Preface

Over the last decade, bodily injury compensation has been the subject of much reflection: the June 2003 report of the National Victims’ Assistance Council directed by Ms Lambert Faivre, the September 2005 Catala report, the October 2005 Dintilhac report, the white paper published by the French Insurers’ Association (AFA) in April 2008, the July 2011 Terré report, as well as numerous conferences and seminars on this issue. Furthermore, certain of these ideas have been incorporated into government bills or private member’s bills: the provisional Lefrand bill, which was adopted by the National Assembly in February 2010, the Béteille private member’s bill that was tabled before the Senate in July 2010 and the Fourcade private member’s bill that was overturned by the Constitutional Council in August 2011.

This multitude of initiatives is evidence of a need shared by all actors (victims’ associations, lawyers, judges, insurers and reinsurers, etc.) to improve the current system for compensating bodily injury in order to make it more transparent and more responsive to victims’ needs.

Nevertheless, only some of these proposals have matured into law, such as the reform of the subrogation rights of third-party payers derived from Article 25 of the Social Security Finance Act of 21 December 2006 or the Ministerial Order of 27 December 2011 on the capitalisation table applicable to occupational accident annuities and disability pensions paid by the Social Security scheme. To deal with this legal vacuum, the actors involved in bodily injury compensation have sought practical solutions: application of the Dintilhac classification, publication of compensation tables by 12 Courts of Appeal, publication of expert assessments (by AREDOC, Gazette du Palais, etc.), publication of capitalisation tables, etc.

Furthermore, insurers now offer victims assistance services and support in returning to work. This approach, which reflects societal changes, deserves to be encouraged. The purpose of this study is to provide an objective report on these changes in the assessment of victims of severe bodily injury in motor liability claims.

Actuarial Management Department
French motor bodily injury liability insurers pay €4.3 billion each year to bodily injury victims

French Insurers’ Federation (FFSA) figures (motor insurance market 2010)
- Bodily injury liability claims account for only 3.2% of the total number of motor claims but account for nearly 30% of the total cost of motor claims
- In 2010, motor liability insurers paid nearly €4.3 billion in compensation to bodily injury victims
- 26% of bodily injury liability claims are bodily injury liability claims ≥ €0.75 million (major claims), which represent 8% of the total cost of motor sector claims
- Although the number of claims ≥ €0.75 million is falling, the number of claims ≥ €1.5 million continues to rise

Payments Number
- 51% Damage to vehicles
- 30% Bodily injury liability claims
- 19% Property damage liability claims
- 74% Other
- 26% Major claims

Source: French Insurers’ Federation (FFSA)
Motor bodily injury claims in 2010

CCR and motor third party liability insurance in France
- €32,4 M in premiums in 2012
  (out of a total of around €490 million in market reinsurance premiums)
- €18,8 M in motor liability insurance payments, of which €22.9 million were for bodily injury in 2011
- €200 M in provisions for motor liability claims in 2011

33 cedents reinsured in the motor liability market in France in 2012, i.e. 83% of the motor insurance market

A motor bodily injury claims database updated since 2005

SEVERE BODILY INJURY COMPENSATION IN FRANCE 03
This study covers victims who have filed major motor bodily injury claims, i.e. victims for whom:

**Total estimated compensation was ≥ €1 million as at 31 December 2011**

The study is based on data that the Claims Division of the CCR’s Actuarial Management Department has input into the major claims database since 2005 on the basis of its analysis of claim notices and other documents provided by cedents.

1,391 severe bodily injured victims, out of 1,360 motor claims filed since 1 January 1999 (i.e. ~1.02 severe bodily injured victims per claim)

98 victims compensated (settled claims or closed reinsurance claims)

1,272 claims on which no action was taken (claim amount fell below the cedent’s retention)

21 victims for whom payment of compensation continues (ongoing claims or open reinsurance claims)
Results of road safety campaigns: fewer traffic accident victims...

The measures that the government has taken since 2005 to promote road safety, together with insurers' accident prevention actions, have led to a drop in traffic fatalities, with the number falling below 4,000 in 2011.

