Liability of Insurer under The Jordanian Compulsory Insurance Regulation No.(12) of (2010)

Dr. Mohammed Khair Mahmmoud Al-Adwan
Lecturer
Yarmouk university
Faculty of law
Jordan

Abstract

This paper argues the rules of the liability of the insurer under the New Regulation of Compulsory Insurance No. (12) of 2010. These rules need to be clarified in light of expansion of the lawmaker of the Insurance security umbrella and change of the concept of the injured eligible for the security. In order to know these rules and shed light upon the new ones, the researcher weighs between the rules of this Regulation and the rules of the former Regulation No. (32) of 2001. The importance of the research is highlighted for being the first attempt to fathom the legislation which has not completed the first year yet, as well as the Regulation's interference in the interests of members of the community, whether they are owners of insured cars or victims of accidents caused by them. Therefore, this research sheds light on the nature of the insured risk and tries to determine the damage covered by the insurer's security in the compulsory insurance. It also shows the terms of the claim of the injured for the amount of insurance and the conditions of validity of such claim.

Introduction

The compulsory insurance against car accidents comes to provide legislative protection for those affected and ensure that a debtor is capable of reparation for such damage. In order to achieve this, the legislation of compulsory insurance on cars comes to establish the legal status of the injured against the insurer and grant him the right to directly claim compensation from the insurer for the damage caused by the insured car. Like most of the authors of legislation, the Jordanian lawmaker has not ignored the growing danger by the large number of cars. It has now become compelling to ensure the protection of individuals, their bodies and properties. If such protection were not preventive, it is inevitable to provide compulsory protection for reparation by imposing insurance against car accidents. Therefore, the lawmaker required owners to submit when registering or licensing their cars an Insurance contract covering the period of the license. The lawmaker also bans any insurance company to refrain from insuring any car subject to legal liability.

This research sheds light on the legislation governing the rules of the compulsory insurance of cars in Jordan; it is the New Regulation of Compulsory Insurance No. (12) of 2010 (we will refer to it as the New Regulation of Compulsory Insurance). Perhaps the importance of this research lies in the fact of being the first attempt to explore the depths of legislation which has not completed the first year yet. The importance of the research appears to clarify the rules created by the lawmaker and which reached the liability limits of the insurer as well as the terms of claim of the injured for compensation. It also reached the major concepts of the compulsory insurance, such as the insured risk, the accident requiring security as well as the concept of the injured and his means for claiming the security insurance. With regard to the above and for the social significance enjoyed by the Regulation of Compulsory Insurance to interfere with the interests of the members of the community, whether they are owners of cars or victims of accidents caused by them, this research studies the rules of the liability of the insurer under the New Regulation of Compulsory Insurance, analytically and descriptively, counterweighing with the superseded Regulation of Compulsory Insurance and comparing with the Egyptian Law of Compulsory Insurance No. (72) of 2007.

I have found out that to begin identifying major concepts in the New Regulation is the optimal to engage in the midst of its rules. Therefore, I will try to determine what risk to be insured in accordance with the rules of this Regulation, then move on to identify the damage which the lawmaker determines to be under the liability of the insurer. In order to be familiar with the rules of the liability of the insurer in the New Insurance Regulation, it was necessary to identify the terms of the claim by the injured against the insurer for compensation and show the obligations thrown by the lawmaker on his shoulder to fulfill.

Perhaps the problem to be discussed here is to determine the impact of not meeting these obligations, and will this be valid for dropping the obligation of the insurer to the injured. Also, we will shed light on every rule developed by the lawmaker in the New Regulation which affected the limits of liability of the insurer and its determinants. We will also try to show the aim of the development of these rules and the extent of its effectiveness in achieving the purpose of compulsory insurance.

Accordingly, the research is divided into two topics:

Topic 1: The nature of damage covered by the liability of the insurer.
Topic 2: The rules of claim of the injured for the amount of insurance.

Topic 1

Damage Covered by Liability of Insurer under New Regulation of Compulsory Insurance

The condition for the obligation of the insurer to pay for the damage is the happening of the damage resulting from the realization of the insured risk during the period of validity of the insurance contract. Therefore, the study of the liability of the insurer firstly calls for determining the nature of risk that goes into the security of the insurer. Perhaps determining the nature of risk may not be enough to speak of carrying out or not of the liability of the insurer particularly with regard to the compulsory insurance on cars. The lawmaker as the maker of the liability of the compulsory insurer may take out forms of the damage, even if the damage took place by an insured risk. This requires, in addition to identifying the nature of the insured risk, the determination of the forms of damage upon which the liability of the insurer for the security insurance is established. Since we are on the point of indicating the nature of the damage covered by the liability of the insurer under the New Regulation of Compulsory Insurance, it is necessary to show: the nature of the insured risk in this Regulation, and the damage covered by the insurer's security.

Section I:

The nature of the insured risk according to the New Regulation of Compulsory Insurance:

Perhaps what motivated me to study the nature of the risk independently from the study of determining the damage covered by the security is the approach of the lawmaker in the cancelled Regulation which clearly determined both and gave them independent detail, unlike the case in the New Regulation. Reading the rules of the New Regulation of Compulsory Insurance and referring to the name of this Regulation "The Regulation of Compulsory Insurance," it seems clear that the lawmaker tends to expand the forms of damage which the insurance company is asked for its security. The lawmaker on naming the New Regulation did not adopt the same cancelled name (The Regulation of Compulsory Insurance against Civil Liability Arising from Car Accidents) [(1)]. In the dissemination of wording in the New Regulation, there is generalization of the form of the insured risk and the type of insurance to be granted to the insured, in contrast to the previous Regulation with regard to the specializing of wording, because the form of the insured risk is restricted and confined to the establishment of civil liability of the driver of the insured car.

If the aim of the lawmaker has shown to us firstly in the name of the current legislation, unlike the name of the abrogated legislation, then the rules of the New Regulation also devotes the intention of the lawmaker to expand the umbrella of compulsory insurance and increase the limits of liability of the insurer, whether this expansion is qualitative by increasing the forms of damage covered by the insurance, or quantitative by raising the ceiling of the amounts that would bind the insurer to pay whenever a damage is caused in an accident by the insured car. The lawmaker in Article II of the current Regulation of Compulsory Insurance defines the injured as: "any person who suffered harm because of the accident including the insured and the driver of the car which caused the accident,". The use of the lawmaker of the word "injured" drops the word "others" which was used in the cancelled insurance regulation and generalizing the concept of damage, contrary to the abrogated Regulation which put a specific definition of damage, the lawmaker shows the change of view of the purpose of compulsory insurance, or more accurately, it broadens the scope of this view. The use of the lawmaker of the word "injured" and drop of the words "third party" is justified. The condition for the liability of the insurer in accordance with the abrogated regulation assumes the existence of "the non-injured" on the grounds that the form of insurance is against the civil liability only.

(1) Regulation of Compulsory Insurance against Civil Liability Arising from the Use of Vehicles No. 32 of 2001.

