

A BILL

FOR

AN ACT TO PROVIDE FOR COMPULSORY COMPENSATION OF VICTIMS OF ROAD ACCIDENT BY COMMERCIAL MOTOR VEHICLE DRIVERS OR/MOTOR VEHICLE OWNERS AND TO ESTABLISH THE ROAD ACCIDENT VICTIMS COMPENSATION DEPARTMENT UNDER THE FEDERAL ROAD SAFETY COMMISSION AND FOR RELATED MATTERS

Sponsored by Hon. Wale Raji

[] Commencement

BE IT ENACTED by the National Assembly of the Federal Republic of Nigeria as follows:

1 1. Notwithstanding anything to the contrary contained in any Act
2 or in any other enactment or Law, the provisions of this Act shall apply to all
3 commercial motor vehicle drivers and owners engage in the business of
4 conveying persons and all kinds of goods from one part of Nigeria to
5 another.

6 2. A person using a motor vehicle for commercial purposes
7 (hereinafter called "the driver") and the owner of the vehicle must ensure
8 that the motor vehicle is insured in accordance with the Insurance Act Cap I
9 Laws of the Federation 2004.

10 3.-(1) The driver of the motor vehicle shall be a fit and proper
11 person with no physical impairment and mentally fit to drive a motor
12 vehicle.

13 (2) driver has a duty to ensure that the motor vehicle is in proper
14 condition in accordance with the Road Traffic Act.

15 (3) the driver shall use the motor vehicle in a proper manner to
16 avoid dangerous driving.

17 (4) The driver shall obey the speed limits prescribed under the
18 Road Traffic Act.

1 (5) the driver shall ensure that in the use of the motor vehicle, no
2 bodily damage is done to any person.

3 (6) it shall be the duty and responsibility of any driver driving any
4 motor Vehicle on Nigerian roads to ensure the safety of other road users

5 4.-(1) A Commercial motor vehicle driver using a motor vehicle in
6 which bodily damage is done to a person shall be guilty of an offence of causing
7 bodily damage and liable to compensate the victim.

8 (2) the driver shall compensate the victim for bodily damage caused
9 him in a road accident in which the vehicle was involved.

10 (3) the driver of the motor vehicle shall compensate the victim for
11 bodily damage caused him in a road accident in which the vehicle was involved
12 if the accident occurred in Nigeria.

13 5. In determining whether bodily harm has been done to a victim of
14 road accident, the liability of a driver using a motor vehicle in which bodily
15 damage is done to a person is absolute and it is immaterial whether or not there
16 was fault on the part of the driver.

17 6. Where the motor vehicle was used with the permission of the
18 owner or possessor, liability will also be incurred by the person who permitted
19 its use.

20 7. In the case of a road accident in which several vehicles were
21 involved, each driver found guilty will incur the liability for bodily harm
22 caused to the following:

23 (a) a person travelling in his (guilty driver) motor vehicle;

24 (b) a person travelling in other vehicle; and

25 (c) any other pedestrians outside the motor vehicle.

26 8.-(1) Where the person is injured outside the motor vehicle in a road
27 accident in which several motor vehicles were involved, the drivers will be
28 jointly and severally liable towards him, amongst each other, they will bear the
29 liability in equal shares.

30 (2) for the purpose of distributing the liability amongst the drivers

1 under this section, a motor vehicle is deemed to be involved in a road
2 accident if at the time of the accident there was contact between it and any
3 other vehicle or between it and the injured person.

4 9. In the case of a road accident in which several vehicles were
5 involved, and the victims are all in the vehicles each driver found guilty will
6 incur the liability for bodily harm caused to the person(s) in any of the
7 vehicles provided that where there is no admission of guilt from all or any of
8 the drivers, the Court shall decide on the guilt of the driver(s).

9 10. Compensation to the victim shall be paid in monetary terms
10 and in assessing compensation, calculation is made in respect of loss of
11 earnings and loss of earning capacity. The amount to be paid as
12 compensation shall be the actual earnings of the injured person for the first
13 five years.

