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# Accident victims aided by scheme

BY VICKY WONG

ABOUT \$12.5 million in damages has been recovered for accident victims from Hongkong's "sandwich class" under the Supplementary Legal Aid Scheme which was set up four years ago to help those who were too rich to qualify for ordinary legal aid but too poor to afford private litigation.

According to Mr Tony North, an assistant director of the Legal Aid Department which administers the scheme, a total of 46 cases had been concluded to date, and all but one of these had been won.

The number of cases concluded so far might seem small compared with the number of years the scheme had been running, Mr North said. But this was not unusual in

view of the length of time it took cases to move through the legal process and because personal injuries cases were generally not litigated too soon after the accident since it took time before the full extent of injuries, on which damages were assessed, could be determined.

Some of the cases being litigated now concerned victims who had applied for aid during the scheme's first year of operation, Mr North said.

To date, a total of 366 applications had been received under the scheme and 155 cases were still pending, while 126 had been turned down.

Under the scheme, only personal injury cases, except those dealing with dental and medical negligence, which can be extremely difficult to prove in court, are taken on.

Road traffic accident victims account for some two-thirds of the applications which have been made so far, while the rest are made by those hurt in other ways, such as through industrial or construction accidents.

To qualify for assistance, an applicant cannot have a disposable income exceeding \$15,000 a month or more than \$100,000 in disposable capital, compared with the normal legal aid criteria of \$2,700 and \$15,000 in earnings and assets respectively.

Under the scheme, which was set up with money borrowed from the Lotteries Fund, accident victims who get their cases taken on need only pay a \$1,000 "application fee" for the litigation effort. Should they lose, the \$1,000

fee already paid limits their liability even though it may have cost the scheme hundreds of thousands of dollars in lawyers' fees, and court costs, to take on the litigation.

Should they win, however, a proportion of their damages award is expected to go back into the scheme so that others in similar circumstances can be helped in the future under the self-financing nature of the fund.

Such a "contingency fee" arrangement is accepted practice in the United States, but is prohibited by law in England because the scheme denies the party seeking damages the full amount of money due after a favourable ruling.

In Hongkong, contingency fee arrangements are also prohibited by law, except in the

case of sandwich class accident victims.

At present, the scheme's funding appears relatively healthy with about \$550,000 having been received so far as a percentage of the damage awards won.

And nearly half of the \$400,000 the scheme borrowed from the Lotteries Fund has already been repaid.

Mr North noted, however, that the loss of just one big case could plunge the fund deeply into the red if it had to pay out hundreds of thousands of dollars in court costs.

It is even possible that \$1 million in costs might be run up if a complicated case was appealed all the way to the Privy Council in London and still lost, Mr North added.