<table>
<thead>
<tr>
<th>2011 results*</th>
<th>Accidents involving bodily injury</th>
<th>Fatalities within 30 days</th>
<th>Injuries</th>
<th>Of which, injuries requiring hospitalisation</th>
</tr>
</thead>
<tbody>
<tr>
<td>2011 final figures</td>
<td>65,024</td>
<td>3,963</td>
<td>81,251</td>
<td>29,679</td>
</tr>
<tr>
<td>2005 final figures</td>
<td>84,525</td>
<td>5,318</td>
<td>108,076</td>
<td>39,811</td>
</tr>
<tr>
<td>2005-2010 difference</td>
<td>-19,501</td>
<td>-1,355</td>
<td>-26,825</td>
<td>-10,132</td>
</tr>
<tr>
<td>2005-2010 progression</td>
<td>-23.1%</td>
<td>-25.5%</td>
<td>-24.8%</td>
<td>-25.5%</td>
</tr>
</tbody>
</table>

Source: National Road Safety Research Institute (ONISR), Road safety figures

... but more seriously injured victims

According to the figures published by the French Insurers’ Federation (FFSA):

- The number of bodily injury liability claims has fallen regularly since 1999, but the number of major claims > €1.5 million continues to rise.
Changes in the nature of claims

Based on the CCR database:

- Between 1999 and 2006, the number of major motor bodily injury liability claims increased by 52%. This trend is particularly striking because the number of cedents and the volume of premiums have increased. Furthermore, the structure of motor liability treaties have changed, with the average retention rising from €763,000 to €2.2 million.
- Since 2007, there has been a steady decrease in the number of major claims on a comparable basis.

Progression in the number of victims, by year of occurrence

The average cost of major bodily injury claims is increasing by 5% per year

- Between 2005 and 2011, the average cost of compensating severe bodily injured victims rose by 37%, i.e. over +5% each year.
- This study identifies the principal causes and the principal heads of loss concerned.
80% of victims sustain major cranial trauma or spinal cord injuries

**Categories of victims**

- Major cranial trauma (55%) causes neuropsychological sequelae;
- Spinal cord injuries (25%) break down into tetraplegia (paralysis of all four limbs) and paraplegia (more or less total paralysis of the two lower limbs).

**Distribution of victims by injury**

<table>
<thead>
<tr>
<th>Injury</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Major cranial trauma</td>
<td>55%</td>
</tr>
<tr>
<td>Paraplegia</td>
<td>4%</td>
</tr>
<tr>
<td>Tetraplegia</td>
<td>3%</td>
</tr>
<tr>
<td>Vegetative state</td>
<td>11%</td>
</tr>
<tr>
<td>Other sequelae</td>
<td>14%</td>
</tr>
<tr>
<td>Multiple trauma</td>
<td>4%</td>
</tr>
<tr>
<td>Hemiplegia/Hemiparesis</td>
<td>2%</td>
</tr>
<tr>
<td>Other sequelae</td>
<td>11%</td>
</tr>
</tbody>
</table>

**The Physical and Psychological Injuries (Atteinte à l’Intégrité Physique et Psychique – AIPP) scale**

- The Physical and Psychological Injuries (AIPP) scale provides medical experts with a tool for assessing the severity of bodily injuries, on a scale of 0 to 100%.

  - A Physical and Psychological Injury is defined as:
    - a permanent reduction in physical, psychosensory or intellectual potential that is the result of an anatomo-physiological injury:
      - that can be detected medically and can therefore be assessed on the basis of appropriate clinical testing, supplemented by a study of additional tests furnished;
      - that is compounded by pain phenomena and psychological impacts ordinarily associated with the sequelae described, as well as consequences in everyday life that are customarily and objectively associated with such injury.
The AIPP rate provides a measurement of the gravity of bodily injury

**Examples:**

<table>
<thead>
<tr>
<th>Function</th>
<th>Injury</th>
<th>AIPP rate (Concours Médical scale)*</th>
</tr>
</thead>
<tbody>
<tr>
<td>Visual acuity</td>
<td>Loss of vision in one eye</td>
<td>25%</td>
</tr>
<tr>
<td></td>
<td>Loss of vision in both eyes (total blindness)</td>
<td>85%</td>
</tr>
<tr>
<td>Upper/lower limbs</td>
<td>Loss of a thumb</td>
<td>22% [right] and 18% [left]</td>
</tr>
<tr>
<td></td>
<td>Amputation or paralysis of an arm</td>
<td>60% [right] and 50% [left]</td>
</tr>
<tr>
<td></td>
<td>Paraplegia</td>
<td>30% to 90% depending on the degree of the spinal cord injury</td>
</tr>
<tr>
<td>Nervous system</td>
<td>Hemiplegia</td>
<td>50% to 70%</td>
</tr>
<tr>
<td>Head injury</td>
<td>Coma and skull fracture</td>
<td>Up to 100%</td>
</tr>
</tbody>
</table>

*Medical assessment scale*

**82% of severe bodily injured victims sustain an AIPP rate ≥ 50%**

- 82% of victims have an AIPP rate ≥ 50%.
- Furthermore, 49% of victims have an AIPP rate ≥ 80%.
- Deceased victims account for only 1% of the total.
- These figures must be viewed in light of injuries sustained: nearly 80% of victims sustain major cranial trauma or spinal cord injuries (paraplegia, tetraplegia).

