

ICJR Research Brief

Accidental Injury Compensation in the United States

In the mid-1980s, legislative debate over tort reform raised fundamental concerns about the tort liability system. Though the debate centered on tort law, many decisionmakers raised broader questions about how the liability system relates to the larger network of compensation programs in the United States, including private health insurance, workers' compensation, and a variety of publicly subsidized programs. Is it equitable and cost-effective to use a liability-based system to compensate accident victims? What role *should* the tort liability system play in compensating accident losses? What role does it play now?

The debate revealed an acute shortage of empirical data about how injury victims actually use the liability system and how well it serves them. In the absence of such information, many policymakers proved reluctant to make substantial changes in tort law. In an effort to close this information gap, the U.S. Congress requested a comprehensive national study of accidental injury costs and compensation, focusing on the role of the tort liability system. Funding to conduct the study was awarded to RAND's Institute for Civil Justice.

Surveying Accident Victims

The study's main goal was to support analysis that would inform the tort debate and shed light on the broader issues surrounding injury compensation. It sought detailed answers to three questions:

- How much do accidental injuries cost, and how much of those costs do victims recover?

- What share of total compensation is provided by each of the various compensation systems, including tort?
- Which victims seek compensation through the tort system and why?

The project involved a massive data-collection effort, which proceeded in a two-stage survey. In the first stage, RAND staff interviewed a sample of about 26,000 households nationwide. Interviewers identified people who, during the previous year, had incurred losses from an injury; they also inquired about individuals who had initiated or resolved a liability claim within that time. The second stage sought detailed information from 2800 accident victims on costs, reimbursement, and their dealings with the tort liability system.

The Nature and Cost of Accidental Injuries

The study estimated that in 1989 Americans had a one in six chance of suffering economic loss from an accidental injury. Most injuries were minor—strains, sprains, cuts, and bruises. However, 30 percent of the injuries were moderately to very serious. About one-fourth of those injuries happened on the job or in traveling to work, another quarter occurred during work around the house, and 30 percent took place while people were relaxing. About 20 percent of the injuries were due to motor vehicle accidents, and about 30 percent occurred in the course of using other products. Including motor vehicle accidents, product-associated injuries, and falls on property owned by

public agencies or private firms, about 75 percent of all injuries occurred in circumstances that held some potential for a liability claim or lawsuit.

The study found that accidental injury causes substantial losses. Annually, accidental injuries cost Americans about \$176 billion—almost 4 percent of GNP—in expenses or lost productivity. This figure excludes the value of time that the injured person would otherwise have spent on household and other chores, suggesting that the total value of lost productivity is much higher. On-the-job injuries account for half of the total losses, even though they represent only 20 percent of the total number of injury incidents. Second in terms of costliness are motor vehicle accidents, which account for roughly 20 percent of both total accidents and total costs. All other injuries, including slips and falls and product-related injuries, account for 60 percent of total injuries but only 30 percent of total costs (see figure 1).

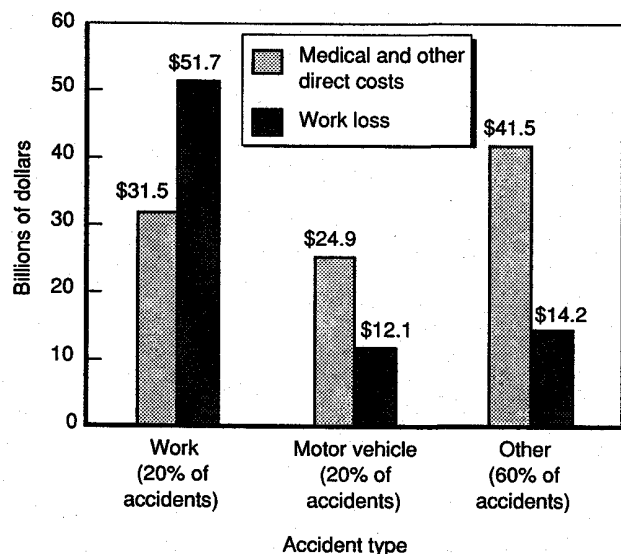


Fig. 1—Costs of accidental injuries

A substantial share of accident costs falls to injured individuals and their households. Of the \$176 billion in total costs, injured Americans recover about \$110 billion from a variety of sources. First-party insurance offers the first line of defense: it is cited as a source of payment by 59 percent of people who report receiving compensation. A modest amount of the total compensation dollars—only 7 percent—comes from liability claim payments, but this figure is much higher—22 percent—for those injured in motor-vehicle accidents. Accident victims who suffer long-term disabilities recover the smallest fraction of their losses.

Accident Victims in the Tort System

The study challenges many aspects of the popular portrait of “the litigious American.” The results indicate that injured Americans are quite selective in seeking compensation through the tort liability system. Only 19 percent of the injured consider pursuing a liability claim. But “claims consciousness” is much bigger among motor-vehicle accident victims; they seek liability damages about six times as often as work-accident victims and more than ten times as often as other victims.

Why do motor-vehicle accident victims use the tort system so much more? The study concludes that victims are most likely to pursue a liability claim if they are seriously injured and if they blame someone else for the accident. Motor-vehicle accident victims are more likely than others to be severely hurt; they also overwhelmingly attribute fault to other parties. In contrast, victims in other cases tend to blame themselves, or chance, or natural forces. In effect, Americans are most accustomed to thinking about the tort system as a mechanism for recovering damages from auto accidents.

Issues for Further Research

The study flags several important issues for future analysis. Foremost among these: How do loss and compensation patterns differ among demographic and socioeconomic groups? Which groups are particularly affected by accidental injury costs? How does the pattern of compensation relate to loss? Answering the latter question is vital for understanding the tort system’s role in the overall compensation system, because severely injured individuals may depend more heavily than others on tort claims for compensation. The ICJ analysts will turn to these questions in the next stage of their work.

The research summarized in this brief was carried out within RAND’s Institute for Civil Justice. Research results are described in detail in R-3999-HHS/ICJ, *Compensation for Accidental Injuries in the United States*, by Deborah R. Hensler, M. Susan Marquis, Allan F. Abrahamse, Sandra H. Berry, Patricia A. Ebener, Elizabeth G. Lewis, E. Allan Lind, Robert J. MacCoun, Willard G. Manning, Jeannette A. Rogowski, and Mary E. Vaiana, 217 pp., \$20. An overview of research results appears in R-3999/1-HHS/ICJ, *Compensation for Accidental Injuries in the United States: Executive Summary*, 33 pp., \$4.

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