

Chapter 2



BACKGROUND

2.1 Protection for Motor Vehicle Accident Victims Act B.E. 2535

The government is very concerned of the trend of higher road accident situation year by year, causing a lot of injuries and deaths. Also the road accident patients did not get their reimbursement for damage. The government therefore established The Protection for Motor Vehicle Accident Victims Act in B.E 2535 to take care of the road accident victims. The Act's objectives are:

2.1.1 The Objectives of the Protection for Motor Vehicle Accident Victims Act B.E 2535

(1) To protect and help the road accident victim in death and for immediate medical treatment.

(2) To assure the hospital that it will reimbursed the cost of healthcare services.

(3) To regulate car owner contracts with the insurance business for sharing the cost of medical treatments of the accident victims and to relieve a burden of the government budget.

The characteristic of The Protection for Motor Vehicle Accident Victims Act B.E. 2535 is the law of car insurance which command car owners to have insurance combined with the social security insurance which protect a group of road accident victim as a group insurance. The government makes the cooperation between the civilian in society to help themselves by commanding car owner to contract insurance with the registered insurance company according to this Act. The insurance company must guarantee to pay for damage, health and death of the road victim. This Act

protects regardless who is right or wrong in an accident. The Insurance company must pays the initial payment for medical treatment cost up to 15,000 baht for injury, and for injury or even death later will be reimbursed up to 30,000 baht. The accident victims can claim for more reimbursement in order to a tort liability by the Civil and Commercial Law.

2.1.2 The Important Principles of the Law:

(1) Every car owner must possess a car insurance contract, except some cars except in case that the cars are excepted in the law.

(2) Insurance companies must pay the initial payment to road accident victims for medical treatment expenses or death with no-fault system.

(3) Compensation fund pay for the initial payment to road accident victims in the case of Insurance companies not paying, or no litigant.

(4) The violator will be enforced by the Penal laws

(5) The Ministry of Commerce is responsible to enforce this law.

2.1.3 The Regulations

According to The Protection for Motor Vehicle Accident Victim Act B.E. 2535. Minister of Commerce by suggestion of The Protection for Motor Vehicle Accident Victims Committee Legislated Ministerial has regulations as following;

(1) Seven seated vehicles must be covered by insurance for a claim of up to 5,000,000 baht/accident. To pay a claim for;

(1.1) 50,000 baht for the health loss. (Exclude 1.2)

(1.2) 80,000 baht for health loss in case of; blindness, deafness, dumbness, loss of foot, leg, hand, finger, mental disability, permanent disability or other organ.

(1.3) 80,000 baht for death

(1.4) 80,000 baht for (1.1) and (1.2), or (1.3), or (1.2) and (1.3) later.

(2) Over 7 seated vehicles must be covered by insurance for a claim up to 15,000,000 baht/accident. To pay a claim as (1).

(3) In the case the driver being an offender him or herself does not have an opposite legal party the claim obtained will be only an initial payment for medical treatment expenses.

(4) The medical treatment expenses can be claimed for an initial payment as following;

(4.1) Healthy loss can claim for; drug, IV.fluid, oxygen and other medical supplies for treatment. Synthetic organ such as accessories for treatment, include restoration. Medical service premium such as check-up, laboratory test, room charge, food and sundry expense.

(4.2) Death, claim for; funeral, sundry expenses for funeral.

(5) The amount of initial payment pays as;

(5.1) A real expense within 15,000 baht for health loss.

(5.2) 15,000 baht for death.

(5.3) (5.1) plus (5.2) for death after medical treatment.

(6) The mechanism of paying an initial payment.

(6.1) Insurance company or Compensation fund can pay directly to victim or to admitted hospital.

(6.2) Insurance company or Compensation fund must pay within 7 days after being asked for a claim with no-fault system.

(7) The claim for a fine within 80,000 baht which exceeds initial payment.

Road accident victims can claim a fine which exceeds initial payment from insurance company. But the lawsuit must be finished if the road victims or litigants were a violator, according to Penal law.

The road accident victim can authorize hospital to claim an initial payment. After that, if the road accident victim can not pay the medical services that exceed the initial payment, the hospitals can be authorized by road victim to claim for a fine exceeding the initial payment from insurance company. But first, the hospital must makes an agreement with the insurance company that the litigant was a violator according to a Penal Law. When the insurance company has notarized the agreement, then the hospital can claim a fine within 80,000 baht.

2.1.4 Stepwise of Consideration the Right of a Claim According to The Protection for Motor Vehicle Accident Victim Act for Health Loss and Death.

