

The fatality index of road crashes in Bangladesh is 60 percent which is the highest among developing countries. PHOTO: STAR FILE



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The problem of road crashes is multi-layered and endlessly complex.

party insurance and is denied the claim, they can make a formal complaint based on which we ask the insurance company to give us an explanation within 7 days. Then we tell the insured party what the company has told us. If the former is not satisfied with their explanation, we call a tri-party (the insurer, the insured and us) hearing and listen to both parties. If we find out that the insurance company owes the insured party, we give the former a written order as to pay the latter within a specific timeframe, interest included." At the IDRA many positions are still vacant which, Fazlul Karim believes, will be filled soon.

Although civil lawsuits are rare in road crashes in Bangladesh, the *Star* has found at least two examples in the past. One case was filed in 2006 before the Motor Accident Claims Tribunal, Dhaka but the parties reached a settlement and the case was disposed off accordingly. If the parties involved can reach a settlement among themselves it may save everyone time, energy and money that any legal procedure anywhere in the world may require. But filing cases in court may help establish a legal precedent that is important and necessary in this context.

"Another case (*Bangladesh Beverage v Rowshan Akhtar*) was initiated as Money Suit No 3 of 1991 which was filed by the family members of a deceased journalist who was killed by a motor vehicle near Press Club before the Joint District Judge, 3rd Court, Dhaka," says Motahar Hossain, Advocate, Supreme Court. "It was filed under the Fatal Accident Act, 1885 in ordinary civil jurisdiction. The Court awarded damage of Tk 3,52,97,000 however the amount was reduced to Tk2,01,47,008 by the High Court Division on appeal. The matter is now pending before the Appellate Division of the Supreme Court." Motahar Hossain, Sara Hossain and Charles Quiah, advocates, Supreme Court are assisting Dr Kamal Hossain, chief counsel in the Supreme Court in the civil cases filed by the families of Tareque Masud and Mishuk Munier.

Dr Kamal Hossain, lawyer and statesman, says that this case raises questions regarding interpretation of the common law of tort (civil wrong), which will be precedent setting in our legal system. "Huge numbers of lives are lost and families destroyed through road killings. Although it is 30 years since our Motor Vehicle Ordinance 1983, few are aware of it, there are no standards set for determining compensation, few cases are filed, and those responsible continue to get away with total impunity."

Hopefully these cases will lead to greater accountability established for vehicle/transport company owners and insurers, who will in turn, out of their own self interest, be motivated to support and institute measures for improvement of road safety, i.e. proper driver training, more rigorous enforcement of vehicle fitness standards, requiring first party insurance for all public transport vehicles and so on.

On February 15, seven children were killed and 50 others injured as a picnic bus carrying the school children fell into a roadside pond in Jessore's Chougacha Upazila after the driver "lost control" of the vehicle, according to news reports. How much were their lives worth? Can anyone tell? Will they be back if their families file cases? "We are not doing it for money. We won't be able to bring back Tareque and Mishuk," says Catherine Masud. "But at least for those countless thousands of victims and their families, we hope to establish some kind of precedent so that in future there is some hope of accountability and legal recourse." ■