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Fundamentals of HBT Index system, its functionalities and possible applications in different types of personal insurance.



HBT Index system:

What is it? Why? What for?

How to use it?

Possible applications.



HBT Index system:

1. What is it? Why? What for?

Art. 444 of Polish Civil Law.

[Personal injury]

§ 1. In the event of bodily injury or health disorder, remedy of damage includes all resulting costs. (...)

§ 2. If the aggrieved party becomes completely or partially incapable of working or if his needs have increased or his future perspectives have diminished, he may demand an appropriate annuity from the person obliged to remedy the damage.
(...)

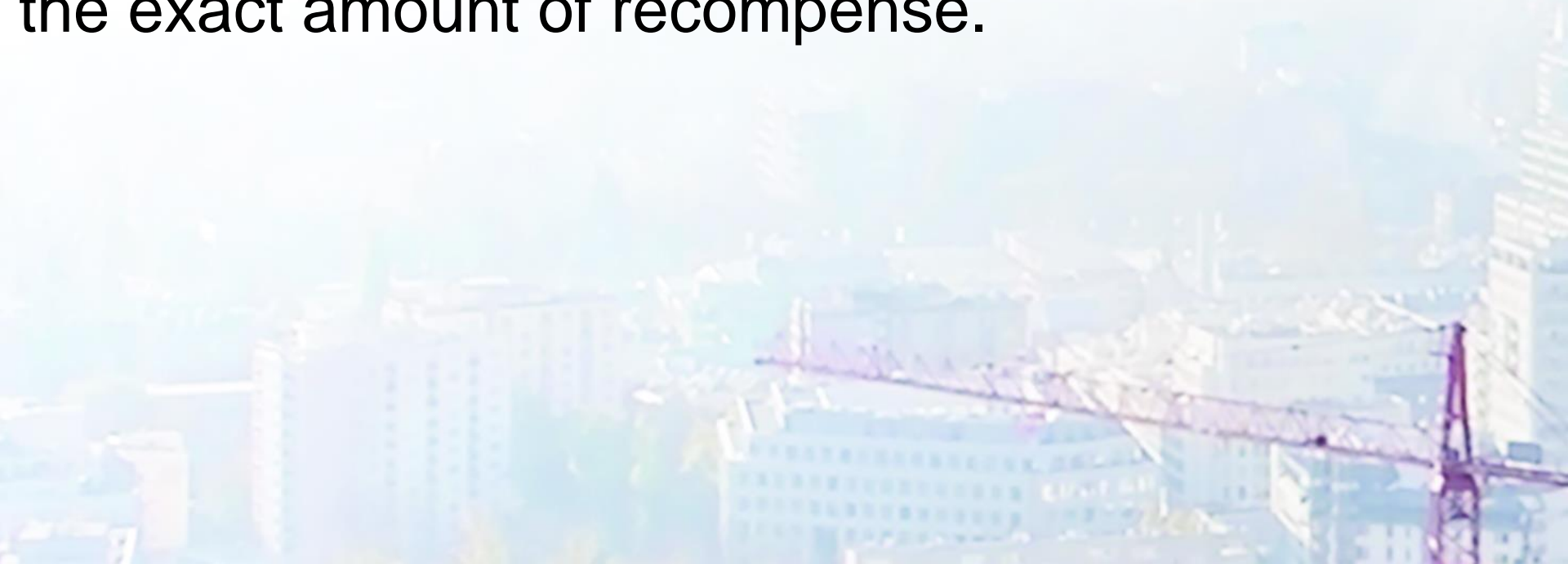
Art. 445. of Polish Civil Law.
[Monetary recompense]

§ 1. In the instances referred to in the preceding article, the court may award an appropriate sum to the aggrieved party as monetary recompense for the harm suffered.



Current state of affairs

Articles 444 and 445 of the Polish Civil Code, which provide that in the event of bodily injury or health disorder the court may award an appropriate sum to the aggrieved party as monetary recompense for the harm suffered, are very general and do not define the exact amount of recompense.



