

## **Report of the Special Committee on Personal Injuries 2012**

The Special Committee has followed-up on a number of issues identified in previous years and dealt with new matters as and when they arose.

### **Discount Rate**

The Special Committee continued to take an immense interest on the issue as to the appropriateness of the discount rate of 4 to 5% as applied in the selection of multipliers for computation of damages. The unprecedented economic condition characterized by extremely low interest rate and high inflation presents a real risk that damages awarded to an injured person would run out a lot sooner than it should. The Special Committee has embarked on extensive discussion on the matter.

Early this year, the decision of the Privy Council in Simon v. Helmot [2012] UKPC 5 (on appeal from the Court of Appeal of Guernsey) has provided a new impetus for revisiting the guidelines in Chan Pui Ki v. Leung On [1996] 2 HKLR 401. It is anticipated that more definitive guidance will be pronounced by the PI Judge upon conclusion of the preliminary hearing in early 2013 of a trilogy of cases wherein the appropriateness of the presumed discount rate of 4 to 5% will be revisited (see Chan Pak Ting v. Chan Chi Kuen, HCPI 235 of 2011; Li Ka Wai (a minor) v. Hospital Authority, HCPI 671 of 2007; and Yuen Hiu Tung (a minor) v. Hospital Authority, HCPI No. 228 of 2010).

Meanwhile, the Special Committee has made recommendation to the Bar to address the Registrar of the High Court as to the need to explore other choices of investment vehicles to protect the value of monies in the Suitors' Fund in view of the unprecedented economic condition resulting in extremely low returns in the region of 1% (or less), which would not be sufficient even to offset inflation.

### **Legal Aid Reform**

A number of members of the Special Committee have assisted in the preparation of submissions of the Bar and attended meetings of the Administration of Justice and Legal Services Panel of the Legislative Council on the topics of the expansion of the Supplementary Legal Aid Scheme and establishment of an Independent Legal Aid Authority. In these endeavours, the Special Committee worked in *tandem* with the Special Committee on Legal Aid Reform under the chairmanship of Mr. Ruy Barretto, SC.

### **Cross-Border Vehicles**

On the different note, the Special Committee was concerned as to the adequacy of the insurance coverage of motor vehicles travelling between Hong Kong and the Mainland under the "*Ad hoc Quotas for Cross Border Private Car*" arrangement. To this end, the Special Committee has written to the Transport and Housing Bureau to register their concerns.

### Marine Insurance

Further, the collision between 2 local vessels off Lamma Island in the evening of the 1st October 2012 has brought to the forefront the issue as to adequacy of "Compulsory Third Party Risk Insurance" covering personal injury and loss of life at sea. This issue has taken up some time of preceding Special Committees, which resulted in the enactment of Part VA of the Merchant Shipping (Local Vessels) Ordinance (Cap. 548) in 2005. It appears that the time is ripe for a review and a meeting between the Special Committee and the Assistant Director of Marine (Port Control) and his staff has been fixed for 6th December 2012.

### Vote of Thanks

The Chairman would express his heartfelt gratitude to all members of the Special Committee for their support and contribution. A special vote of thanks should go to Ms. Julia Lau, who has so generously and diligently performed the task of preparing the minutes of meeting in previous years. Starting from this year, this task has been assumed by Mr. Eric Tsoi, a newly-recruited member of the Special Committee.

### Membership:

Raymond Leung (Chairman)  
Ruy Barretto SC  
Nicholas Pirie  
Corinne Remedios  
Ashok Sakhrani  
Christina Lee  
Julia Lau  
Kamlesh Sadhwani  
Eric Tsoi

Raymond Leung  
Chairman  
Special Committee on Personal Injuries

5 December 2012