not. Since the purpose of the traffic insurance scheme is also to protect tortfeasors against personal liability in tort, it is natural that the scheme should cover damage and injury compensated under the traditional law of torts. In the Traffic Insurance Act there is a general reference to the Finnish Criminal Code, where the paramount rules regarding personal liability are embodied. In the Traffic Insurance Act some limitations and additions are made to the losses compensated according to the paramount rules of the Criminal Code. The following types of losses are compensated:

1. If damage is caused to property, the costs for repair and the loss of value, as well as the consequential damages resulting from the interruption of income, will be compensated. There is a ceiling, however, and not more than 250,000 Fmk (approximately U.S. $60,000) is payable by an insurance company in respect of one accident. In connection with damage to property non-economic loss will not be compensated.

2. If injury is caused to a person, the costs of medical treatment and the total loss of income will be compensated. In connection with personal injuries such harm as pain and suffering as well as a chronic bodily disability will also be compensated.

3. In case of death, benefits will be paid to widow and surviving children, as well as to any person whom the deceased was obliged to support. In Finland the permitted claimants are, besides widow and children born in wedlock, surviving father and mother, adopted son and daughter, and illegitimate children.

5. The real trouble starts when meaning has to be given to the expressions "use in traffic" and "caused by". Sometimes it is very difficult to say whether a vehicle was used in traffic or for some other purpose, or whether there was such connection between the use and the loss that the use can be said to have caused the loss and thus to constitute liability. Here we meet the problem of causation, which as all lawyers know is one of the most difficult in the law of torts.

The Traffic Insurance Act does not give any positive definition of the terms "use in traffic" or "traffic". In sec. 2, however, several situations are listed as not constituting traffic in the sense of the Act. Thus there is no traffic

(*a*) when a vehicle is used as an agricultural machine or for a purpose substantially different from carriage of goods or persons, and the use takes place outside public roads or areas commonly used for traffic,

(*b*) when the vehicle is kept in such an area under repair or for storage purposes, and

(*c*) when a vehicle is used in an isolated area for racing, experimental or exhibition purposes.

In Finland all traffic insurance policies are issued by private insurance companies. An insurance company has to be approved by the state before it can enter into business and it will be continuously supervised by the Ministry of Social Affairs. All licensed companies are members of the Traffic Insurance Association. There has been established as a part of this association a board on which are represented various interests, automobile associations, pedestrians, insurers, etc. The board issues pronouncements regarding the application of the Traffic Insurance Act in more complicated cases. Such a pronouncement or opinion does not bind the party concerned, who is free to take his case to court. However, the statements of the board are published and have a directive effect on insurance practice.

A study of the published statements of the board, a collection of several thousands of decisions, shows rather clearly what kinds of cases cause difficulties in the application of the Traffic Insurance Act. Regarding the limitations of traffic mentioned above, the meaning of the expression "for farming purposes" seems quite often to create problems. The reason for this may be the facts that farm tractors, too, have to be insured and that the farmer who owns the tractor is not covered when at his work by the workmen's compensation system. When an accident occurs he therefore often claims compensation from the traffic insurer, since the traffic insurance scheme also entitles the owner and the driver to claim compensation for personal injuries.

The meaning of the terms "under repair" and "storage purposes" may, of course, also allow a number of interpretations. It seems to be a settled rule that injuries caused by accidents in connection with the starting and the stopping of a vehicle will always be compensated even if they occur, e.g., in a garage.

6. The true causation problems are met within the remaining field. Assume that there was a motor vehicle in question, that the injury suffered by the victim was of such a kind that it should

constitute a claim for compensation, and that none of the exceptions prescribed in the Traffic Insurance Act regarding the use of traffic applies. There are still a great many situations where reasonable arguments can be presented both for and against liability. Two separate groups can be distinguished. First, the loss occurs in connection with an exceptional use of a vehicle—such as loading or unloading, repair, use of additional equipment, starting, stopping, etc.—which does not include normal driving of the vehicle in traffic. Secondly, the course of events leading to the loss was so complicated and unpredictable that the result seems to be too remote to constitute liability. The problem is best described by giving some examples from everyday insurance practice. Some decisions made by the board of the Traffic Insurance Association will be mentioned here.