**Distribution of victims by seriousness of injuries**

- 17%: 1. AIPP rate ≤ 50%
- 49%: 2. AIPP rate 50% to 80%
- 33%: 3. AIPP rate 80% and higher
- 1%: 4. Deaths
71% of victims are men

Men sustain the most serious injuries. This over-representation of the male population may be explained by 2 main factors:

1. Income

Men’s incomes are higher than women’s incomes and, therefore, men receive greater compensation for loss of earnings;

2. Vehicular use

Vehicular use by men. In 2006, men drove 13,550 kms, compared with 11,910 kms for women. Moreover, 36.7% of kilometres driven by women were in urban areas, whereas 22.8% of kilometres driven by men were on motorways, and accidents in urban areas are generally less serious than motorway accidents. Women account for only one-quarter of traffic fatalities and one-third of traffic injuries. In addition, 75% of deaths and 92% of drivers involved in fatal accidents who tested positive for alcohol were men.*

*Source: National Road Safety Research Institute (ONISR) – February 2008, Major road safety issues in France, Men-Women
64% of victims are under the age of 30 on the date of the accident.

29% of those victims were women and 71% were men. Most of the people in this age group are not members of the working population: they are schoolchildren, university students, etc.

This figure could minimise or obviate the income factor as a reason for the over-representation of males filing serious bodily injury claims.

However, in the 30 to 59 age range (the so-called “working population”), women account for 27% of victims compared with 73% for men. Therefore, income is indeed a factor in the over-representation of males filing severe bodily injury claims.
39% of victims have no professional activity. In fact, 78% of these victims are young people under the age of 19.

This group is followed by white-collar workers and blue-collar workers, who account for 23% of seriously injured victims. 72% of these victims are between the ages of 20 and 49.

Given life expectancy, the younger the victim, the greater his/her needs for personal assistance and medical care and the higher his/her work-related losses.
Since 2006, the actors involved in the compensation of bodily injury have adopted the Dintilhac classification. Although this classification has not been given official status by Parliament, the Ministry of Justice (circular of 2 February 2007) and insurers have strongly recommended that it be applied in order to ensure greater transparency and equity in the compensation of bodily injuries. Furthermore, this necessity was incorporated into the Lefrand private member’s bill, which was adopted by the National Assembly on 16 February 2010.

The Dintilhac classification lists and defines, in non-exhaustive fashion, the heads of loss that give rise to compensation, based on three factors:

1 - direct victims/indirect victims;
2 - temporary losses/permanent losses (before or after the date on which injuries stabilise);
3 - economic losses/non-economic losses.

Furthermore, the vast majority of insurers have revised their claim notices accordingly (in particular, the French Reinsurance Professionals’ Association (APREF) forms).

Therefore, the figures in this study are based on the Dintilhac classification.

Pursuant to the provisions of the Act of 5 July 1985, known as the Badinter Act, any victim of a traffic accident involving a land motor vehicle is entitled to compensation. The rights of non-driver victims may be limited or eliminated only if the person concerned commits gross negligence that is the sole cause of the accident, or an intentional wrongful act (excluding victims ≥ the age of 70 or ≤ the age of 16, or who have an AIIP rate > 80%). Conversely, in the case of drivers, ordinary negligence may be asserted to reduce and, most frequently, to deny compensation.

The costs given below are based on full compensation rights. In fact, compensation rights were reduced for only 4% of the 1,391 victims studied.
Economic losses account for 86% of compensation

- **Economic losses**: 86% of indemnities paid compensate temporary or permanent economic losses.

Breakdown of €100 in indemnities, by head of loss:
- **Economic losses**: 86%
- **Non-economic losses**: 12%
- **Indirect victims**: 2%

**Economic losses**
- Economic losses are losses of a financial nature that correspond either to losses sustained or earnings foregone by the direct victim.
  - Examples: medical expenses, loss of earnings, third-party assistance, etc.

**Non-economic losses**
- Non-economic losses are losses of a non-financial nature sustained by the direct victim.
  - Examples: pain and suffering, aesthetic losses, loss of amenity, etc.

**Losses sustained by family members**
- In this study, losses of indirect victims include both economic losses (loss of income, sundry expenses) and non-economic losses (loss of affection, loss of consortium) sustained by family members of the direct victim.
3 heads of loss account for 65% of the total cost of compensation

3 heads of loss alone account for 65% of the average compensation paid to victims:

1. Third-party assistance: 43%;
2. Future medical expenses: 11%;
3. Sundry expenses: 11%.

The distribution by heads of loss is nearly the same for victims of major cranial trauma and tetraplegia. However, for paraplegic victims, third-party assistance costs are lower: they account for 34% of total compensation, compared with 44% for victims of major cranial trauma and 46% for victims of tetraplegia.

