

ACT Citizens Jury Introduction to CTP

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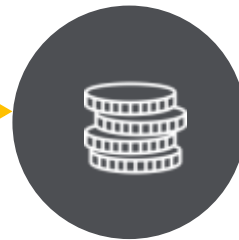
Why do we have CTP?



When we had the first cars, they were required to have a man with a flag walking in front



At that time if someone hurt you and it was their fault, you had to take them to court and prove negligence under the 'common law'



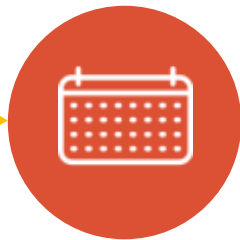
It was pretty difficult to prove negligence, but there was some bad driving, and some people won their court cases



People who owned cars were generally pretty well off, but they didn't like being sued



As cars became cheaper and more common, more injured people were unable to get their compensation because the car owner didn't have enough to pay



By the early 1930s governments passed laws to require a vehicle owner to buy insurance – hence 'compulsory'



The insurance protects the vehicle owner from being sued, and thus ensures that a person with a successful claim would get their compensation



The insurance contract between the vehicle owner (the 'first party') and the insurer (the 'second party') covers only the owner's liability for injury to others (hence 'third party')

Not much has changed in a lot of states – and we still have CTP in broadly the same form

How does it work?



Compulsory to have insurance when you register (or renew) a motor vehicle.



Paid along with the registration in a single amount – many people don't realise they are buying a separate insurance policy.



Since 2013 you have to choose an insurer – before that it was automatically with NRMA.



You can never get anything back yourself from the insurance, but if you do cause injury to somebody the insurance company deals with the claim against you.

What happens if someone is injured?

1

- Identify which vehicle was 'at fault' in the accident and claim against the insurer of that vehicle

2

- Be able to demonstrate that the driver of that vehicle was negligent (you could be a passenger in that vehicle but not its driver)

3

- Establish what damage you have suffered because of the accident

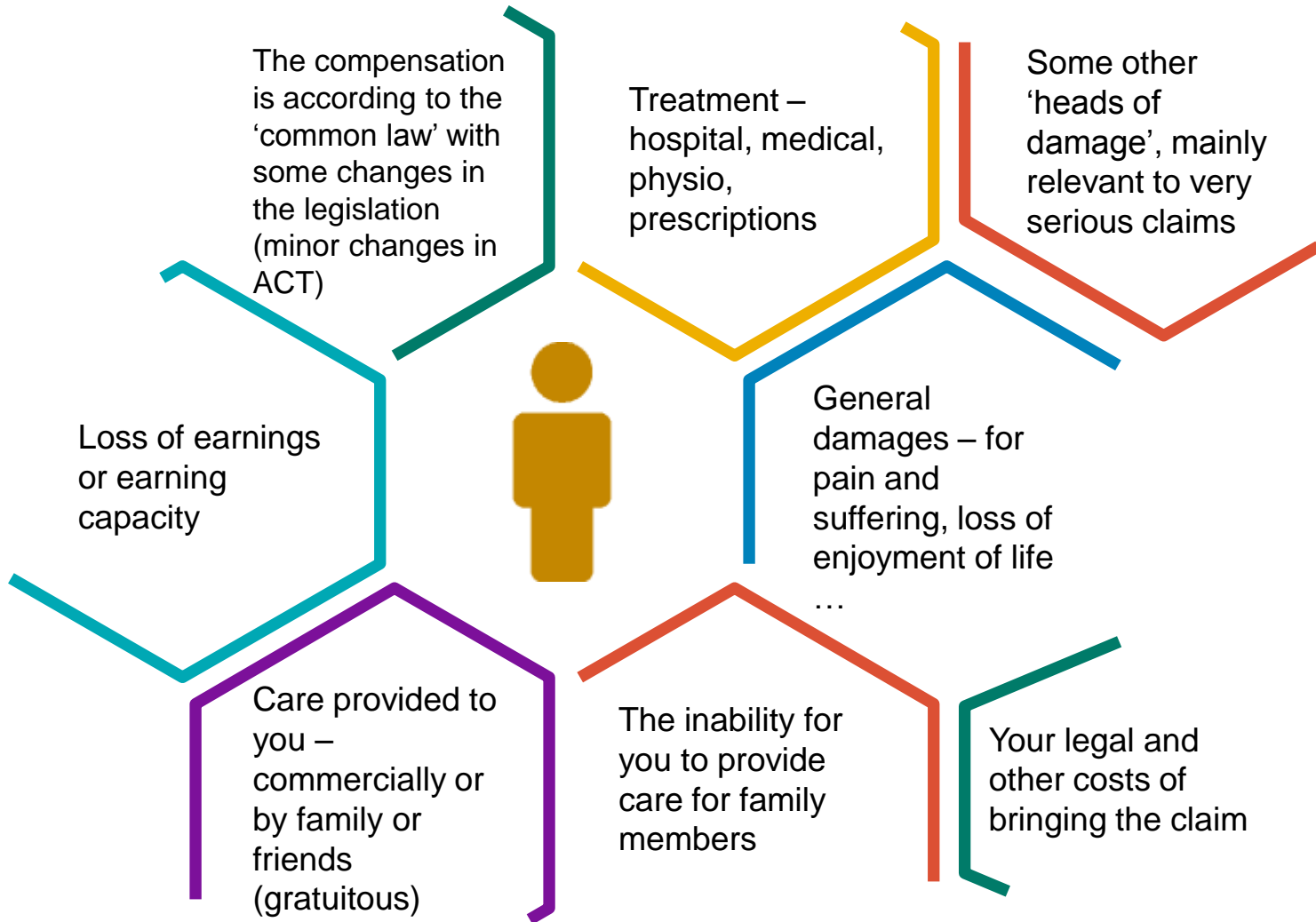
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- Negotiate a settlement of the claim with the insurer