A. *Cases which are only indirectly connected with normal traffic*

Compensation was paid in the following cases:

(*a*) When the rider started his motor cycle, he ruptured a muscle.

(*b*) For the purpose of unloading, the platform of a lorry was elevated and it then touched an electric cable. A worker passing by laid his hand on the edge of the platform and was killed by an electric shock.

(*c*) A car was on a railway crossing when its engine failed. While the driver was pushing his car across he was hit by a train.

(*d*) A lorry was stuck in snow. The driver climbed on to the tailboard and threw down his shovel. At the same moment a child watching from the snowbank jumped down and was hit by the shovel.

(*e*) A man parked his motor cycle on a parking lot at 5.55 p.m. At 7.45 p.m. a car was parked next to it. The following afternoon the sun melted the ice beneath the stand of the motor cycle, which collapsed against the car.

In the following cases compensation was refused:

(*f*) Some drunken men pushed a parked car into another car.

(*g*) A man was travelling on a bus. After alighting from it he hid in the forest waiting for the bus to return. He then threw a stone at the bus and a passenger sitting near a window was injured.

(*h*) The driver of a car saw smoke coming up from under the bonnet. He stepped out to get some tools from the boot, slipped on the road and was injured.

(*i*) A lorry was pulling a car out of a ditch. The road surface was damaged by the lorry's supporting struts, which had been lowered to keep the vehicle steady.

B. *Cases with complicated courses of events*

Cases where compensation was paid:

(*a*) X had been injured in a traffic accident. To relieve his pains he used a medicine which caused a blood disease. X died as a result of this disease. His death was considered to be caused by the use of a motor vehicle.

(*b*) X suffered as a result of a traffic accident from concussion of the brain, bruises and bone fractures. During his cure kidney stones developed. The traffic insurer had to compensate him for this ailment also.

(*c*) X was unloading fuel oil from a tanker lorry. The pipe broke and some oil ran into a ditch and through a drain to a lake. On a public market place at the lakeside Y was selling live crayfish. He stored his crayfish in a net in the lake. The oil killed the crayfish. Y's loss was compensated by the insurer of the lorry.

(*d*) When a lorry crossed a bridge, the bridge collapsed and X fell into a ditch. The traffic insurer was held liable for X's injury.

(*e*) An automobile hit a telephone pole. Compensation was paid to the telephone company for loss of income during the period when the lines were disconnected.

Cases where compensation was refused:

(*f*) When X was injured in a traffic accident, Y gave him a lift to hospital. X's parents bought a gift for Y. They were not compensated for their expenses for this gift.

(*g*) X was killed in a traffic accident. Some of the persons attending his funeral were accommodated in a hotel, the bills being met out of the deceased's estate. These costs were not paid by the insurer as part of the funeral costs.

(*h*) X's car hit a cart and the horse bolted. After galloping about 500 metres along the road the horse was struck by another automobile. No compensation was paid to the owner of the horse by X's insurer.

(*i*) When X was doing his military service he was involved in a traffic accident. After a month in hospital he was sent home as convalescent. For his stay at home he claimed compensation for living costs (his meals). Compensation was refused.

(*k*) A lorry drove off the road on a day when the temperature was below freezing point. The man sitting beside the driver was trapped in the vehicle. When the driver used an iron bar to try

to free his companion his hands became frost-bitten. The driver was not entitled to compensation for this injury.

Undoubtedly all these cases are exceptional. On the other hand, the "normal" or "typical" traffic accidents do not create intricate legal problems. Incidentally, it may be mentioned that more than 90 per cent of all claims are settled out of court between the victims and the Finnish traffic insurers. Our examples, however, have demonstrated the existence of a special problem concerning claims for compensation for traffic accidents. The language of the statute, "caused by the use of a motor vehicle in traffic", is highly abstract and it is therefore very difficult to decide whether the facts at issue correspond sufficiently to the description given in the text of the statute.

