

Part 2. Voluntary Automobile Insurance

Standard policy conditions made by NLIRO are composed of five types of coverage, namely, third party liability, self-incurred personal accident, protection against uninsured automobiles, passengers' personal accident, and damage to own vehicle.

Since rate liberalization in July 1998, insurers have come to use their own policy conditions. There exist various products offering different types of coverage in the voluntary automobile insurance market.

Followings are the details of the coverage and the premium rate system on the basis of standard policy conditions and Reference Loss Cost Rates developed by NLIRO.

Chapter 1. Coverage available

1. Coverage for third party liability

(1) Legal liability covered under this insurance

The coverage for bodily injury liability provided by voluntary automobile insurance policies acts as excess cover to CALI. The scope of such coverage under voluntary automobile insurance is somewhat broader than that of CALI.

Voluntary automobile insurance covers any kind of legal liability for an accident arising from the ownership, use, or maintenance of the insured automobile, irrespective of whether such liability is incurred under Art. 3 of the Law or under the provisions of the Civil Code or any other law^{*1}.

Differences also exist with regard to the insured persons. Under CALI, the "owner" and the "driver" are insured persons, whereas under voluntary automobile insurance, in addition to the "named insured" indicated in the policy, the following persons are insured: the spouse (including unregistered spouse) and relatives^{*2} of the named insured, any person who drives or uses the automobile with the permission of the insured^{*3} and the employer of the named insured^{*4}.

*1 Because of this difference, an exceptional case may occur where payment for bodily injury liability is made solely under voluntary automobile insurance, without any payment being made under a CALI contract. For example, in the case of an explosion of an insured automobile that is kept in a garage, no indemnity is paid with respect to bodily injury liability under CALI, as the explosion cannot be construed as having occurred arising from the operation of the insured automobile. Under voluntary automobile insurance, on the other hand, payment will be made to cover the liability of the insured if it is caused by his/her fault in the maintenance of the automobile. In such a situation, voluntary automobile insurance acts to cover the whole

amount of liability for the loss, instead of acting only as excess cover to CALI.

*2 The word “relatives” in this context means:

- (1) the relatives of the named insured or his/her spouse (including unregistered spouse) who are living in the same household, and
- (2) the unmarried children of the named insured or his/her spouse (including unregistered spouse) who are not living in the same household.

*3 This does not include any automobile repair shops, parking lots, automobile sales business or the like under whose care and control the insured automobile may be put as part of a business relationship.

*4 The liability of the employer insured under the policy is that which is imposed on him/her under Art.3 of the Law, Article 715 of the Civil Code or the provisions of any other law, due to an accident occurring while the insured automobile is being used by the named insured for the business of the employer.

The scope of the insured with respect to property damage liability coverage is identical to that of bodily injury liability. Under the coverage for property damage liability, the insurance policy covers the insured for his/her legal liability (under the provision of the Civil Code or any other law) for an accident arising from the ownership, use or maintenance of the insured automobile.

Costs of litigation (including lawyers’ fees) between the insured and the claimant and other costs are covered if they are incurred by the insured with the written agreement of the insurer.

(2) Limits of the insurer’s liability

With regard to third party liability coverage, the limits of coverage are agreed upon separately for bodily injury and for property damage between the insurer and the policyholder. For bodily injury liability coverage, the limit of coverage is applied on a per person (victim) basis with no limit of liability per accident. Where the applicant requires an amount greater than the limit, coverage with unlimited indemnity is available.

(3) Exclusions

Any loss caused by a willful act on the part of the policyholder or the insured is excluded from coverage. In the case of a willful act committed by an insured person other than the named insured, however, this exclusion does not apply with respect to the liability of any insured person who is innocent.

Coverage is also excluded for any loss caused by:

- war, civil war, rebellion, insurrection, similar incident or riot
- earthquake, volcanic eruption, or tsunami
- typhoon, flood or tidal wave

- nuclear fuel material
- nuclear radiation or radioactive contamination
- using the insured automobile for the purpose of racing, stunting or testing, or using the insured automobile in a place intended for racing, stunting or testing.
- loading the insured automobile with dangerous goods for a business purpose, or making the insured automobile tow a tractor which is for a business purpose loaded with dangerous goods.

