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## Personal injury victims suffer in wake of Government 'reforms'

Thousands of victims injured through no fault of their own are struggling to receive fair compensation under current personal injury laws.

The Law Society of NSW & the NSW Bar Association say the NSW Government missed an opportunity to restore balance and consistency to personal injury laws when it failed to act on a parliamentary report recommending sweeping changes to the Government's 'reforms'.

An inquiry into personal injury compensation was conducted after continued pressure from the legal profession found that the reforms went too far and that "under the current law in NSW, injured individuals are, in some instances, limited in their access to compensation where community standards would suggest that they deserve greater recompense".

The Law Society of NSW & the NSW Bar Association say the Government's response to the report by the General Purpose Standing Committee shows a lack of compassion for seriously injured people and disregard for a pressing social problem.

President of the Law Society of NSW, June McPhie, says she is disappointed that the Government will not implement the report's key recommendations.

"The Government has missed an opportunity to 'right the wrongs' of the tort law reforms and ensure that people injured in motor vehicles, in the workplace or elsewhere receive fair compensation for their suffering," Ms McPhie said.

Bar Association President, Michael Slattery QC says the report included significant recommendations which need to be implemented urgently to address inconsistencies in the personal injury compensation legislation.

"We need to ensure that individuals who suffer a permanent injury, with little chance of recovery, have access to the same level of compensation, regardless of whether they were injured in the workplace, a motor vehicle accident or in a public place," he said

Recommendations that require urgent attention include:

- The adoption of a uniform approach across all personal injury compensation schemes
- The abolition of the harsh "whole person impairment" assessment (WPI)

Ms McPhie said the emerging case studies of injured people missing out on adequate personal injury compensation because of the WPI assessment are horrifying.

“Under the current laws, victims must prove a 15% permanent injury under tough American Medical Association Guidelines,” Ms McPhie said.

“The 15% WPI threshold is far too stringent and has resulted in many people, suffering psychological or physical injuries through no fault of their own, missing out on adequate compensation.

“If someone recovers, it is not deemed a permanent injury, even if they spend months or years in rehabilitation.

“The young and elderly are worse affected, because they can not even claim a loss of income.

Mr Slattery said sweeping changes to workers compensation, motor accidents and civil liability legislation in 1999- 2002 were driven by panic over rising insurance premiums and unavailability of insurance.

“Insurers have been the sole beneficiaries of massive reductions in personal injury payments to those injured through no fault of their own,” he said

“What has happened is that while insurers have made bumper profits, people injured through no fault of their own are suffering, unable to receive adequate compensation for their suffering.”

- Insurance premium revenue in Australia amounted to \$25.9 billion in 2004 but insurance companies paid out by way of compensation only \$13.75 billion
- Insurance companies made \$5 billion in 2004 – up by 50% yet there has been little or no reduction in premiums.

The Law Society of NSW & NSW Bar Association will now step up their efforts to have the Government adjust the tort law reforms in a way that restores fair compensation to seriously injured people.

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