When this limitation was removed, the lawmaker had to drop the concept of "third party" eligible for security to be replaced by a broader concept "the injured." [(1)] Since the lawmaker had stated in the abrogated Regulation of Compulsory Insurance the meaning of compulsory insurance and the nature of insured risk[(2)], he did not adopt it as an approach in the New Regulation. The lawmaker neither specifies the meaning of compulsory insurance nor the insured risk. Perhaps this is because the lawmaker was sufficed by showing the concept of insured accident. If the latter has been achieved and resulted in damage, the liability of the insurer will be grounded to pay the amount of insurance to the injured. This will be presented in section II of this Topic.

The bottom line is that the lawmaker did not adopt the type of a specific risk to ask the insurer about the security of the damage resulting from its happening; but he changed his approach which he had pursued in the abrogated Insurance Regulation and went on to determine the damage under security without identifying the risks involved. We do not find any objection as long as the definition and clarification of injury may suffice to mention its determinant. The insurer will abide by paying the amount of insurance whenever damage takes place because of an accident by means of an insured car. The lawmaker's determination in the former Regulation of the insured risk is only to confirm that the insurer will be asked only for ensuring the damage established by the occurrence of the risk from the rise of civil liability without other damages.

This is precisely the most prominent feature of the New Insurance Regulation and one of its marks distinguishing it from the abrogated one. The latter was evident in limiting the nature of insured risk in establishing the civil liability of the insured. This also evident in determining the extent of damage that the insurer will be asked about its security if such risk had taken place. While we find the New Regulation keeps off the restricting approach stated above and goes on to expand the insurance security umbrella; it does not specify a particular risk. All risks are insured as long as they fall within the concept of the insured accident which requires security. The limits of this concept will be discussed next.

Section II:

Damages to be insured in accordance with the New Regulation of Compulsory Insurance

According to the above, the general rule of the liability of the insurer under the New Compulsory Insurance Regulation has become as follows: the insurer is responsible for fulfilling the "insurance" security for each injured person for any damage caused to him because of an accident by means of a car insured compulsorily with the insurer. If the insurer was obliged to ensure every damage caused by a compulsorily insured car as explicitly determined by Article III of the current Regulation of Compulsory Insurance, the damage covered by the insurer in accordance with Article III and read with the definition of the injured in Articles II and IX will include the death, disability and moral damages arising therefrom, as well as the treatment expenses, loss and damage to the property, whether such damage is caused to the third party, owner or driver of the car which caused the accident. The damage covered by the insurance under the former Regulation of Compulsory Insurance is [(3)] the death or physical injury caused to the third party or the moral damages resulting therefrom, plus the loss and damage to the property of the third party because of the insured accident [(4)].

Thus, the condition for the rise of the liability of the insurance company in the New Regulation of Compulsory Insurance is that the damage is to be caused by an insured accident. Any accident within the meaning stated in Article II of the Regulation: "Any accident which caused harm resulting from the use, explosion, burning, scattering or falling objects, as well as movement or self-push ", will not be insured, unless it was made by a compulsorily insured car.

(1) There have been frequent writings about the concept of the injured in the previous Regulation of Compulsory Insurance. It is agreed that this concept applies to third parties only. See, for example: Dr. Mosa al Enaimat, the General Theory of Insurance against Civil Liability, a Comparative Study, the House of Culture for Publication and Distribution, First Edition, Amman - Jordan, 2006, p. 158 et seq.

(2) Article III of the previous Regulation of Compulsory Insurance states: "For the purposes of this Regulation, the 'Compulsory Insurance' means the insurance against the civil liability arising from the use of vehicles."

(3) According to the definition of damage in Article II of the previous Regulation of Compulsory Insurance.

(4)We refer the honorable reader for detailing the damage covered by the Compulsory Insurance of vehicle accidents to: Dr. Mohamed Ahmed Bdiratt, The Coverage of Compulsory Insurance for Damage Resulting from Vehicle Accidents, A research published in the Mutah Research and Studies Journal, The Series of Humanities and Social Sciences, Volume XXII, No. I, 2008, p. 107- 150, See also: Dr. Mosa al Enaimat, earlier reference, p. 215 et seq.

Comparing the two definitions of the insured accident in accordance with the current and former Compulsory Insurance Regulations [(1)], we find that the lawmaker has added to the new definition the words (its movement or self-push) to the facts that the insurer must guarantee the damage arising therefrom. This expansion of the concept of accident is praised, where the lawmaker's aim to compensate appears to be for any damage as long as caused by the insured car. The Egyptian lawmaker decides that the insurer is responsible for ensuring all damages arising out of the car accident [(2)], without identifying the causes of such damage as provided by the Jordanian lawmaker. The English lawmaker limits the form of damage arising from the use of the car on the road and its standing in the way in a situation which enables its use [(3)]. It is clear that the Jordanian lawmaker is different for adopting an expansive approach which resulted in covering any damage as long as it was caused by an insured car.

The definition of (the accident) raises the question about the impact of the error of the injured on the liability of the insurer; i.e., if the accident had occurred by an error or negligence that does not happen by the usual man in the same conditions of the injured or that the error of the injured or his negligence have contributed at least in the accident, shall the insurer be asked to meet the insurance security without using the error of the injured which denies the liability or reduces its limits?

The definition of the accident may not raise these questions if the source of obligation of the insurer was the contract; because the rules of the contract will show the cases of exemption for the insurer from his liability, and these rules will be the law of contractors. Rather, even if these rules do not state the impact of the error by the injured, the Jordanian Civil Code in detailing the rules of the Insurance contract, regards that the insurer is responsible for the damage even if a mistake was occurred by the insured or beneficiary as long as the error is not deliberate or caused by fraud by the insured or beneficiary[(4)]. However, the problem lies in the fact that the source of the obligation of the insurer in the compulsory insurance is the law "Regulation of Compulsory Insurance". By inducting the rules of this Regulation, we find no basis on which the insurer can rely on to keep off his responsibility or ask for reducing its limits if the accident was occurred by an error of the insurer or driver of the insured car, even if this error was grave as long as it remains unintentional. By generalizing the texts, the insurer does not have to keep off his responsibility for ensuring the financial liability for the unintentional error of the insured or the driver of the car.

Moreover, the idea of insurance is mainly based on the finding of a guarantor to take the place of the maker of the mistake to compensate the injured. If the insurer would not be asked for ensuring the damage resulting from an inadvertent error, his obligation to pay the amount of insurance would never be met because realization of the insured risk is contingent for the most part upon an error committed by the insured against or anyone from a third party[(5)]. Here, there should be distinction between the liability of the insurer to guarantee the damage to the insured and the liability for ensuring the damage to a third party; If every damage to the injured, whatever he is, was covered by the obligation of the insurer, this obligation would not include the damage to the insured car which caused the accident. Perhaps in this provision, which is determined by Article X of the New Regulation of Compulsory Insurance [(6)], there is a reconciliation between the liability of the insurer to ensure the damage to the life or body of the insured or the driver of the car even if the error resulted from either of them and the lack of liability of the insurer to ensure the damage to the insured car as long as it caused the accident.