14 11. The compensation shall include:

15 (1) expenses for the purpose of recovery, including hospitalisation
16 fees incurred by the victim and the properties of the victim destroyed as a
17 result of the accident;

18 (2) where there is a dispute as to amount of compensation,
19 adequate weekly payments shall be made pending the final determination of
20 the matter;

21 (3) the weekly payments for the victim shall include his welfare
22 costs and upkeep or the upkeep of his immediate family members who
23 depend on him. Such up keep costs will be determined having considered
24 the income of the injured prior to the road accident provided that where the
25 income exceeded the maximum cost, only the maximum income will be
26 taken into account.

27 12. In the event that there is loss of life in any accident, the driver
28 or drivers who drove the motor vehicle or motor vehicles or the owner who
29 authorised the driving of the motor vehicle(s) shall pay the compensation in
30 (9) and (10) above as the case may be to the named beneficiary for a period

1 of five years.

2 13. The compensation referred to in this Act shall be tax free

3 14. A person who is entitled to receive compensation either as an
4 injured victim or as a beneficiary of a late victim shall have a right to lodge a
5 written complaint to the Road Accident Victims Compensation Department
6 within 7 days of the occurrence of the accident or if not immediately fit as a
7 result of the injuries and illness caused by the accident, within 7 days of he
8 becoming healthy and fit again stating the details of his compensation.

9 15.-(1) Upon receipt of such complaint, the Compensation
10 department shall within 3 days write to the driver or the owner of the motor
11 vehicle concerned informing him of the compensation due to the victim and
12 inviting a response to be made by the driver within a period of 7 days.

13 (2) the Compensation department shall also convene a meeting
14 inviting the driver or/and the owner and the victim with a view to concluding
15 the compensation payment due to the victim.

16 (3) the compensation shall be paid directly to the victim(s) and
17 evidence of payment shall be lodged with the Compensation department within
18 7 days of such payment.

19 (4) where the Compensation department is unable to conclude the
20 compensation payment due to the victim or the beneficiary of a deceased
21 victim and in the opinion of the Compensation department, the victim is
22 entitled to compensation, the victim or the beneficiary is entitled to institute an
23 action in a Court for the purpose of enforcing his right to compensation.

24 (5) the victim is entitled to institute an action on his behalf or through
25 the Compensation department for enforcing his right to compensation within
26 7 days after the Compensation department has concluded negotiation between
27 the parties and no agreement reached.

28 (6) the Court before which an action is instituted is entitled to make a
29 decision on such action within 21 days of the institution of the action. The
30 amount decided by the Court will cover litigation expenses of the victim and

1 the amount payable will attract an additional 10% from the date of the
2 decision until the date on which payment is made

3 (7) the Court's decision in the action for payment will not constitute
4 a bar for action in respect of a claim for bodily injury

5 (8) where the user of motor vehicle is found guilty of causing
6 bodily injury, he is guilty of an offence and in addition to payment of
7 compensation liable to three months imprisonment or fine of N1 million.

8 15. The following victims will not be entitled to compensation
9 under this law:

10 (1) a person who intentionally caused the road accident;

11 (2) a person who was driving the motor vehicle in contravention of
12 the Road Traffic Law; or who was using the motor vehicle knowing that it
13 was being so driven;

14 (3) a person who was driving the motor vehicle without having
15 license to drive it;

16 (4) a person who was using or was helped by the motor vehicle to
17 commit felony;

18 (5) a person who was driving the motor vehicle without insurance
19 in accordance with the Insurance Act;

20 (6) a person whose insurance did not cover the use for which the
21 motor vehicle was employed;

22 (7) an owner of a motor vehicle who allowed another to use the
23 motor vehicle while he held no insurance in accordance with the Insurance
24 Act, and who was injured in a road accident which occurred while driving
25 whether he was in the motor vehicle or outside will not be entitled to claim
26 under this Act. However, a person who could not have reasonably known
27 that the motor vehicle is not covered by insurance will be entitled to claim
28 compensation from either the driver or the owner or claim jointly against the
29 driver and the owner. Also dependants of the victim shall be entitled to claim
30 from the fund though the victim is not.

1 **16.** The compensation referred to under this Act shall be in monetary
2 form and shall be personal to the victim or the beneficiary in the event of loss of
3 life.

4 **17.** The compensation referred to under this Act shall be without
5 prejudice to the right of a third party under the Motor Vehicle (Third Party)
6 Insurance Act.