Coverage is also excluded for any loss to the insured persons caused by being held liable for bodily injury to:

- the named insured
- any person who is driving the insured automobile, or his/her parent, spouse (including unregistered spouse) or child
- the insured's parent, spouse (including unregistered spouse) or child
- any employee of the insured engaged in the business of the insured
- any employee of the insured engaged in the business of another employee of the insured, provided that the insured is using the insured automobile for the purpose of that employee's business

Coverage is excluded for any loss to the insured persons caused by being held liable for loss, damage or contamination caused to the property of:

- the named insured
- any person who is driving the insured automobile, or his/her parent, spouse (including unregistered spouse) or child
- the insured's parent, spouse (including unregistered spouse) or child

(4) Out-of-court settlement by the insurer

If the insured receives a claim for damage from the victim of a traffic accident, the insurer may settle out of court directly with the victim on behalf of the insured, and decide the extent of the insured's liability for damage to the victim, for the purpose of handling the claim smoothly. The insurer, with the consent of the insured, may negotiate, settle, mediate or litigate within the amount of liability of the insured to the victim. All the relevant costs are borne by the insurer.

(5) Right of the victim to claim for damage directly to the insurer

In the bodily injury and property liability coverages, the victim of a traffic accident may make a claim for damage directly to the insurer of the insured. This is a system to protect the victims of

traffic accidents, similar to the system under CALI where a traffic accident victim may make a claim for damage against the CALI contract of the party at fault. The insurer, if certain conditions are met, pays the amount of damage within the liability of the insured to the victim.

(6) Extension of coverage for the insured while driving another person's automobile

Under voluntary automobile insurance, there is an endorsement that extends third party liability to cover an accident occurring while the named insured or a member of his/her family* is driving another person's automobile.

This endorsement is available only when the type of insured automobile is a private standard-sized passenger automobile, private small-sized passenger automobile, private light four-wheeled passenger automobile, private standard-sized freight automobile with the maximum loading weight up to 2.0 ton, private small-sized freight automobile, private light four-wheeled freight automobile or specific purpose automobile (camping vehicle). Moreover, the coverage can be extended only where both the owner of the insured automobile and the named insured are individuals. The "other person's automobile" so being driven must be one of the types described above. However, an automobile which is owned or regularly used by the named insured or members of his/her family* is not regarded as another person's automobile. The limits of the insurer's liability and details of the coverage under this endorsement are the same as those under the principal coverage for third party liability. However, if liability for damages is covered by the insurance policy of another person's automobile, this endorsement acts as excess cover to that insurance policy.

If an accident occurs while the insured is driving an automobile owned by his/her employer for the business of such employer, or if he/she is driving an automobile without the permission of the person who is authorized to use the automobile, the accident is not covered by this endorsement.

The endorsement contains provisions to be applied to other types of coverage (coverage for self-incurred personal accidents and protection against uninsured automobiles).

* In this context a "member of his/her family" means the named insured's spouse (including unregistered spouse), his/her relatives living in the same household and unmarried children not living in the same household.

2. Coverage for self-incurred personal accident

(1) History

When nobody is liable for the damage under Art.3 of the Law, the person injured in an accident is not indemnified for his/her own loss caused by the bodily injury under either CALI or the

¥ 4,000

If more than one insured person is injured, the above amount is paid to each person and no limit is set for one accident.

* In addition to this, nursing care benefit is paid for certain specific types of permanent disability which require nursing care. The amount of benefit is ¥2,000,000.

(3) Exclusions

Coverage is excluded in the case of any loss caused by the insured's willful act or violent act against another person, or in the case of an accident occurring while the insured is:

- driving the insured automobile without a valid driver's license, or under the influence of alcohol or narcotics
- driving or riding in the insured automobile without the permission of the person entitled to its use.

Also, bodily injury caused by any of the following reasons is excluded from this coverage:

- war, civil war, rebellion, insurrection, similar incident or riot
- earthquake, volcanic eruption, or tsunami
- nuclear fuel material
- nuclear radiation or radioactive contamination
- using the insured automobile for the purpose of racing, stunting or testing, or using the insured automobile in a place intended for racing, stunting or testing
- loading the insured automobile with dangerous goods for a business purpose, or making the insured automobile tow a tractor which is for a business purpose loaded with dangerous goods.