(1) Contained in Article II of the previous Regulation of Compulsory Insurance.
(2) Article V of the Egyptian Compulsory Insurance Law.
(3) The Road Traffic Act 1988 (C.52) S.145/3A: "... Caused by, or arising out of use of the vehicle on a road ..."
(4) Article (934) of the Jordanian Civil Code: "1. The insurer shall be responsible for the fire damage that occurs because of an error of the insured or the beneficiary. 2. The insurer shall not be liable for damage caused by the insured or the beneficiary intentionally or by cheating or even if agreed upon otherwise. ", I relied on this text on the grounds that the rules of fire insurance contained in the law serve as a basis for measuring any provision related to the securing of the damage.
(5) Induced error is not covered by security as determined by the general rules of insurance: See Article (934) of the Jordanian Civil Code. To explain the inadmissibility of the insurance against the consequences of the induced error, see: Dr. Abdul Razzaq Sanhoori, Al Waseet for Explaining the Civil Code, Part VII, Volume II, the library of the judiciary, 1990, P-600, p. 1550 et seq, Dr. Ahmad Sharaf al-Din, the Insurance Rules, without a publisher, the third edition, 1991, p. 130 et seq.
(6) Article (10): " No liability shall be imposed on the insurance company under the rules of this Regulation as follows: ... b. Damage to the vehicle which caused the accident. ..."

Comparing all of the above with the approach of the Egyptian lawmaker, we find out that the latter decides an obligation on the owner of the car to make insurance against the civil liability arising from the accidents that may be caused by his car. This insurance covers the death and physical injury, as well as the damage caused to the property of others(1). It is clear that the Egyptian lawmaker specifies the form of insured risk in the establishment of the civil liability of the owner or driver of the car against the third party affected by the accident caused by this car. In this, there is a limit to the form of the injured in the (third party) only without gaining this description by the insured or the driver of the insured car, given the nature of the insurance provided by this law. Therefore, the wide range of insurance coverage provided by the current Regulation of Compulsory Insurance seems clear, in terms of form of damage to be secured in comparison with the former Regulation of Compulsory Insurance and the Egyptian law of compulsory insurance which both establish the responsibility of the insurance company whenever the liability of the insured or the driver of the car has been established against the third party because of an insured accident.

We find out that the Jordanian lawmaker agrees with the approach of the English lawmaker in generalizing the concepts of damage and the injured. The owner of the car shall be obliged to insure his liability for all damage to the third party caused by use of the car, regardless of the capacity of this third party or its relationship to the insured. The English lawmaker did not identify the "third party" eligible to security, but generalized this concept and allowed each injured to enjoy the protection provided by this generalization(2). However, the consensus among lawmakers stops at this limit and does not transcend it to the concept of insured risk because the liability of the insured (the owner or the driver of the car) remains the subject of risk in the compulsory insurance on cars to the English lawmaker (3) while it is as we have outlined above with the Jordanian lawmaker.

The Jordanian lawmaker is praised in the current Regulation of Compulsory Insurance for identifying the nature of the insured accident which requires the insurance security and for expanding the scope of the obligation of the insurer by making him pay for each form of damage resulting from the accident, regardless of the capacity of the injured. In this way, the current Regulation surpassed the former one, which was sufficed by the risk of establishing the civil liability as an insured risk. It also surpassed its Egyptian counterpart, which did not put a clear concept for the insurance accident, as well as sufficed by the establishment of the civil liability of the driver of the car as a risk upon its establishment the insurer's obligation shall be established.

If all we have presented above suggested that the balance pan of the insured or the injured had outweighed the insurer's by expanding the scope of the insurance security and raising the amounts' ceiling to be paid by the insurer (4), the lawmaker had not ignored the raising of the premiums of compulsory insurance that should be paid by the insured, unlike the case of the former regulation. So the lawmaker is trying to impose a balance between what the injured gets from security and the premiums paid by the insured, or more accurately, the lawmaker tries to raise the limits of the obligation of the insured just like his raising of the ceiling of the liability of the insurer. This eliminates the inclination of the lawmaker in favor of the insured at least with regard to lifting the ceiling of insurance on the grounds that this lifting was also offset by raising the value of the premium.

Topic II

Rules of Claim by the Injured of the Amount of Insurance in Accordance with the New Regulation of Compulsory Insurance

It seemed to us in the above that the insurer is responsible for paying the amounts set by the lawmaker (5) to the injured whenever the origin of the damage is an insured accident caused by a compulsorily insured car.

(1) This is stated by Articles (1&3) of the Egyptian Law No. 72 of 2007 of the Compulsory Insurance for Civil Liability.

(2) This is stated by Articles (3 / a) & (151 / 1) of the England Traffic Act of 1988, See the statement of these rules of the English Principles: Lord Hailsham of st marylebon. "Halsbury" Laws of England, 4th edition, published by Butterworth, London, 1994, p.735.

(3) See the identification of risk in the Compulsory Insurance of Civil Liability resulting from vehicle accidents in the English Law: Batten and Dinsdal, Liability Insurance. Stone and Cox, London, 5th edition, 1967.

(4) The instructions for the liability of the insurance company raised the ceiling of the insurance security (No. 24 of 2010) to be met by the insurer, as the insurer became obliged to pay 20 thousand dinars in the case of death and total permanent disability, rather than 12 thousand dinars, an increase of 67%, and the payment of 7.500 dinars for medical expenses instead of 5 thousand dinars, an increase of 50%.

(5)The legislator states in Articles (9&19) of the current Insurance Regulation that the amounts which the insurer will be bound to pay to the injured party will be determined in accordance with instructions issued by the Board of Directors of the

Thus, the injured shall be eligible to request the insurer to pay the security granted by the current Compulsory Insurance Regulation. The latter has developed a lump of rules which the injured shall be bound to apply before having the right to claim the security insurance. In addition, the lawmaker has changed some of the rules of the claim for the amount of insurance such as the settlement between the insured and the injured as well as the abolition of the joint liability between the insured and the insurer. The lawmaker has kept the direct case as a major means owned by the injured to claim the amount of insurance but omitted the determination of the limitation period for claiming the insured rights.

Section I: Obligations of the insured and the injured against the insurer

Inspired by the general rules of insurance, the lawmaker adopted in the Regulation of Compulsory Insurance the main obligations which the burden of fulfilling them has been agreed to be laid down on every insured in any of the forms of insurance. The lawmaker is also requiring the insured to pay the insurance premiums to the insurer, notify of the happening of the insured accident and take the necessary measures to prevent aggravation of the damage. Since I will not deal with the first of these obligations " the premiums" on the grounds that the rules of the current Regulation did not make any change to it [(1)], the research will address the amendment to the obligations of the notification of the accident and the prevention of further damage caused by it, as well as the need to show the impact imposed by the lawmaker for not meeting these obligations. So, does the right of the insured or the injured to claim the insurance security drop? Or shall the insurer require decreasing the limitation of liability with respect to any of them? Consequently, we are trying to answer these:

First: Obligation of the insured or the injured to notify about the accident and prevent the aggravation of the risk: Article (11) of the current Regulation of Compulsory Insurance states: "A-1 - the insured or driver of the car which caused the accident or the injured are committed to notify the insurance company of the accident within a reasonable time, and they have to take all precautions and procedures necessary to avoid aggravating or increasing the damage caused by the accident. In case of breach of this, the insurance company has the right to protest the damage caused to it as a result. The obligation to notify is not new to the insurer in general and not limited to the compulsory insurance only. Traditionally, the insurance custom took to require the insured to notify the insurer of the disaster [(2)] within a reasonable time. The purpose of this obligation is to enable the insurer to make sure that the occurred risk falls under his obligation to security and enable him to take the necessary action to preserve his rights, by the example of the damage survey action or claim from the third party responsible for the accident [(3)].