Breakdown of average compensation paid based on Dintilhac heads of loss, as a %
Third-party assistance

- According to the Dintilhac classification, third party assistance costs may be compensated under the sundry expenses head of loss (before injuries stabilise) and under the third-party assistance head of loss (after injuries stabilise).

- These costs concern expenditures for third-party assistance to help the victim perform everyday activities, ensure his/her safety, contribute to restoring his/her dignity and offset his/her loss of autonomy.

- For victims with serious injuries, third-party assistance may be a particularly costly head of loss.

Third-party assistance accounts for 43% of total compensation costs

- Between 2005 and 2011, the average cost of third-party assistance increased by 41%, i.e. nearly +6% per year.

- Moreover, this head of loss alone accounts for 43% of the total amount of compensation paid to victims.

Development of average third-party assistance costs (in euros)
Several factors explain the increase in third-party assistance costs:

- The increase in hourly rates for both “active” and “passive” assistance;

- The increase in the number of hours: increasingly, victims are awarded 24-hour assistance [see December 2010 French Reinsurance Professionals’ Association (APREF) Memo, Human assistance: exceeding 24 hours a day], too often without taking account of victims’ increased autonomy due to adaptations made (in the home or to a vehicle) and technical assistance tools (distance monitoring, home automation systems, etc.);

- The differentiation in third-party needs: third-party partial or total replacement services (e.g. bathing and dressing, meals), third-party stimulation (primarily for certain cranial trauma victims) and third party monitoring (to ensure the victim’s safety).
The average hourly rate for “active” third-party assistance services is €19

- The average hourly rate for third-party assistance is €19 for “active” third-party assistance services and €13 for “passive” third-party assistance services. Between 2005 and 2011, this average cost increased by:
  - +39% for “active” third-party assistance hourly rates, i.e. +6% per year;
  - +38% for “passive” third-party assistance hourly rate, i.e. +6% per year.

Progression of third-party assistance hourly rates (in euros)

- On average, severe bodily injured victim receive 15 hours of third-party assistance (active and passive services). The third-party assistance needs of hemiplegia or quadriplegias victims (who represent over 14% of the population studied) often exceed 24 hours per day.
The “sundry expenses” head of loss compensates victims for all costs incurred before the date injuries stabilise:
- fees of the victim’s consulting physician,
- transport costs,
- expenses incurred for specific non-work activities that the victim cannot perform during the traumatic illness (child care, at-home medical care, temporary assistance of a third party, adaptation of a vehicle or the home, etc.)

54% of sundry expenses are due to the costs of third-party assistance before injuries stabilise

The average cost of sundry expenses more than doubled between 2005 and 2011 (+157%), with an annual increase of +17%

Development of the average cost of sundry expenses (in euros)
This increase is largely due to the rising cost of third-party services before injuries stabilise, which account for 54% of sundry expenses.

Breakdown of sundry expenses

- Miscellaneous: 54%
- Housing adaptation expenses: 26%
- Vehicle adaptation expenses: 15%
- Third-party assistance before injuries stabilise: 5%

Current Medical Expenses and Future Medical Expenses

The "medical expenses" heads of loss compensate all hospital, medical, paramedical and pharmaceutical expenses (nurses, physical therapy, orthoptics, etc.), prostheses, medical devices, etc.

These expenses may be current (before injuries stabilise) or future (after injuries stabilise). Future expenses may be temporary expenses (i.e. one-off expenses or expenses paid for a limited time) or lifelong expenses.
Medical expenses account for 20% of total compensation costs

- 77% of current medical expenses compensate the victim’s hospitalisation costs; 45% of these expenses are for intensive care.

Between 2005 and 2011, current medical expenses increased by 19%, i.e. +3% each year

Development of the average cost of current medical expenses (in euros)

<table>
<thead>
<tr>
<th>Year of Assessment</th>
<th>Average Cost (in euros)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2005</td>
<td>359,896</td>
</tr>
<tr>
<td>2006</td>
<td>356,266</td>
</tr>
<tr>
<td>2007</td>
<td>385,736</td>
</tr>
<tr>
<td>2008</td>
<td>406,423</td>
</tr>
<tr>
<td>2009</td>
<td>404,637</td>
</tr>
<tr>
<td>2010</td>
<td>429,037</td>
</tr>
<tr>
<td>2011</td>
<td>420,932</td>
</tr>
</tbody>
</table>
Between 2005 and 2011, future medical expenses increased by 16%, i.e. +3% per year.