Bodily injury caused by typhoon, flood or tidal wave is not excluded from this coverage.

(4) Extension of coverage for the insured while driving another person's automobile

Extension of coverage for the insured while driving another person's automobile under third party liability coverage (see pg. 20) applies to coverage for self-incurred personal accident, too. The insured persons under this extension, namely those persons to whom benefits are payable, are the named insured, his/her spouse (including unregistered spouse) and such relatives as were defined earlier (see *2, pg. 18). Even if the insured is entitled to benefits under coverage for self-incurred personal accident contained in the insurance policy of another person's automobile, the benefits are

paid under this extension of coverage precedent to the other person's insurance.

3. Protection against uninsured automobiles

(1) History

This coverage was introduced in 1976. The purpose of this coverage is to protect the insured from bodily injury arising from an accident caused by an "uninsured automobile." Here an "uninsured automobile" means an automobile which is not insured against bodily injury liability under a voluntary automobile insurance policy (irrespective of whether the automobile is insured under CALI), an automobile which is excluded from coverage with regards to that particular accident under the voluntary automobile insurance policy, or an automobile whose limit of bodily injury liability coverage is lower than the limit of the insured vehicle's protection against uninsured automobiles coverage. Further, an unidentified automobile, such as in a "hit and run" situation, is also deemed to be an uninsured automobile in this context. Those who are seated normally in the insured automobile are all covered by this coverage.

Benefits under this coverage are paid only if the insured is killed or has sustained permanent disability arising from the ownership, use or maintenance of the "uninsured automobile."

The purpose of this coverage is to ensure that the insured has the same level of compensation as would have been provided by the third party liability coverage of the insured's own policy. Accordingly, the limit of the insurer's liability under this coverage is set at the same amount as the limit of bodily injury liability coverage under the same policy.

(2) Amount of benefit paid

Since this coverage functions as a kind of excess cover, the amount of benefit paid under this coverage is the amount of damages to which the party at fault is held liable to pay, less the aggregate amount of the following items:

- ① the amount which is recoverable under CALI
- ② the amount which is recoverable from the bodily injury coverage under the voluntary automobile insurance policy of the "uninsured automobile," if any
- ③ the amount which is recoverable from other insurance coverage, such as bodily injury compensation coverage, etc, of the "uninsured automobile," if any.

The amount of damages, for which the insured is legally entitled to claim against the liable party, has to be agreed upon through negotiation between the insurer and the claimant. If no agreement is reached between the insurer and the claimant, the amount is to be determined through the procedures provided in the policy conditions, a lawsuit between the insurer and the claimant, or compromise or

conciliation in court.

An insurer that has paid benefit under this coverage is subrogated to the right of the insured to seek compensation from the party at fault for damage up to the amount of such payment.

(3) Exclusions

Coverage is excluded in the case of any loss caused by the insured's willful act, violent act against another person, suicidal act or criminal act, or in the case of an accident occurring while the insured is:

- driving the insured automobile without a valid driver's license, or under the influence of alcohol or narcotics
- driving or riding in the insured automobile without the permission of the person entitled to its use.

Also, bodily injury caused by any of the following reasons is excluded from this coverage:

- war, civil war, rebellion, insurrection, similar incident or riot
- earthquake, volcanic eruption, or tsunami
- typhoon, flood or tidal wave
- nuclear fuel material
- nuclear radiation or radioactive contamination
- using the insured automobile for the purpose of racing, stunting or testing, or using the insured automobile in a place intended for racing, stunting or testing
- loading the insured automobile with dangerous goods for a business purpose, or making the insured automobile tow a tractor which is for a business purpose loaded with dangerous goods.

(4) Extension of coverage for the insured while driving another person's automobile

Extension of coverage for the insured while driving another person's automobile, as mentioned earlier (see pgs. 20 and 22), applies to protection against uninsured automobiles, too. The insured persons under this extension are the named insured, his/her spouse (including unregistered spouse) and relatives as defined earlier (see *2, pg. 18). However, if any indemnity under protection against uninsured automobiles is recoverable from the insurance policy of another person's automobile, this extension of coverage acts only as excess cover to that insurance policy.