The above applies to the obligation of the insured to prevent aggravation of the adverse consequences of an accident. This obligation finds its support evident in the principle of good faith which should be taken into account by both parties of each insurance contract on the grounds that it is one of what is commonly termed "the contracts of utmost good faith" [(4)]. The English Judiciary regards the fulfilling of the duty of notification of the accident as a condition precedent to the insurer's liability. This obligation is established upon the fact that the principle of good faith must follow the relationship of the insured with the insurer to the end. This matter binds the insured with this duty [(5)].

Insurance Commission. These instructions were issued and entitled: Instructions No. 24 of 2010 for the liability of the insurance company in the Compulsory Insurance of vehicles issued by the Board of Directors of the Insurance Commission on the basis of the rules of paragraph (a) of Article (9) and Article (19) of the Regulation of Compulsory Insurance for vehicles (12) of 2010, published in the Official Gazette No. 5028, p. 2541.

(1) The change to raise the tariff of the compulsory insurance premium under the instructions of compulsory insurance premiums for vehicles for 2010, Regulations No. 23 of 2010 published in the Official Gazette, Issue 5028, P. 2532.

(2) See in the detail of the obligation to notify about the accident: Dr. Abdul Razzaq Sanhoori, op P 649, p. 1674, and DR. Shukri Mohamed Sorour, Explanation of the rules of the insurance contract, Arabic Dar Al-Nahda, 2003 2004, p. 302

(3) The same previous reference.

(4) The Principles included the insurance contracts within contracts of "very good faith"; which means that the parties to this insurance contract should be aimed at good faith during the execution of the contract even before its conclusion, see in detail of this effect with: DR. Abdelkader Al etteiri, land insurance in the legislation, the House of Culture of the Publication & Distribution, Jordan, 2010, p. 106, and Dr. Mohamed Hussein Mansour, the rules of the Insurance Act, the Alexandria Library, 2005, p. 145,Dr. Ahmad Sharaf al-Din, op.cit, p. 80.

(5) See the English court ruling in the case of: UEB Packaging Ltd v QBE INS (Int) Ltd, 1996.
Mentioned in:
Malcolm A Clarck, The Law of Insurance Contracts, 2000, LLP Professional Publishing, p 26 - 2 A.

The insurer has a clear interest in requiring the insured to notify the accident and prevent further damage to enable the insurer to reduce the adverse consequences of the accident and take the necessary actions to save his rights against the responsible for causing the damage, and thereby reducing the limits of its obligation against the creditor for the amount of insurance [(1)]. The party owing such obligations as determined by Article IX above is the insured (owner of the car which caused the accident), the driver or the injured. To bind the latter with these obligations is the rule developed by the current Regulation of Compulsory Insurance. The previous Regulation limited the Obligation on the owner of the car and its driver without the injured third party[(2)]. The conduct of the lawmaker is justified in both Regulations; the injured in the previous Regulation of Compulsory Insurance, given the nature of the insured risk in this Regulation, is necessarily "other than" the insured or the driver of the car, and has in this capacity no relationship with the insurer. However, making him bound by a duty to the insurer does not agree with that.

When the nature of the covered risk was changed under the current Regulation of Compulsory Insurance, the injured also became debited by the duty of notification of the accident; because the injured (the creditor of the amount of insurance) may be the insurer himself or the driver of the car which caused the accident. The lawmaker made both of them injured eligible for the insurance security for any damage caused to any of them by the insured accident. Despite the merits and easiness of this justification to clarify the obligation of the injured to notify when he is the insured or the driver of the car, it does not justify the obligation of the injured third party to notify the insurer. We say that the wisest justification is to find its place in the search for the source of the obligation. Since the law is the source of the right of the injured, whatever, to claim the amount of insurance, it agrees with the fact that the same law creates obligations which the burden of fulfilling is to be borne by the injured, such as requiring the injured to notify the accident and prevent the escalation of the damage. Despite being neither the owner nor the driver of the insured car, it does not deny the establishment of a legal relationship (the source of which is the law) between him and the insurer.

However, the addition of the injured to the insured and the driver in the fulfillment of the obligation urges us to say that the lawmaker has transcended in the current Regulation the mistake in the former Regulation. The lawmaker used to take out the insurer from the obligation of notification and prevention of aggravation, while he should have obliged him to do both for establishing the legal relationship between him and the insurer as well as lacking the relevance of not obliging him to both in such situation.

Since the lawmaker sees the insured, the driver of the car which caused the accident and the injured obliged to notify of the accident and prevent further damage, the fulfilling of this obligation will be true even if made by one of them without the others; that is, the fulfillment is true and dropping the obligation for the rest. This concept is from the text which leaves the burden of fulfilling the obligation to the choice between them.

Nevertheless, the lawmaker with the use of the "reasonable duration" has failed to determine the meaning of this duration, when it is considered a "reasonable duration" and the moment of entry into force. We say by taking into account the rules of the obligation to notify of the accident that the reasonable duration starts from the moment of the accident or knowledge of the insured or driver of the car which caused the accident or the injured from the occurrence of the insured accident. This duration is considered unreasonable as long as the debtor of notification delayed the implementation of his obligation in a manner that the late notification would no longer be feasible for the insurer to reduce the financial liability for the damage and preserve his rights [(3)]. I'm here making my opinion, with the absence of the legislative or judicial definition for the reasonable duration, on the need to implement the contractual obligations in a manner consistent with what dictated by good faith [(4)], i.e., in a manner that is not detrimental to the other contractor[(5)]. This can not be imagined on the implementation of the obligation to notify only by implementing it in a meaningful way for the insurer.

(1) See in this sense: Jassim Mohammed Belrmeitah, rooting the sanctions in the insurance contract in the Civil Transactions Act of the United Arab Emirates, 1995, p. 144.

([2]) Article (13) of the previous Regulation of Compulsory Insurance.

(3) See close to this meaning with Dr. Abdul Razzaq Sanhoori, op P 648, p. 1671, and Dr. Ahmad Sharaf al-Din, op.cit, p. 293 294.

(4) This is determined by the rules of the Jordanian Civil Code in Article (202 / 1): " The contract must be implemented according to its content in a manner consistent with what dictated by good faith."

(5)See:

Turning to the position of the Egyptian lawmaker, we find out that he acknowledges the obligation to notify of the accident and prevent the aggravation of the damage. Article (12) of the Egyptian Compulsory Insurance Law states that " the insurer or his representative shall be committed to inform the insurance company of the accident caused by the car and requiring compensation in accordance with this Law within fifteen days from the date of the accident, and shall take all precautions and procedures necessary to avoid the aggravation of the damage caused by it ... ". The contrast is clear between the views of the Egyptian and the Jordanian lawmakers for this obligation. This obligation is owed by the insured (the owner of the car, who acts for him [(1)] or his representative. Thus, the driver of the car or the injured does not comply with any of the duties of notification or prevention of aggravation of the injury. We see in the approach of the Egyptian lawmaker a narrowing given up the Jordanian lawmaker, because the accident might occur by the driver of the car without the knowledge of the insured in a manner that the latter can not inform the insurer thereof or work to prevent aggravation of the damage.