This head of loss is expected to become increasingly costly in the future:
• New medical techniques and new technical types of assistance provide victims with greater autonomy;
• The trend in health policy is for Social Security to increasingly withdraw from this field.

45% of future medical expenses compensate the costs of lifelong placement. These expenses vary by geographical area, depending on the subsidies granted by regional authorities and other bodies.

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These expenses vary by geographical area, depending on the subsidies granted by regional authorities and other bodies.

45% of future medical expenses compensate the costs of lifelong placement.

Development of the average cost of current medical expenses (in euros)
The “loss of earnings” heads of loss compensate the victim’s loss of or reduction in income due to a temporary disability (current loss of earnings) or a permanent disability (future loss of earnings) that affects his/her work environment.

These losses may be due to the loss of employment or the fact that the victim is only able to work part-time.

Loss of earnings accounts for 11% of total compensation costs.

Between 2005 and 2011, loss of earnings assessments, both current and future, increased by 30%, i.e. nearly +4% per year.
Due to their higher annual incomes, managerial employees, self-employed professionals and heads of companies receive compensation that is up to two times higher than that of other employment categories.

The “professional impacts” head of loss supplements compensation for future loss of earnings by compensating the impacts of losses that the victim sustains due to:

- his/her reduced value in the employment market;
- loss of professional opportunities;
- increased hardship in performing his/her job;
- having to abandon the profession he/she practised before the injury and seek another profession due to his/her disability.

Professional impacts also compensates expenses incurred for:

- professional rehabilitation,
- training,
- change of employment.

Lastly, professional impacts seeks to compensate retirement losses, i.e. the impact that future income shortfalls due to the accident will have on the amount of the pension the victim will be able to claim at the time of retirement.
Professional impacts accounts for 1% of total compensation costs

- 86% of professional impacts indemnities paid compensate lost career opportunities.
- The average cost of professional impacts is higher for men between the ages of 20 and 29 on the date of the accident.
- Between 2005 and 2011, professional impacts assessments tripled. This increase may be due to the use of the Dintilhac classification, which has made this a separate head of loss.
- This progression should be viewed in light of compensation paid for future loss of earnings because, in the case of recent victims of serious bodily injuries, the lower compensation paid for professional impacts is offset by an increase in compensation for future loss of earnings. Furthermore, the loss of retirement pension points accounts for only 5% of the total cost of professional impacts because future loss of earnings is usually compensated by the payment of a lifetime annuity (with no resulting loss of retirement pension points).

Breakdown of professional impacts:

- Loss of professional opportunities: 86%
- Professional rehabilitation expenses: 2%
- Reduced value in the employment market: 5%
- Other: 2%
- Increased work hardship: 3%
- Retirement losses: 2%

Development of average costs of professional impacts (in euros)

<table>
<thead>
<tr>
<th>Year</th>
<th>Average Cost (€)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2005</td>
<td>73,881</td>
</tr>
<tr>
<td>2006</td>
<td>199,228</td>
</tr>
<tr>
<td>2007</td>
<td>76,240</td>
</tr>
<tr>
<td>2008</td>
<td>95,010</td>
</tr>
<tr>
<td>2009</td>
<td>140,917</td>
</tr>
<tr>
<td>2010</td>
<td>220,817</td>
</tr>
<tr>
<td>2011</td>
<td>227,553</td>
</tr>
</tbody>
</table>
Housing Adaptation Expenses and Vehicle Adaptation Expenses

The victim’s home and vehicle may be adapted temporarily (before injuries stabilise) and/or permanently (after injuries stabilise) to provide the victim with a suitable home and means of transport given his/her traumatic illness or disability.

Expenses for temporary adaptations are included in the sundry expenses head of loss.

The “housing adaptation expenses” and “vehicle adaptation expenses” heads of loss apply only to the reimbursement of expenses of adaptations made to an existing home or vehicle or the additional cost of acquiring a better adapted home or vehicle.

Housing adaptation expenses also include moving out and moving in expenses, as well as the costs of a necessary structure that provides the victim with an external living space other than his/her customary home, such as a medical-care centre or home.

Housing and vehicle adaptation expenses account for 4% of total compensation costs

The average amount of housing adaptation expenses is €76,400.

Victims of multiple trauma and paraplegia receive the highest amounts of compensation under the “housing adaptation expenses” head of loss: €130,000 for multiple trauma victims and €105,129 for tetraplegia victims. Cranial trauma victims without motor disabilities require lower housing adaptation expenses.