4. Coverage for passengers' personal accident

(1) Coverage

Under this coverage, the insured persons include those who are seated normally or are inside the insured automobile. Anyone on or in the trunk of, or outside the insured automobile is excluded from the coverage. Benefits under this coverage are paid when the insured person suffers bodily injury (including gas poisoning) due to the following sudden, fortuitous and external accidents:

- an accident arising from the operation of the insured automobile
- an accident, during the operation of the insured automobile, caused by collision with flying or falling objects, fire or explosion, or caused by falling of the insured automobile.

(2) Amount of benefit paid

The amount of benefit paid under this coverage is determined as below:

- For death 100% of the insured amount.
- For permanent disability* 100% (1st grade) ~ 4% (14th grade) of the insured amount
- For other bodily injuries (per day)
 - (1) For medical treatment with hospitalization daily benefit stated in the insurance policy
 - (2) For medical treatment without hospitalization daily benefit stated in the insurance policy

Medical treatment in excess of 180 days after the occurrence of an accident (including the day of the accident) is not covered. If two or more persons are injured in an accident, the above amounts of benefit are paid per person without any total limit.

* In addition to this, if the insured person is deemed to be in need of nursing care, a benefit is paid at 50% of the benefit for permanent disability under this coverage (not exceeding ¥5,000,000). For certain grades of permanent disability, another special benefit is paid at 10% of the insured amount of this coverage (not exceeding ¥1,000,000).

(3) Exclusions

Coverage is excluded in the case of any loss caused by the insured's willful act, gross negligence or violent act against another person, or in the case of an accident occurring while the insured is:

- driving the insured automobile without a valid driver's license, or under the influence of alcohol or narcotics

- driving or riding in the insured automobile without the permission of the person entitled to its use.

Also, bodily injury caused by any of the following reasons is excluded from this coverage:

- war, civil war, rebellion, insurrection, similar incident or riot
- earthquake, volcanic eruption, or tsunami
- nuclear fuel material
- nuclear radiation or radioactive contamination
- using the insured automobile for the purpose of racing, stunting or testing, or using the insured automobile in a place intended for racing, stunting or testing
- loading the insured automobile with dangerous goods for a business purpose, or making the insured automobile tow a tractor which is for a business purpose loaded with dangerous goods.

Bodily injury caused by typhoon, flood or tidal wave is not excluded from this coverage.

5. Coverage for damage to own vehicle

(1) Coverage

This coverage indemnifies any accidental loss to the insured vehicle. The causes of loss covered include collision, contact, fall, rollover, flying or falling objects, fire, explosion, theft, typhoon, flood, tidal wave. Losses to accessories of the insured vehicle, such as a radio, clock or air conditioner, are also covered.

(2) Exclusions

Coverage is excluded for the following losses:

- the loss caused by a willful act or gross negligence of the policyholder, the owner of the insured vehicle, the insurance beneficiary, or the equivalent of them (such as the policyholder's spouse)
- the loss caused to the insured automobile being driven by the policyholder, the owner of the insured vehicle, the insurance beneficiary or the equivalent of them (such as the policyholder's spouse) without a valid driver's license or under the influence of alcohol or narcotics
- the loss caused by war, civil war, riot, etc., earthquake, volcanic eruption, tsunami, or radioactive contamination
- the loss caused by exercise of public authority by the Government, etc.
- the loss caused by fraud or embezzlement

- ❑ the loss caused by using the insured automobile for the purpose of racing, stunting or testing, or using the insured automobile in a place intended for racing, stunting or testing
- ❑ the loss caused by loading the insured automobile with dangerous goods for a business purpose, or making the insured automobile tow a tractor which is for a business purpose loaded with dangerous goods
- ❑ the loss caused while transporting the insured vehicle by vessel, etc.
- ❑ mechanical or electrical breakdown, defect, wear and tear, corrosion, rust, or natural deterioration of the insured automobile

(3) Insured amount and insurable value

Under this coverage, the insured amount is stated in the insurance policy, although the payment for loss is calculated on the basis of the insurable value of the insured automobile. The insurable value is assessed by the market value (amount equivalent to the market sales price) of an automobile of identical use, type, name, model, specification, initial registration year and degree of wear and tear as the insured automobile. If the cost of repairs exceeds the insurable value, the automobile is deemed a total loss. Further, if the insured amount is less than the insurable value, the amount paid for loss is calculated as a proportion of the insured amount to the insurable value. As long as the total value of the insured automobile does not increase as a result of replacement of parts, etc. the amount paid for loss is calculated without any adjustment. If the cost of repair of damaged parts is less expensive than replacement, the amount paid for loss is determined on the basis of the cost of repair.