Thus, this obligation loses its purpose and the insured remains responsible for fulfilling the obligation which he does not know that it has already become binding on it. Perhaps what can be added to the failure of the Egyptian lawmaker's view is the time fixed for notification and the date of entry into force. We find out that regarding the date of the accident as the date of entry into force of the notification time overlooks the possibility of the occurrence of the accident without the knowledge of the insured, especially if caused by the driver of the car not the owner. Thus, the Jordanian lawmaker has already surpassed his Egyptian counterpart when he used the "reasonable duration" as a period that must be fulfilled because it is the duration that can accommodate all the possibilities contained. Besides, the Jordanian lawmaker adopts the multiplicity of those owing the obligation in a manner that narrows the possibility of non-fulfillment and foremost achieves the desired end. All of the above balance between the positions of lawmakers also applies to the superiority of the Jordanian lawmaker over his Egyptian counterpart. The Jordanian lawmaker did not specify the period during which the obligation of notification must be met, while the Egyptian lawmaker made it (15) days.

In this specification, there is a narrowing to the injured that could be removed only if the Egyptian lawmaker was sufficed by the "reasonable duration", because it is an approach consistent with the interests of the injured and does not destroy the interest of the insurer. Moreover, the English Judiciary established standards which shall define the reasonable duration by stressing that the top priority is to determine the duration in which the notification must be sent in the contract. If the contract does not include such a determination, the insured is required to make the notification through a reasonable period of time. In explaining the meaning of the reasonable duration, the court decides that the insured is obliged to notify at the earliest opportunity. To define the "earliest opportunity" is a question of fact to be determined upon the circumstances of each case [(2)]. The English Judiciary adds that obliging the insured to notify as soon as possible requires projecting the common man standard of the reasonable possibility on the state of the defendant insured. Thus the term the "notification requirement" means in the English Law that the insured is obliged to notify whenever reasonably possible [(3)].

The penalty of failing to implement the obligations of notification and the prevention of aggravation:

The Jordanian lawmaker grants the insurance company for not meeting these obligations the right to protest the subsequent damage due to the lack or delay of notification of the accident, or failure to take the necessary precautions to prevent the aggravation of damage. Thus, the insurance company is required to prove the negligence and the damage caused in meeting the obligation so that it can protest the damage against the party owing the obligation. It is clear that the form of default in meeting the obligation of notification is either not meeting it or meeting it carelessly as doing it late, not in a meaningful way, incomplete and without encompassing all of its aspects such as not including the data that matters the insurer to know about as the time, place, cause, circumstances surrounding the accident, negligence to take the necessary measures to prevent aggravation of damage or doing what may increase the amount of actual damage. If such a breach occurred, the insurer would be entitled to protest the damage as a result. The form of damage is to miss an opportunity by the insurer to recourse to the maker of damage, not being able to take the necessary action to mitigate the adverse consequences of the accident, or pursue the maker of damage due to his delay of knowledge of the occurrence.

(1) Article II of the Egyptian Insurance Law states: " The obligation to make the insurance falls on the vehicle owner or his legal substitute"
(2) See further: Malcolm A Clarck, the Law of Insurance Contracts.op.cit, p: 26-2E4.
(3) Op.cit, 26-9

According to Article (11) above, the insurer's protest over the damage assumes a violation by the party owing the obligation and damage resulting from such violation to the insurer. The latter shall bear the burden of proving that this violation has caused him the damage. The form of protest by the insurer is to claim compensation for the damage which he suffered from. The question here is: Can the insurer refuse to pay the security or reduce it for the injured because of prejudice to the obligations of notification and prevention of aggravation? In answer to this question, Article (11 / A / 2) states that: "Despite what is contained in item (1) of this paragraph, the insurance company may not refuse to compensate the injured on the grounds of delay of reporting the accident,". Therefore, the company remains obliged to compensate the injured for the insured damage even if the injured, insured or driver of the car which caused the accident delayed reporting the accident. Reading this item with the previous one, we believe that the insurance company is required to pay the insurance security to the injured and may deduct from this security an amount representing the value of the injury suffered because of delaying the reporting of the accident by the injured.

However, does the company have the right to recourse to the insured and the driver for the compensation it made to the injured on the grounds that both the insurer and the driver delayed reporting the accident in a manner harmful to it? As determined by Article (11) in its first paragraph, the obligation to notify falls on the three together, the insurer, the driver and the injured, and meeting any of them to this obligation shall drop it from the rest as we have said. Not reporting the accident to the company means a breach by the three of them of the duty of notification and entitles the company to protest against the damage suffered. The claimant for compensation for this damage is the insurer, the driver and the injured. According to the concept of the text, all three shall bear the burden of damage to the company with the remaining of the latter obliged to fulfill the insurance security to the injured.

The Egyptian Insurance Law agrees with the Jordanian lawmaker in the form of penalty, as Article (12) of the Egyptian Compulsory Insurance Law states "... If the insured has breached any of his obligations set forth in the preceding paragraphs, the insurance company may recourse to him for the damages inflicted as a result unless the delay is justified ". Although the Egyptian text prevents the protest against damages as long as the delay is justified, this is not regarded as different from what was determined by the Jordanian lawmaker. It was noted earlier in the adopting by the Jordanian lawmaker of the "reasonable duration" as an obligation to be fulfilled is an approach by which he surpassed his Egyptian counterpart, of which the reporting by the insured of the accident after a long period of time, keeps it though a reasonable period if the insured proves his delay was justified.

Second: Obligation of the insured or the injured to provide documents relating to the accident.

Article (11 / b) of the current Regulation of Compulsory Insurance states: " the insured or the injured shall provide the insurance company with all documents related to the accident when received, including correspondence, claims and notifications. In case of breach of that, the insurance company shall be entitled to protest the damage caused to as a result, unless the delay is justified "[(1)]. This obligation is as the previous ones of among other obligations imposed by good faith, which is supposed to be followed by the insured to the insurer, besides the interest accrued to the insurer from his correct implementation; It enables the insurer to determine his liability and ensure the validity of the claim of the injured and the extent of its seriousness, as well as the feasibility of paying or recognizing of such claim.

As the case in the two former obligations, the breach of this obligation in a manner harmful to the insurer shall entail a right for the latter to recourse to the insured or the injured due to the failure of any of them to fulfill this obligation. The insured or the injured have the right to object to this recourse if they prove that the delay in meeting the obligation was for a "justified" reason. It is clear that the estimate of how much of a reason for the delay is "justified" is referred to the trial court. The Egyptian lawmaker agrees with the Jordanian Regulation of Compulsory Insurance. Article (12) of the Egyptian Compulsory Insurance Law states " the insured shall be committed to submit to the insurance company all papers and documents relating to the accident, if delivered to him. If the insured has breached any of his obligations set forth in the two preceding paragraph, the insurance company my recourse to him for the damages inflicted as a result unless the delay is justified.

(1) The law of the Egyptian Compulsory Insurance stated this commitment in Article 12 thereof, and made the burden of fulfilling the obligation to the insured or his representative, we refer the discussion on it and how it differs from the way of the Jordanian legislator to what we have referred to in dealing with the obligation to notify about the accident

" I have indicated previously the difference from Article (11) of the New Jordanian Compulsory Insurance Regulation in terms of binding the injured to this obligation in the said Jordanian Insurance Regulation as well.