Average compensation for housing adaptation expenses, by type of injury (in euros)
Permanent Functional Impairment

The “permanent functional impairment” head of loss is a permanent non-economic loss head of loss that compensates physical and psychological injuries to the victim, that are medically observed after injuries stabilise, and that affect solely “physiological/functional” abilities.

Permanent functional impairment accounts for 7% of total compensation costs.

AIPP rates have been stable since 1999.

Similarly, the average cost of permanent functional impairment compensation for physical and psychological injuries has been stable since 2005.

Furthermore, we have observed a certain uniformity among insurers in the application of AIPP point values.
Men and women are compensated in strictly equal fashion for permanent functional impairment.

- The average cost of permanent functional impairment is identical for men and women. This equality confirms that AIPP point values are unrelated to the victim’s sex.
- This average cost falls with the victim’s age.

### Average compensation for permanent functional impairment, by sex

#### Men

<table>
<thead>
<tr>
<th>Age Group</th>
<th>Average Compensation (Euros)</th>
</tr>
</thead>
<tbody>
<tr>
<td>5 and under</td>
<td>338,018</td>
</tr>
<tr>
<td>6 to 19</td>
<td>341,182</td>
</tr>
<tr>
<td>20 to 29</td>
<td>333,296</td>
</tr>
<tr>
<td>30 to 39</td>
<td>300,961</td>
</tr>
<tr>
<td>40 to 49</td>
<td>277,528</td>
</tr>
<tr>
<td>50 to 59</td>
<td>264,863</td>
</tr>
<tr>
<td>60 and over</td>
<td>203,194</td>
</tr>
</tbody>
</table>

#### Women

<table>
<thead>
<tr>
<th>Age Group</th>
<th>Average Compensation (Euros)</th>
</tr>
</thead>
<tbody>
<tr>
<td>5 and under</td>
<td>324,809</td>
</tr>
<tr>
<td>6 to 19</td>
<td>359,153</td>
</tr>
<tr>
<td>20 to 29</td>
<td>318,130</td>
</tr>
<tr>
<td>30 to 39</td>
<td>290,921</td>
</tr>
<tr>
<td>40 to 49</td>
<td>288,274</td>
</tr>
<tr>
<td>50 to 59</td>
<td>244,774</td>
</tr>
<tr>
<td>60 and over</td>
<td>201,374</td>
</tr>
</tbody>
</table>
Other non-economic losses

Temporary

- Temporary functional impairment compensates for the impact of the victim’s temporary disability on his/her personal life and his/her loss of quality of life and deprivation of the usual enjoyment of day-to-day life.

- Pain and suffering compensates physical and psychological suffering and associated disorders from the date of the accident until the date on which the injuries stabilise.

- Temporary aesthetic loss compensates temporary alterations to the victim’s physical appearance.

Permanent

- Permanent aesthetic loss compensates alterations to the victim’s appearance.

- Loss of amenity compensates the impossibility for the victim to regularly practise a specific sport or engage in a specific recreational activity.

- Loss of sexual function compensates losses affecting the victim’s sex life.

- Deprivation of family life compensates the loss of hope, opportunity or possibility of having a “normal” family life due to the severity of the disability.

- Extraordinary permanent losses compensate unusual losses.

- Losses associated with progressive pathologies compensate living condition problems generated by an illness contracted as a result of contamination (HIV, hepatitis C, Creutzfeldt-Jakob disease, asbestos, etc.).
The average cost of temporary non-economic heads of loss has increased by 4% per year.

- Between 2005 and 2011, assessments of temporary non-economic losses increased by 25%, i.e. nearly +4% per year.

- This increase may be primarily due to 2 new heads of loss derived from the Dintilhac classification:
  - The addition of temporary aesthetic loss;
  - The expansion of the temporary functional impairment head of loss (which includes various former heads of loss, such as temporary total disability, difficulties in everyday activities and living condition problems).

Conversely, between 2005 and 2011, the assessment of permanent non-economic losses fell slightly (~1% per year).
26% of non-economic loss indemnities (excluding permanent functional impairment) compensate temporary functional impairment

- The breakdown of the various non-economic heads of loss, other than permanent functional impairment, is fairly uniform.
- This confirms that a significant share of compensation is for temporary functional impairment (26%) and pain and suffering (19%). Moreover, temporary aesthetic loss, the new head of loss derived from the Dintilhac classification, accounts for only 1% of the average cost of non-economic losses.

Pain and suffering and aesthetic loss are assessed by a medical expert on a scale of 0 to 7 depending on their respective severity.