7 **18.** With regard to section 29 of this Act, where the claim under the
8 driver or owner's insurance policy is limited that it cannot cover a victims cost
9 of repairs of his car and medical expense, the driver and owner shall jointly and
10 severally bear the outstanding claim after the insurer has performed its
11 obligations under the Act.

Establishment
of a Road Accident
Victims
Compensation
Department under
the Federal Road
Safety Commission

12 **19.** For the purpose of giving effect to the provisions of this Act, there
13 shall be established a body to be known as the Road Accident Victims
14 Compensation Department under the Federal Road Safety Commission
15 (referred to in this Act as "the Department").

16 **20.** The Department shall for all intent and purposes be a department
17 with the Federal Road Safety Commission and shall be under the control and
18 directives of the Chairman of the Commission.

19 **21.** The Department shall for all intent and purposes be a department
20 with the Federal Road Safety Commission and shall be under the control and
21 directives of the Chairman of the Commission.

22 **22.** The Department shall have an office in all the FRSC offices all
23 over the country.

24 **23.**-(1) The Corp Marshal of the FRSC shall appoint personnel into
25 the Department from time to time as he may deem fit for the purpose of giving
26 effect to the provisions of this Act. Personnel of the Department shall include
27 but not limited to the following:

- 28 (a) a Head of Department;
- 29 (b) a staff of the FRSC who must be a Medical Doctor;
- 30 (c) a staff of the FRSC who must be a trained Nurse;

1 (d) such number of personnel as the Corp Marshal may deem
2 necessary.

3 **24.**-(1) The Department shall:

Functions of the
Department

4 (a) investigate complaints in relation to victims compensation;

5 (b) ensure adequate payment of compensation to victims;

6 (c) From time to time advise the Corp Marshal on issues relation to
7 accident victims compensation and how best to improve on same;

8 (d) may in conjunction with accident victims institute actions in
9 relation to non-payment of victims compensation;

10 (e) receive report and evidence of payment of compensation to
11 accident victims;

12 (f) carry out such other activities as are necessary the Corp Marshal
13 may assign to the Department for the purpose of giving effect to the
14 objectives of this Act.

15 **25.**-(1) A Staff of the Department who is directly or indirectly in
16 any compensation matter handled by the Department shall disclose such
17 interest immediately becoming aware of its existence.

18 (2) Such a Staff shall not participate or continue to participate in
19 any deliberation or decision of the Department with regard to the subject
20 matter in respect of which his interest is so disclosed.

21 **26.** In this Bill:

Interpretation

22 "bodily damage" means death, illness, injury or a physical, mental or
23 intellectual defect on a person;

24 "department" means the board in relation to the Commission;

25 "commission" means the Federal Road Safety Commission established
26 under Federal Road Safety Commission Act;

27 "court" means the Magistrate or High Court;

28 "dependants" means a child or blood relation of the victim;

29 "motor vehicle" is any Commercial vehicle propelled by mechanical power
30 over land and its main objective is to be used for land transportation

1 including train, tractor or any mobile vehicle capable of moving by mechanical
2 power on a road, a towed motor vehicle supported by a motor vehicle. It is a
3 registered motor vehicle or a motor vehicle which need to have been registered
4 in Nigeria according to the Motor vehicle Licensing Registration Act or a
5 motor vehicle whose owner is a Nigerian;
6 "road accident" is an occurrence in which bodily damage is caused to a person
7 as a result of the use of a motor vehicle;
8 "use of motor vehicle" is the driving of a Commercial motor vehicle, entering
9 or exiting thereof, parking, pushing or towing thereof, road side treatment or
10 road side repair including the rolling down or turning over of the motor vehicle,
11 disengagement or falling of a part of the motor vehicle or its cargo while in
12 transit as well as disengagement or falling of from a standstill or parked motor
13 vehicle;
14 "victim" means a person to whom bodily damage has been caused in a road
15 accident.

Citation

16 27. This Bill may be cited as the Road Accident Victims (Compulsory
17 Compensation) Bill, 2018.

EXPLANATORY NOTES

This Bill seeks to provide for compulsory compensation of victims of road accident by drivers or/motor vehicle owners and to establish the road accident victims compensation commission.