



## TASK FORCE TO REVIEW THE COMPENDIUM OF PERSONAL INJURY AWARDS

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### Towards achieving uniformity and consistency

In early 2007, the Kuala Lumpur Bar highlighted the inconsistency of awards to YAA Tan Sri Datuk Seri Panglima Richard Malanjum, Chief Judge of the High Court in Sabah and Sarawak (“CJSS”), and proposed that a compendium would ideally serve the purpose of expediting matters in court. Thereafter, the Kuala Lumpur Bar was engaged by the CJSS to look into the issue of personal injury claims. A joint working committee, comprising four Sessions Court Judges and six personal injury lawyers, was formed to formulate the guidelines on personal injury awards.

It was intended that the guidelines be used during a trial run at the Kuala Lumpur courts, and that the Judges inform the working committee whether the guidelines were effective, whereafter the Kuala Lumpur Bar would consult all other State Bars on nationwide implementation. However, the set of guidelines was circulated amongst the courts in all states without the knowledge of the working committee. This matter was raised at the 63<sup>rd</sup> AGM held in March 2009.

Thereafter BC appointed R Ravindra Kumar to chair the Task Force to Review the Compendium of Personal Injury Awards (“Review Task Force”) set up to review the guidelines, named the Compendium of Personal Injury Awards (“Compendium”). Most of the State Bars

nominated representatives to sit on the Review Task Force.

The Review Task Force met a total of six times, on 30 Sept 2009, 24 Nov 2009, 22 Jan 2010, 19 Feb 2010, 9 Apr 2010 and 7 May 2010.

Throughout June 2009 to April 2010, the Review Task Force worked on reviewing the Compendium, constantly seeking to improve it by asking Members of the Bar for feedback through Circular No 173/2009 dated 19 June 2009, Circular No 286/2009 dated 15 Oct 2009 and Circular No 335/2009 dated 10 Dec 2009. The BC Secretariat received responses from the Penang Bar in August 2009 and the Malacca Bar in September 2009.

While reviewing the figures in the Compendium, the Review Task Force members perused case law authorities to substantiate their suggestions and inserted generic descriptions that took into account the residual injuries for each category of injury. The Review Task Force also considered the implications of BNM’s proposed third party bodily injury and death scheme, noting that the implementation of the scheme would render the review of the Compendium academic.

Subsequently, Circular No 153/2010 dated 26 May

2010 was issued, informing Members of the Bar of the completion of the review of the Compendium. In the same circular, Members were asked to revert with their feedback on the revised Compendium. In July 2010, the Motor Insurance Review Ad Hoc Committee agreed to the revised Compendium.

In September 2010, the revised Compendium was sent to YAA Tan Sri Arifin b Zakaria, Chief Judge of the High Court of Malaya, for approval. The Chief Judge notified BC that a working committee comprising YA Puan Hadhariah bt Syed Ismail (Chairperson), YA Puan Latifah bt Hj Mohd Tahar, YA Puan Unaizah bt Mohd and YA Puan Sabariah Othman, had been set up to study the revised Compendium.

In October 2010, the Chief Judge expressed the Judiciary's approval for the revised Compendium. The Judiciary's decision was relayed to Members of the Bar via Circular No 258/2010 dated 26 Oct 2010, along with a copy of the finalised Compendium.

In December 2010, a web report entitled "Completion of the Review of the Compendium of Personal Injury Awards" was posted on the Malaysian Bar website and can be accessed at [http://www.malaysianbar.org.my/task\\_force\\_to\\_review\\_the\\_compendium\\_of\\_personal\\_in/completion\\_of\\_the\\_review\\_of\\_the\\_compendium\\_of\\_personal\\_injury\\_awards.html](http://www.malaysianbar.org.my/task_force_to_review_the_compendium_of_personal_in/completion_of_the_review_of_the_compendium_of_personal_injury_awards.html).

The Review Task Force wishes to reiterate that the Compendium is merely a **guideline**, and is intended to be a quick reference document for judges and lawyers. It is not meant to stifle the rights of the parties to submit below or above the stipulated quantum, nor is it meant to fetter the courts' discretion. Judges and lawyers are at liberty to depart from the Compendium if case law or factual circumstances so dictate.

#### **Acknowledgment**

I wish to record my appreciation to the Review Task Force members for their assistance and valuable contribution. I also thank the BC Secretariat and Sumitha Shaanthinni Kishna for their support.

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