Section II: Amendments included in the current Regulation to the terms of the injured compensation claim:

Like all new legislations, the New Regulation of Compulsory Insurance updated some of the rules that were contained in the previous one. The updated rules include the obligation to show the damaged property to the insurer before repairing, begin by consensually claiming from the insurer before referring to him by the court, abolish the joint liability between the insurer and the insured against the injured , consider the settlement of the claim between the insured and the injured binding on the insurer as long as it is in his best interest, agree on the validity of increasing the limits of liability of the insurer, and not to determine the limitation period for dropping the claim of the rights established by this Regulation.

Firstly: Requirement to show the damaged property to the insurer and lay claim to him consensually:

Article (14) of the Current Regulation of Compulsory Insurance states: "A. The injured shall consensually lay claim to the insurance company for compensating the damages done to him and enabling it to examine the damaged property before the claim in court, B. The injured shall not make any repairs to the damaged property before presenting it to the insurance company". Therefore, the legal claim of the injured for compensation is regarded as premature if made before the consensual claim or before enabling the company to examine the damaged property. Being as such, it can be argued that this requirement is a pre-condition for the legal claim. This requirement is new, not included in the rules of the Former Compulsory Insurance Regulation, and has a laudable side represented in reducing the burden on the courts in hearing insurance litigation, while it is possible to settle them consensually, easing the burden of legal fees to the injured, and shortening the time of hearing the claim for compensation.

It is sufficient for the full validity of fulfilling this requirement is to prove that the injured has requested the insurer to settle the damage caused to him and enabled him to examine the damaged property. Since these facts are material and not legal actions, the injured is not obliged to follow a certain way to prove their occurrence, but he may confirm them by the available methods of proof(1). If we are to blame the lawmaker on this provision, it is that the lawmaker did not state the claim unprecedented by the consensual claim, and that the lawmaker has obliged every injured to precede his legal claim by a consensual claim. Perhaps, the lawmaker overlooked that the insurer, owner of the car, may be the injured. Since the insured is in contract with the insurer, he is originally bound to send a warning to the insurer asking him to implement its contractual obligation (payment of the security insurance). If the insurer delayed or abstained from implementing his obligation (2), does this warning take the place of the consensual claim on the grounds that the claim has not yet reached the courts? It is clear that the text entitles the insurer to object by dismissing the lawsuit that may be brought by the injured for paying the amount of insurance if not preceded by a consensual claim. This objection will result in dismissing the case for being premature (3).

(1) It is recognized in the rules of evidence that the material facts – unlike the legal action- may be proved with all methods of proof available on the grounds that their nature does not allow to prepare a specific guide thereon in the proof, see Dr. Abbas Aboudi, Explanation of the Evidence Act, First Edition, House of Culture for Publishing and Distribution, Amman, Jordan, 2007, p. 42.

(2) This is stated by Article (246) of the Jordanian Civil Code: "In the contracts binding on both sides, if a party had not met his obligation in the contract, the other contractor may call for the implementation or cancellation of the contract". This was upheld by the Jordanian Court of Cassation in many of its decisions. Perhaps the last decision we got was its Civil Decision No. 468/2010 dated 16/06/2010.

(3) Dismissing the case as premature is the form of challenge for not accepting the case which is intended to object to the acceptance of the case for the absence of conditions of acceptance. This challenge is directed to the means by which the right holder protects his right, and if has the right to use it or the condition for using it is incorrect. See: Dr. Abbas Aboudi, Explanation of the Rules of the Code of Civil Procedure, First Edition, 2006, the House of Culture for Publishing and Distribution, Amman, p. .283.

(2) This is the view of one of the Jordanian courts when it decided to refrain from applying Article (14) of the New Compulsory Insurance for being unconstitutional. Consequently, we will state the most important paragraphs of the decision of this court: "... the Court finds out that the facts of this claim is summarized in that the defendant brought a civil, conciliatory claim against the plaintiff the Arab German Insurance Company for an amount of thousand dinars for the

Despite the "harshness" of this effect and the lack of compatibility with the dominant character of the New Compulsory Insurance Regulation, which we found that it sought to expand the umbrella of the security insurance, it would not reach to the point where to regard the said Article (14) as unconstitutional for wasting a constitutional right which is the right of resort to the court, which is secured by Article (101) of the Jordanian Constitution(1), because everything determined by Article (14) of the New Regulation is hanging the right of resort to the court on a voluntary action made by the injured claiming the insurance security, and not wasting the entire right. Thus the obligation of the injured is close to the obligation of sending a warning to the contractor for asking him to fulfill his obligation before bringing the claim to the court. Besides, the lawmaker when deciding some right, he has the power to impose restrictions on the exercise of this right as it deems more conducive to the purpose of legislation. However, we do not find in the consensual claim what could reach the degree of destruction of the right of resort to the court. What the lawmaker needed for the warning in demanding the implementation of the counter contractual obligations (2) is but the support to what we are going to; it is a clear picture of the right of the lawmaker to restrict the rights which he grants to individuals and not waste it.

Article 14 / A of the New Regulation of Compulsory Insurance is to blame for being general in the course of the specification; it shall be limited to the injured if he is not the owner of the car. It was shown that the latter is linked with the insurer by a contractual relationship binding him to send a warning before legally claiming the amount of insurance. And in the current text of Article (14), he is bound to make a consensual claim. If the insurer does not respond to it, he remains bound to send a warning for the implementation. If the insurer does not also responded to it, the injured may bring his claim to the court. This will be a narrowing on the injured, owner of the car, and an extension of the time of dispute with the insurer.

Secondly: Considering the settlement between the insured and the injured binding on the insurer as long as it is in his best interest:

Article (15) of the Current Regulation of Compulsory Insurance provides for a passive obligation on the insured and the injured for refraining from settling the claim between them away from the consent of the insurer or in a manner that this settlement harms the insurer. The Article states: "Any settlement between the insured and the injured shall be binding on the insurance company if made by its consent in writing or in its interest ". Therefore, the settlement will not be evidence against the insurer unless the latter agrees on it in writing. The consent of the insurer before or after the settlement are equal to operate the text, or if the settlement was in the interest of the insurer. The lawmaker added in the current Regulation the description of the settlement when it is in the interest of the company in order to be authoritative. This description was not contained in the former Regulation, which made the authority of the settlement one form only, as is that approved by the insurer in writing (3). Therefore, the insurer in the former Regulation was not bound by the settlement as long as he did not approve it even if it were in his favor.