Current state of affairs

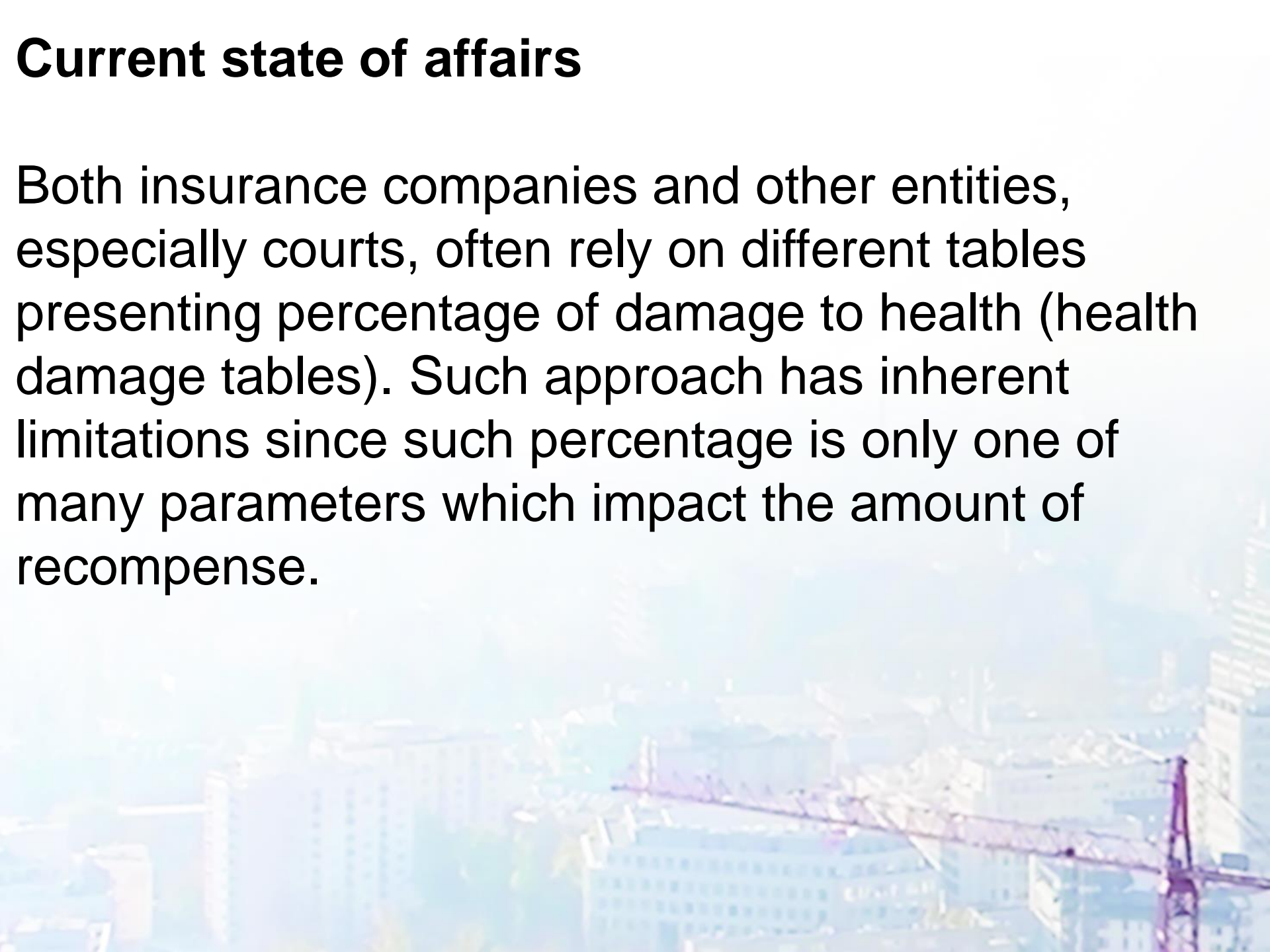
The legal doctrine as well as judicial practice do not make our lives easier either, since they set out a double requirement that is almost impossible to comply with:

- on the one hand, the principle of individualization of the harm suffered by an aggrieved party, and,

- on the other hand, the precept that the individualized recompense for the harm suffered should parallel the amount of recompense awarded in similar factual circumstances.