In addition, certain types of automobiles (including private standard-sized passenger automobiles, private small-sized passenger automobiles, private light four-wheeled passenger automobiles, private standard-sized freight automobile with the maximum loading weight up to 2.0 ton, private freight small-size automobiles, private light four-wheeled freight automobiles and specific purpose automobile (camping vehicle)) can be covered by a policy with an endorsement of the agreement on the value of the insured automobile. Under this endorsement, the above-mentioned automobiles may be evaluated at an amount determined between the insured and the insurer when the insurance contract is issued. This agreed insurable value is assessed by the market value (amount equivalent to the market sales price) of an automobile of identical use, type, name, model, specification, initial registration year and degree of wear and tear as the insured automobile. The insurable value remains unchanged during the policy period.

(4) Deductibles

In order to eliminate coverage for relatively small losses and to lower premiums, several deductible plans are available. Deductibles are applicable only to a partial loss of the insured

automobile, not to a total loss.

(5) Endorsement to limit causes of loss

By attaching the following endorsements, limited coverage at a lower premium is available.

① Endorsement to limit coverage on collision with another vehicle

Under this endorsement, the insurer indemnifies the loss caused by collision with another vehicle only if the insured identifies the vehicle registration number, name of the driver, etc. of that vehicle at the time of the accident.

② Endorsement to limit physical damage coverage-A

This endorsement only covers other-than-collision losses, such as fire, explosion, theft, typhoon, flood and tidal wave. However, loss caused by collision with flying or falling objects is covered by this endorsement.

6. Trends in new product development

Following the approval of differentiated premium rates on September 1, 1997 (see pg. 29), various unique insurance products and services have been introduced. In response to the automobile insurance market getting more competitive and consumers' needs more diversified, insurers have come up with new products as follows.

- Coverage for bodily injury compensation
- Automatic renewal endorsement
- Long-term automobile policies with a maturity refund
- Other

Chapter 2. Premium rating

1. Role of NLIRO

Prior to July 1, 1998, member insurers of a rating organization were required by the Rating Organizations Law to use the premium rates of the rating organization. Premium rates for voluntary automobile insurance were calculated by AIRO. After the revision of the Rating Organizations Law on July 1, 1998, the premium rates for voluntary automobile insurance calculated by a rating organization were changed to the Reference Loss Cost Rates (advisory pure premium rates).

Member insurers of a rating organization have no obligation to use the Reference Loss Cost Rates. Instead, they can use the Reference Loss Cost Rates as a basis for calculating their own premium rates. In other words, member insurers add their expense loadings to the Reference Loss Cost Rates to come up with their own premium rates. Then each of member insurers has to obtain approval from FSA for its own premium rates. Since July 1, 2002, NLIRO has been calculating Reference Loss Cost Rates for voluntary automobile insurance.

2. Risk classification and premium rating plan

In general, the risk classification for voluntary automobile insurance is more complicated than for CALI.

In Japan, risks used to be classified mainly based on type, size and engine displacement of the insured vehicle. In December 1996, the Japan-US Insurance Talks reached a conclusion, and differentiated premium rates (also referred to as risk-segmented rates) for automobile insurance were subsequently approved as from September 1, 1997. The risk segmentation factors permitted under the Enforcement Regulations of the Insurance Business Law are driver's age, gender, driving history, auto usage, pattern of use, geography, vehicle type, vehicle safety features and multi-car ownership. A summary of differences between the previous and the current systems is shown in the following table. The bonus-malus system applies to voluntary automobile insurance.