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purposes of fees, where he owns a Toyota Corolla No. (.....). On Aug. 18, 2010, the car was rammed by the vehicle number (..... .), Bahrain plates. The plaintiff the insurance company made this demand to dismiss the case because the defendant did not see the company nor enabled it to check the vehicle in accordance with Article 14 \ a of the New Regulation of Compulsory Insurance ... By the legal application, the court finds out that the vehicle which caused the accident was insured with the German-Arab Insurance Company under a compulsory insurance contract for non-Jordanian vehicles. By referring to Article 14 \ a of the Regulation of Compulsory Insurance which states "the injured shall consensually claim for compensation for the damage done to him from the insurance company and enable it to examine the damaged property before legally claiming it". By extrapolating the text above, the court finds out that it is manifestly contrary to the Jordanian Constitution which governs the judicial authority in Chapter VI, where the first paragraph of Article 101 states "the courts are open to all and protected from interference in their affairs". Article 102 of the Constitution states" the courts in the Hashemite Kingdom of Jordan shall exercise the right to judge for all the people in all civil and criminal cases, including the cases brought by or against the government, except for cases in which the right to judge may be delegated to the religious or special courts under the rules of this Constitution or any other legislation in force". Where the issue of addressing the constitutionality of the text contained in the Regulation in question is a matter of Public Order addressed by the Court on its own even if it was not brought up a litigant. Since Article 14 \ a of the New Regulation of Compulsory Insurance is unconstitutional for wasting a sacred right secured by the Jordanian constitution, it must not be applied. Thus, pursuant to Articles (101, 102 & 103) of the Constitution, the Court shall dismiss the claim and refrain from the application of Article 14 \ a of the New Regulation of Compulsory Insurance and move to see the original case from the point it reached, a decision made in the presence of the parties, subject to appeal and was issued and made understood publicly on behalf of His Majesty the King on Feb.10, 2011".

(1) Is a condition imposed by Article (246) of the Jordanian Civil Code. It has already been referred this Article.

(2) Article (16) of the previous Regulation of Compulsory Insurance.

(3) This is confirmed by the opinion of the Jordanian Court of Cassation in other situations, see, e.g., its Decision No. 686/2005 published in the Journal of the Jordanian Bar Association of 2006, No. 4, p. 765.

The current approach of the lawmaker has its merit in the screening for the benefit of the injured, the speed of obtaining compensation and the prevention of the insurer from abusing its right against the insured and the injured. We do not find an imposition in which a settlement is for the benefit of the insurer only if such a settlement would reduce the limits of his obligation against the injured. The insurer may challenge the authority of the settlement by proving that it was not in his best interest; as proving that the insured is not liability for the accident or that he will be made to pay a lower amount than that agreed upon between the insured and the injured. In return, the injured or the insured will have to prove that the settlement is in the interest of the insurer in order to reduce the liability of the latter than it would have been if the settlement had not been made.

Thirdly: Abolition of joint liability between the insurer, insured and driver of the car:

Article (15) of the former Regulation of Compulsory Insurance states: "A. The insurance company, insured and driver shall be jointly liable for the damage caused to third parties .... B. The insurer and the driver shall be jointly liable for any decided sums that exceed the limits of liability of the insurance company ...". Thus the lawmaker used to decide the joint liability between the insurer, insured and driver against the injured; where the latter may claim compensation from any of those, even if the value of the claim falls within the limits of liability of the insurance company. However, the text is understood to mean the joint liability that is limited by the insurance ceiling only. As for what exceeds the limits of this ceiling, the insurer comes out from the circle of joint liability, but the driver and the owner remain within this circle [(1)]. Article (13) of the present Regulation of Compulsory Insurance states: "a. Each of the insured and the driver of the car which caused the accident shall be jointly liable for any decided amounts that exceeds the liability limits of the insurance company ... ". Thus, this text reiterates the second paragraph of Article (15) of the former Regulation, but it did not mention the joint liability between the insurer, insured and driver against the injured. Since the joint liability was not supposed here [(2)], the liability of the insurer against the injured stops at the limits of the amounts drawn by the insurance regulation, and the injured may not claim more than these amounts from the insurer and so does the court.

Accordingly; the liabilities of the insured and the driver of the car begin at the end of the limits of liability of the insurer against the injured. It is clear that the new text was in the interest of the owner of the car which caused the accident and its driver, because the injured may not refer to them except for what exceeded the liability limits of the insurer, i.e., that the injured may foremost lay claim against the insurer and may not lay claim against the owner or the driver along with the insurer as long as the amount of compensation falls within the liability of the insurer, unlike the case in accordance with the former Insurance Regulation, which allows the injured party to foremost claim against all three, and if the amount of compensation within the ceiling of insurance, he may claim against any one of them to fulfill it as a whole.

In the assessment of this new provision, we say it shares with the abrogated provision in that the insurer is not obliged to pay any amount which falls outside the limits of the insurance ceiling set by the rules and instructions issued pursuant to it. The distinguishing mark is that the new provision entails- unlike the abrogated one- the lack of recourse to the owner and the driver as long as the amount of compensation falls within the liability of the insurer. Perhaps the new provision achieves one of the goals of compulsory insurance represented in bearing the security by a financially capable person whose job is to ensure the damage and bear the financial liability for the acts of others. Besides, this provision is consistent with the logic of things and reality even with the benefit of the injured as well. Since the injured is entitled to refer to the owner or the driver alone with all the security, the latter have in turn the right to refer to the insurer for what he has paid as long as it falls within the ceiling of insurance. In addition, the owner or the driver may not be able to meet the security for insolvency. This will make the injured sue the insurer if he had not already done it in another proceeding to ask him to pay his share of the security. Thus, the new provision has removed the joint liability for the interest of the injured, owner and driver alike. The aim of our elaboration in explaining the advantages of the new provision is to show that the abolition of joint liability does not seem as it superficially appears to harm the interests of the injured or it is inconsistent with both the purpose of compulsory insurance and the new expansion in the scope of protection of the injured. However, it is a modification that appears to be restricting, but in essence and product, it is to achieve the ultimate protection for the injured.

(1) On the grounds that the insurance for the most part is not necessarily a business for the insured, but remains a civil business, no supposed joint liability among debtors in civil debts, as determined by Article (426) of the Jordanian Civil Code.
(2) Article III of the current Regulation of Compulsory Insurance.

Fourth: Validity of the agreement to increase the limits of liability of the insurer

The Compulsory Insurance Regulation decides the liability of the insurer to compensate the injured for the damage caused by the car insured compulsorily with it [(1)]. The lawmaker sets limits to the liability of this insurer that the injured can not claim for more [(2)], though the injured may refer what exceeds these limits to the insured and the driver of the car which caused the accident [(3)]. The lawmaker developed with regard to the limits of liability of the insurer the prohibition of any agreement made by the insurer with the insured to reduce the limits of this liability. By contrast, the lawmaker authorized the insurer and the insured to agree to raise the ceiling of insurance for an additional premium to be paid by the insured to the insurer. It is clear that the lawmaker always devotes in this Regulation all that would widen the scope of protection granted to the injured party. When preventing the agreement to reduce the limits of liability of the insurer, the lawmaker keeps on the broader ceiling of protection for the injured in this Regulation. The lawmaker does more than that by allowing the departing from the texts of liability of the insurer as long as this departure is in the interest of the injured; i.e. as long as it increases the limits of the insurer's obligation against the injured.

Fifth: Omission of limitation period in claims of rights arising from the Compulsory Insurance Regulation

If the compulsory insured car caused damage, a direct right shall be established for the injured against the insurer and enabling him to claim what the lawmaker has stated in the Regulation of Compulsory Insurance in his interest of the compensation for this damage. This right to the insured (the owner of the car) or the driver is but an exclusive right sourced from the law only [(1)]. For being as such, this right is safe and immune for any objection by the insurer against the insured. This is supported by Article (13 / 2) of the current Compulsory Insurance Regulation stating: "... the injured party may directly claim from the insurance company the compensation for the damage done to him in accordance with this Regulation. The challenges that the insurance company may hang on against the insured shall not apply. " We believe that the lawmaker has omitted to include the driver of the car in the text of Article (13 / 2) above. The lawmaker had to consider that the right of the injured was also immune against the challenges of the insurer against the driver for the association of the reason from this consideration together with the immunization of the right against the challenges between the insurer and the insured.