(1) Vehicle in accident has insurance.

(1.1) No-litigant (fall prone, hit something)

In the case of road victim being the driver. Road victim would be protected by the Protection for Motor Vehicle Accident Victim Act. The road victim can claim an initial payment for medical treatment expense within 15,000 baht from the insurance company which the vehicle is contracted to.

If a driver does not have a driver license and claims an initial payment, then the insurance company will asks the money to be reimbursed from the driver.(except a driver under 20 years old.)

In the case of the passenger being the road accident victim the claim would be undertaken according to this Act within 80,000 baht, which includes medical treatment expenses cover 50,000 baht. Road victim can claim from insurance company that the vehicle is contracted with.

(1.2) Have a litigant.

(1.2.1) Litigant is right and vehicle has insurance.

If the road victim is the driver, the Act will undertake only an initial payment for medical treatment expenses within 15,000 baht. Road victim can claim from the insurance company that the vehicle has a contract with.

If the road victim is the passenger, the Act provides a fine up to 80,000 baht which includes medical treatment expenses of 50,000 baht. Road accident victim can claim from the insurance company that the road victim is a member of.

(1.2.2) Litigant is wrong and vehicle has insurance.

Both driver and passenger would be protected by the Act within 80,000 baht, which includes medical treatment expenses of 50,000 baht. Road victim can claim an initial payment for medical treatment expenses up to 15,000 baht from the insurance company that the vehicle has a contract with. For a fine exceeding 15,000 baht, within 50,000 baht. The road victim has to claim from the litigant's insurance company. But all these conditions can only apply if the litigant was a violator, according to Penal Law.

(2) Vehicle in accident has no insurance.

(2.1) Vehicle is illegal.

Both driver and passenger would be provided with an initial payment for medical treatment expenses up to 15,000 baht. Road victim can claim an initial payment from Compensation fund. (If driver claims this initial payment, Compensation fund will ask the money to be reimbursed from the driver.)

(2.2) Have a litigant.

(2.2.1) Litigant is right and vehicle has insurance.

Driver and passenger can claim an initial payment for a medical treatment expenses within 15,000 baht from Compensation fund.(If driver claims this initial payment, Compensation fund will ask the money to be reimbursed from the driver.)

(2.2.2) Litigant is wrong and vehicle has insurance.

Driver and passenger can claim a fine up to 80,000 baht, including medical treatment expenses of 50,000 baht from the litigant's insurance company. But all these conditions end if the litigant was a violator, according to Penal Law.

(2.2.3) Litigant is right but vehicle is not insured.

Driver and passenger can claim an initial payment for medical treatment expenses up to 15,000 baht from Compensation fund. (If driver claims this initial payment, Compensation fund will ask the money to be reimbursed from the driver.)

(2.2.4) Litigant is wrong and vehicle is not insured.

Driver and passenger can claim only initial payment for medical treatment expenses up to 15,000 baht from Compensation fund.

(3) Exception vehicle

(3.1) No-litigant

Road accident victim (passenger & driver) can claim an initial payment for medical treatment expenses up to 15,000 baht from Compensation fund. (Compensation fund will ask the money to be reimbursed from the office of the accident car.)

(3.2) Have a litigant.

(3.2.1) Litigant is right and vehicle has insurance.

Road accident victim (passenger & driver) can claim an initial payment for medical treatment expenses up to 15,000 baht from Compensation fund. (Compensation fund will ask the money to be reimbursed from the office of the accident car.)

(3.2.2) Litigant is wrong but vehicle has insurance

Driver and passenger can claim a fine up to 80,000 baht, including medical treatment expenses of 50,000 baht from the litigant's insurance company. But all these conditions end if the litigant was a violator, according to Penal Law.

(3.2.3) Litigant is right but vehicle is not insured.

Road accident victim (passenger & driver) can claim an initial payment for medical treatment expenses up to 15,000 baht from Compensation fund. (Compensation fund will ask the money to be reimbursed from the driver from the office of the accident car)

(3.2.4) Litigant is wrong and vehicle is not insured.

Driver and passenger can claim an initial payment for medical treatment expenses up to 15,000 baht from Compensation fund. Compensation fund will ask the money to be reimbursed from the litigant. But these entire conditions end if the litigant was a violator, according to Penal Law.

(4) Pedestrian

(4.1) Have a litigant.

(4.1.1) Litigant is wrong but vehicle has insurance.

Road accident victim would undertake a fine within 80,000 baht, including medical treatment expenses of 50,000 baht. Road victim can claim a fine from the insurance company. But this condition ends if the litigant was a violator, according to Penal Law.

