

Considerations on Evaluating Death and Injury Compensations Under P&I

The responsibilities arising from the injury, illness, or death of seafarers working on the insured vessel, along with liabilities related to replacement seafarers, are covered under the P&I policy by 2016 Extension Clause of the MLC 2006 Convention as integral parts of the special conditions.



However, for an incident to be covered under the insurance, the conditions and the circumstances of the incident must be examined first. The primary requirement at this point is that the accident occurred while on the insured vessel. Contributing factors, that may cause an accident on the insured vessel, personnel negligence, incorrect guidance, and inadequate occupational health and safety measures can increase fault. The determination of fault is often ambiguous and requires further investigation. Occurrences such as accidents involving two or more vessels and contributory negligence of port employees are some of the complicating factors in assessments.

The entire calculation methodology and approach for compensation claims arising from bodily injuries or loss of support under the insurance is referred to as actuarial calculation, and this calculation is performed by actuaries or experts registered with the Treasury Undersecretariat. Actuaries are professionals who evaluate financial risks, propose solutions, and examine the long-term impacts and outcomes of these solutions. Since compensation fundamentally involves the monetary evaluation of damage, the calculations for bodily injuries are conducted by actuaries.

In recent times, according to Supreme Court precedents, a unified application has been adopted both in the calculation method and the determination of disability. Currently, the TRH-2010 Mortality Table with 0 Technical Interest, also known as the Progressive Annuity method, is used in compensation calculations, and the Adult Disability Assessment method is used to determine disability rates.



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A mortality table is a survival probability table prepared with certain demographic data. It estimates the probable lifespan of a person based on their age and gender, and calculations are made according to these probabilities. Before the TRH-2010 table was adopted, calculations were made using the French PMF-1931 and the American CSO-1980 tables. However, since these tables did not accurately reflect the demographic structure of our country, the TRH-2010 Mortality Table, prepared by the faculty of the Actuarial Department at Hacettepe University in 2010, was introduced for use in the sector.

There are primarily two types of claims for bodily injuries: disability compensation claims and loss of support claims. The factors affecting the calculations for these types of claims are as follows:

The common calculation criteria for disability and loss of support compensation claims include the victim's age, documents showing income status, fault ratio, accident date, and documents related to payments made by the institution if the victim is insured under SGK 4A. If the claim type is death, i.e., loss of support, additional documents such as inheritance certificates and the birth dates of the remaining dependents must be provided.

There are some key points regarding the calculation of disability compensation and the items that can be included. P&I insurance offers more comprehensive coverage for bodily injuries compared to other types of liability insurance in the elementary branches. However, like all liability insurance, P&I insurance generally covers temporary and permanent caregiver expenses, treatment costs, and temporary incapacity payments in addition to disability claims. Permanent caregiver expenses are included in the compensation if the person's disability rate is calculated to be 70% or higher, except in some special cases. Temporary incapacity payments are typically not paid directly to the injured party or the insured but are usually paid to the institution upon the request of the Social Security Institution.

The maritime sector, including port activities related to maritime, is classified as a hazardous industry in terms of occupational health and safety according to the "Regulation on Workplace Hazard Classes Regarding Occupational Health and Safety," published in the Official Gazette No. 28509. Therefore, to minimise risks and prevent potential fatalities and injuries that could affect the lives of crew and passengers, it is of utmost importance for the entire maritime industry to implement maximum safety rules and expand the scope of inspections in this regard.