

Automobile Accidents: Tort Law, Liability Insurance, and No-Fault Compensation from the Perspective of Economic Deterrence Theory

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Abstract

From the traditional civil law legal research in Taiwan, the legal-economic analysis concerning the relationship between liability insurance and the tort system has seldom been carried out. As a result, this study will be based on the discussion regarding two tort theories in U.S., namely enterprise liability theory and economic deterrence theory. Enterprise liability theorists mainly advocate the abolition of the fault system in favor of social insurance scheme. In contrast, economic deterrence theorists provide a view to analyze deterrence effect of different tort rules and to address the main function of tort law, which should give an incentive to a reduction of total social costs of accidents. As the effects of torts rules may influence on the injuries' behavior, victims' behavior and social welfare, liability insurance and no-fault compensation might significant influence these effects. Based on the economic deterrence theory, this paper reviews the current legal system relating to automobile accidents. While the legal issue regarding the no-fault compensation is emerging, several empirical evidences can be found that no-fault compensation might distort the deterrence effect offered by tort law and would possible increase in fatal accident rates. In this regard, it is suggested that better experiences rating plans and an appropriate set of penalties would mitigate higher accident rates in the adoption of no-fault compensation.

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