5

- If you can't agree, take the insurer to court.

What is an Injured person entitled to?



Overview of schemes nationally

ACT	Common Law	Private Insurers
QLD	Common Law	Private Insurers
NSW	Hybrid	Private Insurers
VIC	Hybrid	State Scheme
SA	Common Law	Private Insurers
WA	Common Law	State Scheme
TAS	Hybrid	State Scheme
NT	No fault	State Scheme

Who is involved with the scheme?



Motorists

Pay premiums along with registration – have no organised voice



Injured People

The beneficiaries of the scheme – little organised voice; legal profession has adopted this role



Insurers

Underwrite, set premiums, market to motorists, invest cash flow, manage and pay claims, take financial risk

Service Providers

Lawyers (claimant)	Act for claimants, usually on a 'no win no fee' basis
Lawyers (insurer)	Act for insurers, usually on a retainer or fee for service basis
Treating doctors	GP's, specialists, psychologists – all fee for service including Medicare refunds
Other treaters	Physiotherapy, rehabilitation, home help, counselling, etc.
Medico-legal	Specialists who do examinations and reports for the claimant or the insurer
Investigators	Factual investigation, surveillance
Other experts	Crash investigation, engineering etc.
CTP Regulator	Lots of roles – hear from Lisa later
Actuaries	Financial analysis for insurers and regulators – risk analysis, premium setting, reserving
Court system	Receiving, case managing and determining cases – Magistrates, Supreme Court, Court of Appeal

What are the trade-offs?

On one hand, how much premium does every motorist have to pay?

On the other hand, how good is the insurance cover provided?
Who is able to make a claim?
What can they claim for?
How much will they get?

In between, what are the costs of the insurance scheme and of determining the outcome of all the claims?

What else is relevant to the jury?

Lifetime care scheme

Covers catastrophic injuries regardless of fault
Spinal cord, serious brain injury and similar
Covers treatment and care for life
Does not cover loss of earnings or general damages

Nominal defendant

What if you are injured by a car that is not insured for CTP?
What if you don't know the identity of the car (hit and run)?
There is a 'nominal defendant' that you claim against instead of the insurer
You can get the same entitlements
The nominal insurer is funded out of premiums paid

Interstate claims

A vehicle is registered in one state, but can crash anywhere
Usually: the coverage and entitlements are according to the location in which the accident occurred but is covered by the insurer of the vehicle in its home jurisdiction

The regulator

There is a 'CTP Regulator' in ACT
Does anyone know who they are or what they do?

The legislation

Road Transport (Third Party Insurance) Act – 259 pages
Civil Law (Wrongs) Act – 305 pages

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