7. With these cases in mind a number of questions may be raised. First, we may ask ourselves why we sometimes feel unsure whether certain losses should be compensated or not. Secondly, we can make an attempt to find rules or principles in the law of torts which could make it easier for us to reach unanimity in this kind of situations. Eventually we may look upon the system of traffic insurance as a social institution and try to find out whether this institution is based on ideas which could support our opinions in individual cases.

There are several reasons for our uncertainty. Sometimes we do not know for sure what the actual course of events was. Regarding personal injuries the question involves a medical problem. Could blood disease be caused by medicine? Could kidney stones develop as a result of an injury, etc.? Such questions are not legal but belong to sciences which explain nature and the natural laws of causation. The legal problem is usually as follows. Assume that there is a causal connection between the use of the vehicle and the loss in question. Should the insurer be held liable? Sometimes we *feel* that this should not be the case.

Evidently there are various reasons for such a feeling. Legal writers are unanimously of the opinion that a tortfeasor cannot be held liable for every possible loss which according to the natural laws of causation can be traced as a result of his act. Such a wide liability would take us *in absurdum*. One of the basic reasons for the general negligence rule is its preventive function. Therefore, it is sound to limit the liability to such results of a person's behaviour as, at least to a certain extent, can be foreseen. Liability for such effects of a person's behaviour as are completely un-

predictable cannot be justified on the grounds of prevention. Moving from the field of personal liability towards liability of a community, such as that of an insurance company or of the state, our mind is still influenced by the old idea of a certain limitation of liability with regard to unforeseen effects.

There are also practical reasons against the extension of the field of strict liability to cover all effects that we can trace back as having a causal connection with the use of a vehicle. Our idea of a damage or an injury is based on our imagination and our experience of what is normal. We compare the course of events resulting from an accident with a fictional course of events which, according to our knowledge, would normally have followed if the accident had not occurred. The unfavourable difference between these two courses of events, the true course and the fictional course, we consider a damage or an injury.[7] Such comparison, of course, might go so far that we could argue, for example, that a delay in the starting of a tractor factory in Brazil was caused by a traffic accident in Finland one year earlier, and that special damages caused by loss of profit, therefore, should be paid by a Finnish traffic insurer. Collecting funds for that kind of risk would, however, not be reasonable. But once we agree upon the fact that liability has to be limited in one way or another, we face the question: What principles should govern this limitation?

8. A study of other European enactments regarding traffic compensation would reveal that no attempt has been made to solve the problem dealt with here. In all Scandinavian countries the liability is described by broad expressions. All the statutes are different inasmuch as translation from one language into another would normally result in another expression than the one used in the statute of the other country. This is the case if we translate the Norwegian expression "skade som motorvogner gjer på folk eller eige" into Swedish or Finnish, or if we translate the Swedish expression "i följd av trafik" into Norwegian, and so on. This also applies to the expressions used in the corresponding German, Austrian, and Swiss statutes. It seems to be a fact that, no matter which words we choose to express the scope of liability, the language will always allow a great number of interpretations

[7] The doctrine of difference was first presented by F. Mommsen in *Zur Lehre von dem Interesse*, 55.

regarding the causation problem, and that this is due to the large amount of different situations in everyday road traffic.[8]

When a statutory provision has been enforced and applied for a certain period of time, the common-law approach may be useful. It is possible to collect and study a large number of actual decisions and describe the leading principles, if we find any. This method, however, also has its weaknesses. It does not give reliable help in cases which do not correspond to earlier ones. If a legal writer were to try to describe the common principles on the basis of a study of a large number of decisions, he might end up by using broad language on a high level of abstraction. Nothing remains but to return to the stage where the problem first appeared.

