Risk Allocation in Autonomous Vehicles and Protection of Automobile Accident Victims: Challenges and Reform in Product Liability and Automobile Liability Insurance

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Abstract

With the complex technology and unforeseeable risks arising from autonomous vehicles, reforms and proposals for the current legal regimes concerning torts and insurance mechanisms have been developed in several jurisdictions. This has raised serious debates and challenges if we apply the liability based on product-defects for road victims. While we analyze the current developments of product liability in the U.S., European Union and Japan, the burden of proving the existence of product-defect will be extremely difficult and cost-prohibitive due to the expert testimony issues concerning the complexity of the technology. Furthermore, the state-of-the-art defense in design defect and warning defect claims will be the major challenge for the plaintiffs. Although the technological advances of autonomous vehicles may reduce the possibility of road accident, current technological and scientific limits may potentially increase the unforeseeable and unavoidable risks.

Taking account with the current liability insurance regime for the road victims, it is suggested that the traditional drivers and auto holders should also be considered and have the same level of protection as other road victims in the autonomous vehicles. The financial burden of insurance premiums should be partially allocated to the autonomous vehicle manufacturers. It is argued that the strict liability may hinder the technological development in autonomous vehicles. Balancing the risks and the viability of protection of road victims, this work

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suggests that the current automobile liability insurance regime combining the risk differentiation of autonomous vehicles will provide the basic compensation for the victims of accidents involving autonomous vehicles.

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