### Pain and suffering

<table>
<thead>
<tr>
<th>Degree (out of 7)</th>
<th>Average compensation (in euros)</th>
</tr>
</thead>
<tbody>
<tr>
<td>5</td>
<td>32,160</td>
</tr>
<tr>
<td>5.5</td>
<td>32,258</td>
</tr>
<tr>
<td>6</td>
<td>38,665</td>
</tr>
<tr>
<td>6.5</td>
<td>42,783</td>
</tr>
<tr>
<td>7</td>
<td>59,450</td>
</tr>
</tbody>
</table>

### Permanent aesthetic loss

<table>
<thead>
<tr>
<th>Degree (out of 7)</th>
<th>Average compensation (in euros)</th>
</tr>
</thead>
<tbody>
<tr>
<td>5</td>
<td>33,089</td>
</tr>
<tr>
<td>5.5</td>
<td>34,850</td>
</tr>
<tr>
<td>6</td>
<td>39,274</td>
</tr>
<tr>
<td>6.5</td>
<td>41,667</td>
</tr>
<tr>
<td>7</td>
<td>55,400</td>
</tr>
</tbody>
</table>
Losses of indirect victims

The victim’s family circle (collateral or indirect victims – who can prove an actual and affectionate shared life with the victim) are compensated for their economic losses:
- Funeral expenses: this head of loss compensates funeral and burial expenses that must be paid by the victim’s family circle in the event of the victim’s death as a result of the accident;
- Sundry expenses: this head of loss compensates the direct victim’s family circle for sundry expenses they incur as a result of the accident (transport, lodging, meals, etc.);
- Loss of income: this head of loss compensates the reduction or loss of income sustained by the household of a deceased victim.

They are also compensated for their non-economic losses:
- Loss of consortium (if the victim survives): this head of loss compensates non-economic losses of the victim’s family until the victim’s death;
- Loss of affection: this head of loss compensates the loss of affection sustained by certain family members due to the direct victim’s death or the direct victim’s survival with a disability;
- Extraordinary non-economic losses: this head of loss compensates inter alia the change in living conditions suffered by the direct victim’s family circle during the victim’s survival with a disability.

83% of indemnities paid to family members compensate non-economic losses

83% of compensation paid to indirect victims is for non-economic losses such as loss of affection and loss of consortium.

Only 4% of compensation paid to indirect victims is for the household’s loss of income, which is primarily due to the direct victim’s death.
27% of insurers incorporate an inflation rate into their assessment

- When discounting cash flows under heads of loss they expect to pay on the date the claim is settled, 27% of insurers incorporate an annual inflation rate until the anticipated claim settlement date.
  - Some of these insurers apply this rate to all heads of loss.
  - Others apply it only to certain heads of loss: future economic heads of loss or to third-party assistance only.
  - Lastly, other insurers apply an inflation rate only to certain types of victims: depending on the victim’s age or the foreseeable date on which the victim’s injuries will stabilise.

- Most insurers that use this technique apply an annual rate of 2% until the anticipated claim settlement date.
Indemnities that compensate future losses (medical expenses, third-party assistance, future loss of earnings, etc.) may be paid in the form of an annuity or capital.

The compensation method is decided not only by the victim and his/her lawyer, but also by the courts or the insurer.

For the insurer, each of these methods (annuity or capital) has advantages and disadvantages:

<table>
<thead>
<tr>
<th>Method</th>
<th>Advantages</th>
<th>Disadvantages</th>
</tr>
</thead>
</table>
| Capital | - Claim closed [except in the event of an aggravation] for management and accounting purposes | - No reduction in compensation costs in the event of the victim’s premature death  
- Negotiation of the capitalisation table to be applied |
| Annuity | - Reduction in compensation costs in the event of the victim’s premature death  
- Reimbursement of annuity adjustments by the Mandatory Insurance Guarantee Fund (Fonds de Garanties des Assurances Obligatoires – FGAO) for accident prior to 1 January 2013 | - Need to set up a system for monitoring annuities [payment, certificate that the beneficiary is alive, taxation, etc.] - annuities management department  
- Claim not closed for accounting purposes |

In its bodily injury compensation white paper, published in April 2008, the French Insurers’ Association (AFA) strongly recommends payment of annuities to victims, in particular for third-party assistance.
Discounting of annuities

To convert an annuity into capital for compensation or provisioning purposes, insurers use various scales, which combine a mortality table and an interest rate.