Legal writers have filled libraries with books and articles concerning the problem of causation.[9] In *Scandinavian Studies in Law*, vol. 9, Professor A. Vinding Kruse has presented the Scandinavian theories on this problem. Professor Vinding Kruse expresses the opinion that the scope of liability is sufficiently defined if the damage has been caused by the dangerous qualities of an act or activity, provided that these dangerous qualities were perceptible.[1] The present author claims that Professor Vinding Kruse, like other legal writers who have tried to build up a theory of the limitations of liability, ends up with such broad statements that they have given us very little guidance, if any. Assume that we all agree on the rule that damage shall be compensated by the traffic insurer if it has been caused by the perceptibly dangerous qualities of a motor vehicle. We may still disagree upon whether Y, in the example B(c) above, should be compensated for the loss of his crayfish.

What has been said seems to lead to the paradox that it is not possible to give a correct legal theory of causation and that never-

[8] These difficulties have been studied in many countries. See, in Norway, T. Iversen, *Bilansvaret*, 1965, pp. 45–57; in Sweden, B. Malmaeus, *Svensk rättspraxis i skadeståndsmål*, 1957, p. 188; in Denmark, B. Frandsen, *Håndbog i Færdselslovgivningen*, 1960, pp. 189–95; in Germany, E. Stiefel and W. Wussow, *Kraftfahrversicherung*, 1966, pp. 345–52; in Austria, R. Veit, *Das Eisenbahn- und Kraftfahrzeug-Haftpflichtgesetz*, 1962, pp. 31–41; in Switzerland, K. Oftinger, *Schweizerisches Haftpflichtrecht* II/2, 1962, pp. 537–45; in the U.S.A., Norman E. Risjord, "1960 Highlights of Automobile Insurance Law", 1961 *Federation of Insurance Counsel Quarterly*, no. 3, pp. 61 ff.

[9] Most of these problems have recently been thoroughly discussed by H. L. A. Hart and A. M. Honoré in their *Causation in the Law*, 1959.

[1] A. Vinding Kruse, "The foreseeability test in relation to negligence, strict liability, remoteness of damage and insurance law", 9 *Sc.St.L.*, pp. 107–10 (1965).

theless a system like the Finnish traffic accident compensation works rather well. In the opinion of the present author this is to be explained by the fact that the decision that the insurer is liable in a complicated case is based not upon logic but on evaluations. By studying the basic principles of a compensation system some arguments might be found which have a bearing upon this process of evaluation.

9. At the beginning of this century people found that the use of motor vehicles led to a great number of accidents. It was considered that motor traffic should be classified as a dangerous activity. The early statutes governing traffic accident compensation were based on this philosophy. Since our society was developing we did not want to forbid this activity, but on the other hand it was found desirable to place the burden of the costs for losses caused on the persons using the vehicles, that is, on the owners and the holders. One way of reaching this goal is compulsory liability insurance. With the introduction of such a compensation scheme into a society where there is no social security system providing for compensation for everyday damage or injury, a certain pressure will be created. The victim of an accident takes every possible opportunity to obtain compensation from the traffic insurance. He knows that if his claim is dismissed, he will remain without compensation or have only a part of his losses compensated or have under the common law of torts a claim for compensation in part for his loss. If it is a matter of someone's personal liability, there is always the risk of insolvency. These facts explain why so many claims are raised in borderline cases.

Arguments in favour of certain limitations of the liability can be based on the philosophy of the compensation scheme concerned. First, if it is the purpose to compensate accidents caused by traffic, there must have been an accident. By this I mean that such damage as ordinary wear of road surface, pollution of air, noise, shaking of buildings, etc. should not be compensated. The requirement that the damage shall have been caused by an accident is not expressly indicated in the Finnish Traffic Insurance Act, but it appears, for example, in the text of the Austrian statute according to which damage must have been caused "durch einen Unfall bei Betrieb eines Kraftfahrzeuges" (sec. 1). The same principle, however, seems to apply in Finland. We could describe the concept of an accident as follows. An accident is a sudden and

abnormal event causing unintentional damage in connection with some activity.