RISK SEGMENTATION GUIDELINES

| | Prior to September 1997 | After September 1997 |
|-------------------------|--|--|
| Age | Three categories: <ul style="list-style-type: none"> • All ages • 21 years or over • 26 years or over | Any number of categories allowed, but differentials between the highest and lowest rated groups to be within a range of 300% or less. |
| Gender | No segmentation. | Segmentation allowed, but differentials between male and female to be within a range of 150% or less. |
| Driving history | Bonus-malus system. (Accident-free drivers can qualify for a discount of up to 60% below the base rate. Drivers with a history of accidents have to pay up to 50% over the base rate.) | Any kind of segmentation allowed. (However, as driving records are currently not publicly available, insurers cannot introduce policyholders' driving records as a risk factor.) |
| Auto usage | No segmentation. | Usage such as commercial, personal, leisure and commuting. |
| Pattern of use | No segmentation. | For example, mileage per year. |
| Geography | No segmentation. | Maximum division up to seven regions as specified in the law. Differentials between regions to be within a range of 150% or less. |
| Vehicle type | <ul style="list-style-type: none"> • Passenger automobile • Freight automobile • Bus • Motorcycle • Dump truck • Other (specific automobile) | Any kind of segmentation allowed. |
| Vehicle safety features | Discount is applied based on availability of safety features such as airbags. | Discount can be applied depending on availability of safety features such as air bags and anti-lock brake systems. |
| Multi-car ownership | No segmentation. | Discount may be applied based on the number of automobiles insured. |

Chapter 3. Settlement of claims

1. Bodily injury liability

(1) Payment of claims for bodily injury liability

As mentioned previously, the coverage for bodily injury liability under voluntary automobile insurance acts as excess cover to CALI. Accordingly, the basic concept of claim settlement is not much different from CALI. Under CALI, however, because of its specific function as a basic compensation system for victims of accidents, member insurers use the Claims Survey Offices operated by NLIRO in order to maintain a high degree of fairness, objectivity and uniformity in claims handling. On the other hand, in voluntary automobile insurance, each claim is assessed according to the methods of the individual insurers.

Further, due to its nature, CALI applies comparative negligence in a limited way to the settlement of claims. On the other hand, in voluntary automobile insurance, comparative negligence is applied strictly based on judicial precedents, etc.. Therefore, if the victim is partly negligent for his/her injury, the amount of benefit is reduced proportionately. The payment from bodily injury liability coverage is limited to the insured amount.

(2) Unitary claims payment system

Under the unitary claims payment system, even if the insured effects a CALI contract with one insurer and effects a voluntary automobile insurance contract with another insurer, the insured only needs to file the claim with the voluntary automobile insurer. The voluntary automobile insurer indemnifies the total amount of the claim and then recovers the portion covered by CALI from the CALI insurer.

2. Property damage liability and damage to own vehicle

(1) Adjuster system

An adjuster is responsible for investigating and evaluating costs for repairing damaged automobiles. Adjusters can be divided into two categories, namely, “technical adjusters” and “specific automobile adjusters.” Both types of adjusters are required to attend periodic training courses. Technical adjusters also have to take examinations given by the General Insurance Association of Japan. All adjusters must be registered with the Association.

An adjuster may work either as an employee of an insurer-owned adjustment subsidiary firm, or as an independent adjuster retained on a contracted, individual assignment basis.

(2) Repair research and training center

In July 1973, a repair research and training center, or, “Jiken Center,” was established in order to conduct studies on damageability and repairability of automobiles, reduction of repair costs, etc., and to provide training programs for adjusters and claims personnel of insurers.

(3) JAPAN AUDATEX

In October 1974, the JAPAN AUDATEX was established. This organization provides insurers with computerized systems for estimating repair costs, by which adjusters and claims personnel of insurers can carry out claims adjustments efficiently.

3. Facilities for settlement of disputes and consultation

(1) Japan Center for Settlement of Traffic Accident Disputes

Either or both parties involved in a traffic accident can ask the Japan Center for Settlement of Traffic Accident Disputes (hereinafter referred to as “JCSTAD”) to conciliate or mediate disputes. JCSTAD, which was established in 1974 and reorganized in 1978, is an independent and neutral organization and its board of directors is composed of lawyers and legal scholars. JCSTAD has 10 offices in major cities in Japan and renders free services by lawyers.

The center’s expenses are financed by investment gains accrued from CALI premiums. Neither the Government nor insurers, however, have any influence over JCSTAD’s decisions. Although its decisions do not legally bind either party involved, insurers tend to agree to the decisions generally.

(2) Other organizations

Various organizations such as the General Insurance Association of Japan and NLIRO also provide victims of traffic accidents with consultation services. Furthermore, each prefectural or municipal government and the Japan Federation of Bar Associations operate traffic accident counseling offices.