If the lawmaker had adopted Article (11) of the former Regulation, he would have defended himself against the failure defect. The said Article states: "For purposes of this Regulation, the insured shall be any person authorized by the insurer to drive the car." Perhaps the most important of what was overlooked by the lawmaker or which was deliberately overlooked for a purpose not realized by us is to determine the term of limitation for claims of insurance security or even the claim of the insurer for compensation for damages that may be caused to him due to the lack of implementation of the Insured of his obligations [(4)], as well as the term of limitation of the claim of the insurer by referring to the causer of the accident [(5)], in contrast to the lawmaker's view in the former Compulsory Insurance Regulation when he set a period to prevent the hearing of the compensation claim and end the rights of the insured as well as the insurer arising from an insured accident [(6)]. About this omission, we question: Is it correct to return to the rules of the insurance contract in the Jordanian Civil Law to drop the rule of limitation which it contains on claims of the rights established by the current Regulation of Compulsory Insurance? Article (932 / 1) of the Jordanian Civil Law states: "Claims arising from the insurance contract shall not be heard after the expiration of three years of the accident which the person interested is aware of its occurrence," It is clear that this provision is on the rights from the contract, while we can not consider that the right of the injured to directly claim against the insurer a claim supported by the insurance contract. This applies to claims of recourse by the insurer against the causer of the accident.

(1) Instructions No. 24 of 2010 / Instructions for the liability of the insurance company in the compulsory insurance for vehicles, these instructions have already been referred to.

(2) This is determined by Article 13 (/ a) of the current Regulation of Compulsory Insurance.

(3) Under this provision, the injured has a direct action against the insurer, see (The Right of the Injured to File a Direct Lawsuit to the Insurer) by Dr. Mohamed Kamel Morsi, Explanation of the Civil Law, Named Contracts / Insurance Contract, Knowledge Facility in Alexandria, 2005, p. 420 and beyond, Lu'ay Majed Abu Hija, Insurance Against Vehicle Accidents, Amman, the House of Culture for Publishing and Distribution, 2005, p. 158 et seq.

(4) That was the damage we have already dealt with in explaining the obligation to notify about the accident and prevent further damage.

(5) Article (16) of the current Regulation contained claims by the insurer from the causer of the damage

(6) See Article (19) of the abrogated Compulsory Insurance Regulation.

Therefore, it does not agree with it to regard the rule of limitation contained in the Insurance contract in the Jordanian Civil Code as applicable to the rights established by the Regulation of Compulsory Insurance. Since it was the case, the general rules governing the statute of limitations in the Jordanian Civil Code must be applied, where we will find Article (449) provides for not hearing the claim to the right after the expiration of fifteen years. We question: Can we consider the lack of determining the limitation period a wish of the lawmaker to make the injured benefit from a long period of limitation, contrary to what had been the case in the former Regulation?

It seemed clear to us that the current Regulation of Compulsory Insurance expanded the scope of protection afforded to the injured of car accidents. We have explained previously that this Regulation expanded the scope of risks covered by the security of the insurer. It also extended the insurance coverage to include the insured and the driver of the car which caused the accident. Perhaps, the lawmaker drowns in expanding the concept of legislative protection and topping the social purpose of the legislation by giving the injured a long period of limitation in which the injured can turn to the insurer for claiming his insurance. We see that the lawmaker had to follow the approach which he adopted whether in the previous Regulation of Compulsory Insurance or in the rules of the insurance contract in the Civil Law. He also had to subject the claims for the rights arising from the current Regulation of Compulsory Insurance to the trio limitation. The trio limitation, in addition to being the approach of the lawmaker in the Civil Law regarding insurance claims, is more responsive to the nature of insurance contract which always adopts the business capacity for the insurer [(1)]. Needless to point out that businesses require speed more than their civilian counterparts for the stability of financial transactions and legal status.

Conclusion

At the conclusion of the research in the terms of liability of the insurer under the New Regulation of Compulsory Insurance, this study concluded to a number of findings and recommendations which we hope will find their share of attention and play their role in the development of scientific research and rectify the legislative deficiencies wherever found. These findings and recommendations are summed up as follows:

First: Results

1. The liability of the insurer in accordance with the New Compulsory Insurance Regulation covers ensuring all damage resulting from the accident by a compulsory insured car.
2. The injured entitled to the security insurance according to the New Regulation of Compulsory Insurance may be, other than the third party, the insured himself (owner or even the driver of the car which caused the accident).
3. The failure of the injured to meet the obligations of reporting the accident and taking the necessary actions to prevent aggravation of the damage does not drop neither his right to claim the amount of insurance nor the insurer's obligation against him.
4. The right of the injured to legally claim the amount of insurance from the insurer requires that the injured has enabled the insurer to examine the damaged property and consensual demands for compensation for the damage.
5. The omission of the lawmaker to determine the term of limitation of the rights established by the Compulsory Insurance Regulation requires that the rule of limitation to be applied is the one contained in the general rules, which makes the term fifteen years.

Second: Recommendations

1. Amendment of Article V of the Jordanian Traffic Law, which states: "No registration, licensing or renewing of license of a car shall be made only after submitting an insurance contract covering the license period with an insurance company authorized in the Kingdom to practice business so that the contract will cover the civil liability for damage to third parties caused by the use of such car in accordance with the rules of the Insurance Regulatory Act in force "; because the liability of the insurer under the Regulation of Compulsory Insurance is no longer limited only to the risk of civil liability, as we have explained in showing the nature of the risk insured against in this Regulation. Thus, the lawmaker should drop from the said Article the limiting of the object of contract to cover the civil liability for the damage caused to a third party.

(1) On the grounds that the insurer is always a trader (trading company) and not otherwise, because the legislator does not permit the practice of insurance business only by public shareholding companies. This is explicitly determined by Articles (93) of the Jordanian Companies Law No. 22 of 1997 and (25) of the Insurance Regulatory Act No. 76 of 2002.

2. The limitation period for claims of rights established by this Law is to be determined by the lawmaker. Referring to the general rules means the application of the long limitation which is not consistent with considerations of stability of the legal status and financial transactions. There was a balance in the trio limitation decided by the former Regulation between the interests of the insurer (the merchant) in the stability of its legal and economic status as soon as possible and the interest of the injured in giving him a reasonable time in which he can turn to the insurer.

3. A duration to be determined by the lawmaker in which the insurer is required to make his opinion regarding the compensation for the damage after being enabled by the injured to examine the damaged property and demanded to consensually compensate; so that the injured will not remain at the mercy of the insurer, or his attempts to get rid of his liability against the injured. Otherwise, the aim sought by the compulsory insurance will be lost. 4. The " reasonable duration" in which the insurer or the injured are to notify the insurer of the accident is to come into effect from the date of knowledge of the insured or the injured of the accident not from the date of occurrence of the accident. This is to avoid the possibility of the occurrence of the accident without the knowledge of the insured or the owner of the damaged property.

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