Secondly, when there are concurrent causes of an accident and therefore a possible choice between two or more compensation schemes, one has to decide which system is closest to be charged with the costs. In other words, there are different groups of persons involved in a dangerous activity, and the question is which group is to carry the costs. As regards the case A(b) above, death by electric shock, it seems reasonable that in Finland, where strict liability is placed upon the owner of an electric plant, compensation should be paid according to those rules and not by the traffic insurer. The danger created by motor vehicles is related to their weight and speed and their use among other moving devices, not to electrical energy. Similar choices appear when explosives, poisons, railway traffic, and aviation are concerned. The question to be answered is the following: Which of these several activities is the closest one to bear the risk of compensation for actual loss?

When the problem is not, as in these cases, a choice between two or more liability systems but between liability and non-liability, the evaluation must be made on different grounds. It should be kept in mind that car insurance premiums are paid by the owners of the vehicles. It is not their obligation to supplement the lack of a common social security system. Every decision taken upon an actual claim has a tendency to create a precedent for those who have to adjudicate similar claims in the future. Therefore, the adjudicator of an actual case should have the following question in mind. Is it a good policy that this kind of losses should be compensated by the motor-vehicle owners rather than by someone else (all taxpayers together, the victims themselves by means of voluntary insurance, etc.)? A transport delay caused by an accident or a traffic jam is a normal risk of life. A person who does not want to take such a risk should insure himself against it.

Further, it seems rather clear that the principles limiting normal liability in the law of torts do not apply to compulsory liability insurance. Let us assume, in order to make this point clear, that the Scandinavian doctrine of adequate causation, as presented by Professor A. Vinding Kruse,[2] would apply to the Finnish traffic insurers' liability. Under that assumption the death of the victim in the case B(a) above (death as a result of a blood

[2] See the article cited above.

disease) would not be compensated, since the risk of such an effect is not a perceptible effect of motor-vehicle traffic. However, where the liability of insurance companies for accidents is concerned, the foreseeability can be judged from a much broader point of view. We may say that it is possible for an insurer to foresee that some harm may be caused as a result of some unforeseeable course of events. Here it is not an individual tortfeasor who is held liable. There is not at issue the creation of any preventive effect, and there is no reason to limit liability to the foreseeable results of the conduct of the tortfeasor.

10. Finally, it might be illuminating to look upon the Finnish system from the technical aspect. The insurance policies are issued by private companies which are supervised by the state. Someone might be inclined to believe that the companies try to relieve themselves from liability in every possible case. This is, however, true only up to a certain point. The premiums of the compulsory insurance are controlled by the state. The companies have to present their statistics to the Ministry of Social Affairs each year, and the premiums have to be so set that they cover the costs of the system and provide a reasonable profit. Now, if the insurance companies mutually agree upon a practice by which the scope of the compensation system is extended, they also have agreed upon an increase of their business. Therefore, to be successful, the system must be so designed that the insurers do not voluntarily broaden their liability and thus ruin the basic idea of the system, namely that vehicle owners are responsible for their dangerous activity. This is an aspect of our problem which very seldom enters into the minds of ordinary people, who usually have a hostile attitude towards the insurer who is unwilling to pay.

Conclusions

There seems to be no way of defining the scope of traffic accident compensation so precisely as not to open the way to a variety of interpretations regarding less typical situations.

To a certain extent we are able to formulate general rules which can apply when borderline cases have to be adjudicated. The problem of causation in connection with liability, however, is not of logic but one of evaluation. The principles of the law of tort which have been developed with personal liability in mind

do not apply when, instead of a private tortfeasor, an insurance company is held liable for compensation of loss.

It is necessary that the insurance companies should favour a rather strict interpretation of the rules governing their liability. Otherwise the basic idea of such a compensation system as exists in Finland will be ruined.