These elements vary depending on how the compensation is paid:

<table>
<thead>
<tr>
<th>Payment method</th>
<th>Bases</th>
<th>Objectives of the capitalisation table</th>
<th>Capitalisation table</th>
</tr>
</thead>
<tbody>
<tr>
<td>Annuity</td>
<td>Article A. 331-10 of the French Insurance Code</td>
<td>Provisioning</td>
<td>TD 88-90 at 60% of the average rate on government bonds with a max. of 3%</td>
</tr>
</tbody>
</table>
| Capital        | No official table for use in ordinary legal matters | Compensation and/or provisioning | The 3 principal tables currently used in ordinary legal matters are:  
  - BCIV 2012: TD 00-02 at 3.22% (adopted by the Order of 27 November 2012 for benefits paid by Social Security);  
  - Gazette du Palais 2004: TD 00-02 at 3.20%;  
  - Gazette du Palais 2011: TD 06-08 at 2.35%.  
  Certain insurers also provision on the basis of Article A 331-10 of the French Insurance Code. |

89% of insurers provision using the TD 88-90 mortality table

- 89% of insurers assess heads of loss on the basis of the TD 88-90 life expectancy table*, in accordance with Article A. 331-10 of the French Insurance Code.

- 2/3 of insurers apply the same rate to provision for permanent economic heads of loss.

*Life expectancy table of the French population are regularly published by INSEE (National Institute of statistic and economic studies)

Breakdown of life expectancy tables used
62% of insurers provision annuities on the basis of an annual payment

- Depending on the terms of the settlement or court decision, annuities may be paid:
  - Annually (1 payment/year): this is insurers’ preferred frequency of payment and is used in 62% of cases;
  - Quarterly (4 payments/year): insurers and victims also favour this frequency of payment, which is used in 33% of cases;
  - Monthly (12 payments/year): only 5% of situations.

The frequency of payment has a slight impact on the final cost of the claim, as shown in the example below:

<table>
<thead>
<tr>
<th>Payment frequency</th>
<th>Capital required to constitute an annual lifetime annuity of €100,000 discounted at 3.5% for a 35-year-old victim (TD 88/90)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>With no retention (in euros)</td>
</tr>
<tr>
<td>Annual</td>
<td>2,031,000</td>
</tr>
<tr>
<td>Quarterly</td>
<td>2,068,000</td>
</tr>
<tr>
<td>Monthly</td>
<td>2,077,000</td>
</tr>
</tbody>
</table>
95% of insurers pay annuities in arrears

The term of the annuity corresponds to the point at which the annuity is paid during the period:

- Payment is made “in arrears” if it is made at the end of a period;
- Payment is made “in advance” if it is made at the start of a period.

Breakdown of cedents, by term

The payment term of the annuity has a slight impact on the final cost of the claim, as shown in the example below:

<table>
<thead>
<tr>
<th>Payment term of the annuity</th>
<th>Capital required to constitute an annual lifetime annuity of €100,000 discounted at 3.5% for a 35-year-old victim (TD 88/90)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>With no retention (in euros)</td>
</tr>
<tr>
<td></td>
<td>With a retention of €1 million</td>
</tr>
<tr>
<td>In arrears</td>
<td>2,031,000</td>
</tr>
<tr>
<td></td>
<td>-</td>
</tr>
<tr>
<td>In advance</td>
<td>2,131,000</td>
</tr>
<tr>
<td></td>
<td>+ 4.92%</td>
</tr>
</tbody>
</table>
The Act of 27 December 1974 requires that annuities paid to direct victims of motor accidents with a disability rate >75% be index-linked in order to compensate for the drop in value of money over time.

The Badinter Act of 5 July 1985 extended this indexation obligation to annuities paid to all victims of traffic accidents, both direct and indirect.

This indexation is based on the indexation rates for adjustment coefficients for occupational accident annuities, as required by Article L. 434-17 of the French Social Security Code (2.1% as at 1 April 2012).

This was financed by an Annuities Adjustment Fund that was created in 1974 and ultimately abolished in 1990. Since the adoption of the Financial Security Act of 1 August 2003, the Mandatory Insurance Guarantee Fund (Fonds de Garanties des Assurances Obligatoires – FGAO) has taken over the financing and management of the indexation of annuities (Article L. 421-1 IV of the French Insurance Code).

Despite the increase in the annual contribution collected on motor liability premiums (from 0.1% to 1.2% between 2007 and 2010), the FGAO currently does not have the resources to finance reimbursements of adjustments to annuities paid to traffic accident victims, the total value of which the FFSA estimates at €1.8 billion.

That is the reason why this indexation was reimbursed by the Guarantee Fund for all accidents occurred prior to 1 January 2013. For accidents occurred after this date, the annuity adjustment is carried out by the motor third party liability insurer.

For accidents occurred after this date, the indexation is now in the entire expense of the MTPL insurer (and/or Reinsurer according to the treaties).