(4.1.2) Litigant is right but vehicle is not insured.

Patient can claim only an initial payment for medical treatment expenses within 15,000 baht from Compensation fund.

(4.1.3) Litigants' vehicle is not insured.

Patient can claim only an initial payment for medical treatment expenses within 15,000 baht from Compensation fund.

(4.2) No litigant. (hit and run driver)

Patient can claim only an initial payment for medical treatment expenses within 15,000 baht from Compensation fund.

Figure 2.1 Diagram of The Protection for Motor Vehicle Accident Victims Act B.E.2535

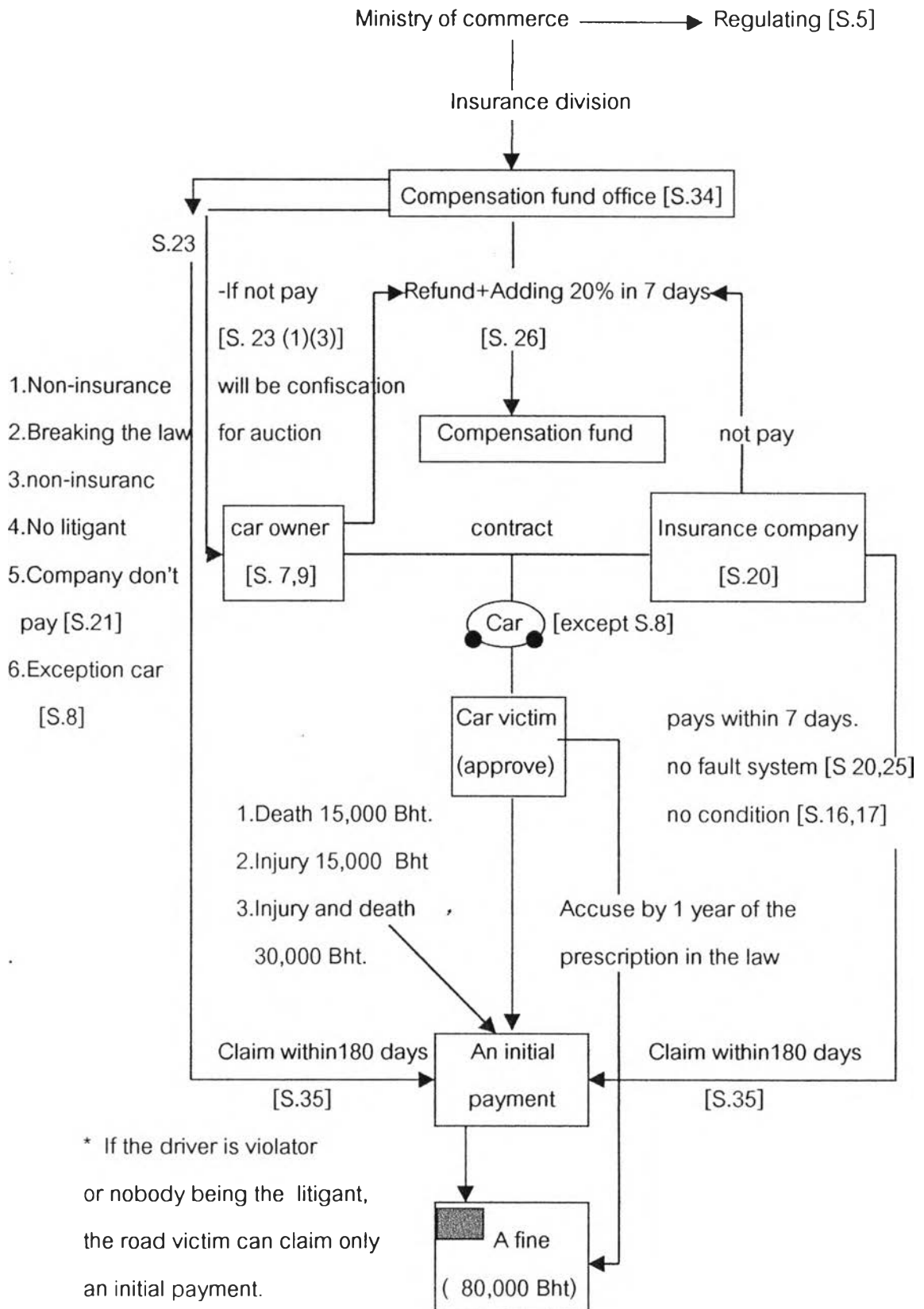
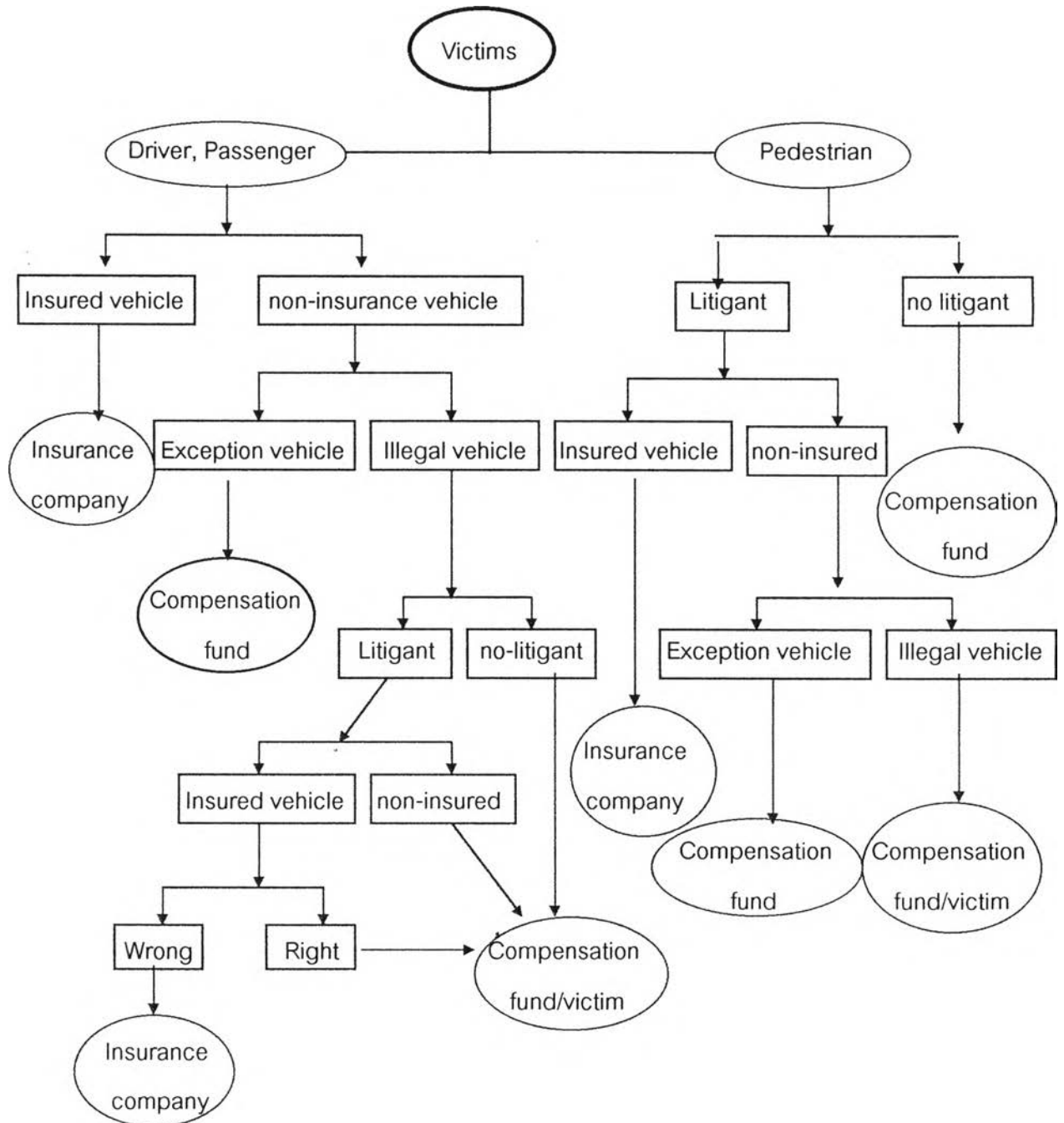


