PROCEEDINGS of
The First International Symposium
ADVANCES IN LEGAL MEDICINE

Edited by Taizo Nagano

October 11-15, 1990
Kanazawa, Japan
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Medical insurance problems after trauma are due both to
the national particularities of insurance law and to
difficulties in proving the medical facts. The latter are
identical world-wide and known to all doctors of forensic
medicine, therefore, only the legal aspects of insurance
medicine in the Federal Republic of Germany will be discussed
hereafter.

Due to the fact that already more than 100 years ago social
insurance was introduced in our country and that our economy
is flourishing, social security in case of injury and death
after accidents is good. Problems result from the coexistence
of different kinds of historically established insurances,
from the legal fields competent for these insurances and
the special concepts of causality in these legal fields.

In addition to the statutory accident insurance foreseen
within general social insurance there is personal accident
insurance. In case of dispute regarding statutory accident
insurance, the matters are brought before a Social Court,
for the latter - personal accident insurance - the civil
courts are competent. In social law the person insured is
obliged to provide evidence, however, there the requirements
to be met regarding the proof of causality are not very
high. A probable connection between trauma and damage is
sufficient, i.e. in case there are more things which speak
for it than against it.

If there is more than one condition concurring as a cause
of damage, then the most important condition is decisive.
In case a trauma worsened a physical ailment not caused
by an accident such that death occurred, then causality
is fulfilled if the life expectancy was reduced by at least
one year.
The social accident insurance covers accidents at work as well as those which occur on the way to work and on the way back home. Accidents caused by negligence are also covered but not those caused by gross negligence. This mainly applies to those kinds of accidents where alcoholization is one of the major conditions.

Other accidents apart from those occurring at work can be covered by personal accident insurance. Each owner of a motor bike, e.g. has to take out third-party liability insurance. Disputes are settled by civil law which entails that the person who is maintaining something also has to prove it. The theory of causality differs from that in social law: It is not sufficient that an incident factually causes damage but - according to the general experience of life - this incident must also normally be apt to cause such damage. These kinds of insurances do not cover intoxications, diseases caused by mental influence, by high-energy rays, effects of light, temperature and weather nor damage caused by apoplectic stroke, cramp fit, fainting or attacks of vertigo or by mental disturbance or disturbance of consciousness e.g. neither those caused by alcoholization. If, in addition to this natural internal diseases contributed by more than 25% to the death, then the insurance benefit can be reduced accordingly.

These complicated legal rules necessitate a number of medical expert opinions. The latter deal in particular with questions relating to causality in the simultaneous presence of natural deseases and traumatic damage, with the significance of existing alcoholization and with self-caused risk increase - especially when in case of a traffic accident a seat belt was not put on although this is mandatory in our country. Regarding this topic our institute carried out an extensive field study of seriously injured or killed persons who had put on a seat belt. The result of this study is now used as a basis for many expert opinions. The questions of the courts concentrate on the evaluation, whether it can be established by means of the injuries incurred that no belt
was worn and what kind of injuries could then have been avoided had a belt been worn.

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