

A STUDY ON CIVIL LIABILITY REGIME AND COMPULSORY  
INSURANCE FOR PASSENGER CARRIAGE BY SEA IN  
REFERENCE WITH ANNA PROPOSAL

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**A STUDY ON CIVIL LIABILITY REGIME AND COMPULSORY  
INSURANCE FOR PASSENGER CARRIAGE BY SEA IN  
REFERENCE WITH MIMA PROPOSAL**

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## **ABSTRACT**

This paper will review the current civil liability regime adopted by Malaysia for passenger carriage by sea, in reference with MIMA proposal in 2011 for a new liability regime and compulsory insurance, because of the following statement of needs: increasing number of maritime accidents, insufficient limit of claims, negative Government impression, smaller operators' risk of insolvency, settlement delay, and pending of large number of insurance cases. The designation of the research was to provide evidence to support this paper in four ways: by means of survey, interview, information collecting, and consultation. The analysis of data collected has yielded the results which can be divided into four main sections: the background information on recent maritime accidents, the passenger insurance coverage by domestic passenger carriers, the awareness of maritime passengers in insurance protection, and the satisfaction level with compensation among victims. The analysis also evaluated arguments for and against the introduction of a no-fault scheme with a focused discussion on the requirement of sufficient compensation of liability in context of alternative arguments supporting the introduction of a no-fault scheme.

The key findings:

- i. Maritime accidents involving passenger carriers in 2011 had increased four times when compared to 2007 in whole.

- ii. There are only 5% of the passenger shipping companies which are covered by passenger and third party insurance.
  
- iii. 63.2% of ferry users did not know if their last travel by sea was protected by insurance.
  
- iv. 53% of victims were dissatisfied with their settlement at the time of settlement.

In a nutshell, the results of the survey appear to bear the concerns. There is an evidence for a need of a protection scheme against passenger liability claims. The maritime related legislation has focused on the regulation of carriage of cargo yet no legislation regulating the carriage of passengers. It is recommended that Malaysia adopts a civil liability regime for passenger carriage based on the Athens Convention 1974 and the 2002 Protocol and require all passenger vessels used for commercial and public purposes to take passenger and third party liability insurance cover.