Figure 2.2 Diagram of an initial payment claim for medical treatment



2.2 Policy of Healthcare Services for Road Accident Victim

The policies of the Ministry of Public health (Ministry of Public Health, 1994) for the road accident victim according to the protection for motor vehicle accident victim Act B.E 2535 are as follows:-

(1) Healthcare must be specified by the doctor, not by limitation of the road victims' budget.

(2) All public hospitals of The Health Ministry must provide a good and immediate service.

(3) Do not give a commission fee to influence the people who take care of accident victims.

(4) The public hospitals can claim the medical treatment expenditure from road accident victims, road victims' funds, insurance companies, and Compensation fund.

(5) To coordinate activities in each area between public hospital and private hospital for appropriate transfer of car victims.

(6) If the cost of medical care is over the fine (50,000 baht), or over the initial payment (15,000 baht) and the road accident victim can not pay. The hospital must continue to take care of the road victims according to the doctors' orders, not by limitation of the money of the accident victims.

(7) Health care providers must concern on the information and statistic about injury, health care, clinical and expenses for health care services of road accident victim for planning and evaluation in the future.

2.3 Practical Problem

There is a major difficulty in carrying out this Act because the insurance company is a business. The insurance company must control every payment and

requires a lot of documents to support the claim. This makes it very difficult for the hospital and the road victim to provide adequate supporting documents.

The Ministry of Public Health had problems concerning documents which were reported in the past as follow (Office of Health Insurance,1997):-

(1) Problems relating to the insurance company.

(1.1) Insurance company require a receipt instead of invoice.

(1.2) More documents were required in support than have required by the Ministry Regulation.

(1.3) Road accident victim did not have enough basic documents to support a claim, such as a copy of ID card, a copy of house registration, police notice, driver license an others.

(2) Problems relating to the Law.

(2.1) The road accident victim authorizes the hospital to claims an initial payment from the insurance company, and road victim also claims for themselves.

(2.2) Road accident victim did not have enough basic documents to support a claim, such as a copy of car license, a copy of a police notice.

(2.3) The road accident victim who is under 20 years old can not authorize the hospital to claim.

(3) Problems relating to road accident victims.

(3.1) Road accident victim did not have a car insurance contract.

(3.2) Road accident victim did not have a require document with them.

(3.3) Road accident victim contacted litigant directly to get the expenses for medical care but did not pay the hospital.

(4) Problems relating to management.

(4.1) The hospital did not have sufficient officer, lawyer etc.

(4.2) The first admitted hospital already claimed before referring a patient to the next hospital.

(5) Problems relating to claiming and reimbursement

The Health Insurance Office (1997) reported the claim and reimbursement of healthcare treatment expenses of the hospitals under Ministry of Public Health, April 1993-April 1994 as following:

Table 2.1 The Detail of Claiming for the Medical Treatment Expenses

The Detail of Claiming the Medical Treatment Expenses of Healthcare Provider
Under Ministry of Public Health
April 1993 - April 1994

Document	Cases	% of claim	Money(baht)	Money as % of claim
All claim to insurance company	9,803	100	37,869,801	100
Reimbursement from insurance company	6,058	62	20,849,529	55.06
Can not reimbursed	3,745	38	17,020,272	44.99

Note: except 10 provinces; Chumporn, Mookdaharn, Nakornpanom, Nongbualampoo, Payao, Songkla, Suphanburi, Trad, Trang, Udonmtani.

Source: Health Insurance Office

Table 2.1 shows that during April 1993-April 1994, road accident victims totaling 9,803 cases that admitted to the hospitals under Ministry of Public Health asked to claim medical treatment expenses for 37,869,801 baht. They can be reimbursed just only 6,058 cases (55.06 %) and 44.99% of them still did not get the reimbursement.

Table 2.2 The Detail of Debt and Reimbursement.

The Detail of Debt and Reimbursement which Claim
by Provincial Insurance Office
Apr. 1993 - Jun 1995

Area	Debt (baht)	Reimbursement (baht)	Reimbursement As % of Debt	Remark
1	4,213,993	2,134,370	50.65	
2	2,007,622	1,332,480	66.37	
3	4,122,859	3,154,356	76.51	
4	2,989,880	1,192,843	39.9	
5	6,385,177	4,582,499	71.77	
6	7,260,476	4,414,517	60.8	
7	2,844,680	234,341	8.24	
8	339,514	256,722	75.61	
9	447,679	8,385	1.87	
10	146,642	128,247	87.46	
11	1,788,388	930,395	52.02	
12	1,962,950	775,047	39.48	
Ratvitee hosp.	564,049	167,614	29.72	
Leartsin hosp.	257,498	10,000	3.88	
Total	35,331,407	19,321,816	54.69	

Note: except 14 Provinces (no detail).

Source: Health Insurance Office

During April 1993 to June 1995, the insurance companies owed the road victims who claimed the medical treatment expenses through the Provincial Insurance Offices totaling 35,331,407 baht, and the insurance companies could pay only 19,321,816 baht

(54.69% of total debt). So, this means that the road accident victims who claimed for the medical treatment through the Provincial Insurance Office still did not get the reimbursement for 16,009,591 baht or 45.31% of the total claim.