Current state of affairs

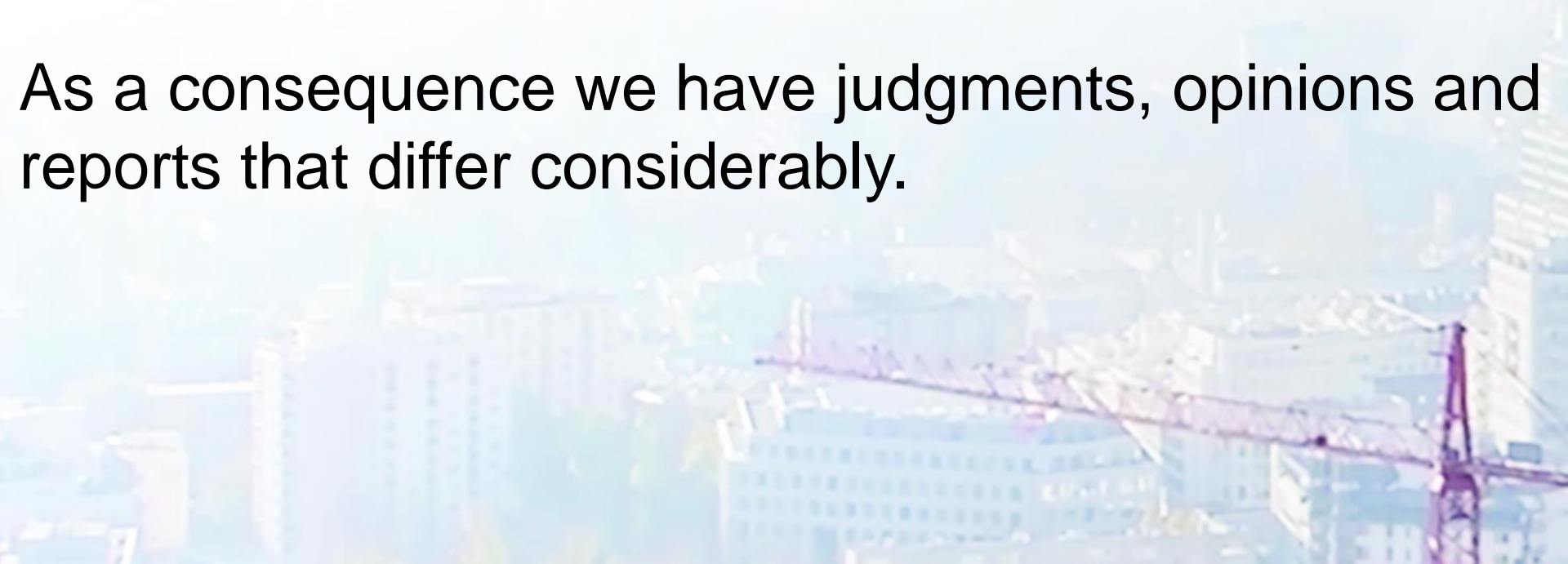
Both insurance companies and other entities, especially courts, often rely on different tables presenting percentage of damage to health (health damage tables). Such approach has inherent limitations since such percentage is only one of many parameters which impact the amount of recompense.



Current state of affairs

The issue is additionally complicated by subjective opinions of certifying doctors and medical expert witnesses, which, when using complex percentage health damage tables and broad percentage ranges, allow for an evaluation on a broad front.

As a consequence we have judgments, opinions and reports that differ considerably.



Current state of affairs

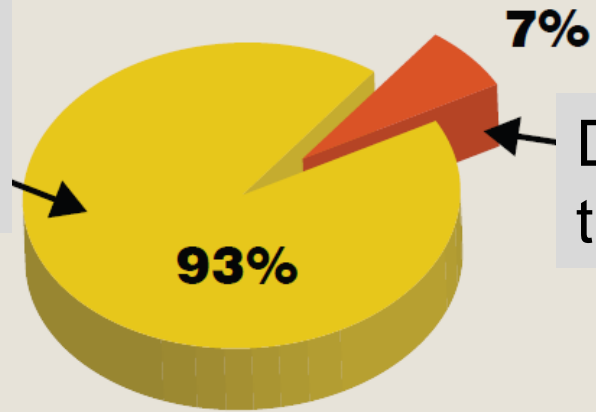
The problem is further exacerbated by the lack of any rules for evaluation of components of recompense other than the percentage of health damage. That is why the results of the injury are often improperly evaluated and an incorrect amount of recompense is determined.

The current lack of standards results in attempts at both lowering compensations as well as influencing their unjustified growth. All of this leads to an absence of predictability and, in consequence, numerous issues.

Current state of affairs

1st instance court judgments*

Admission of aggrieved party's claim



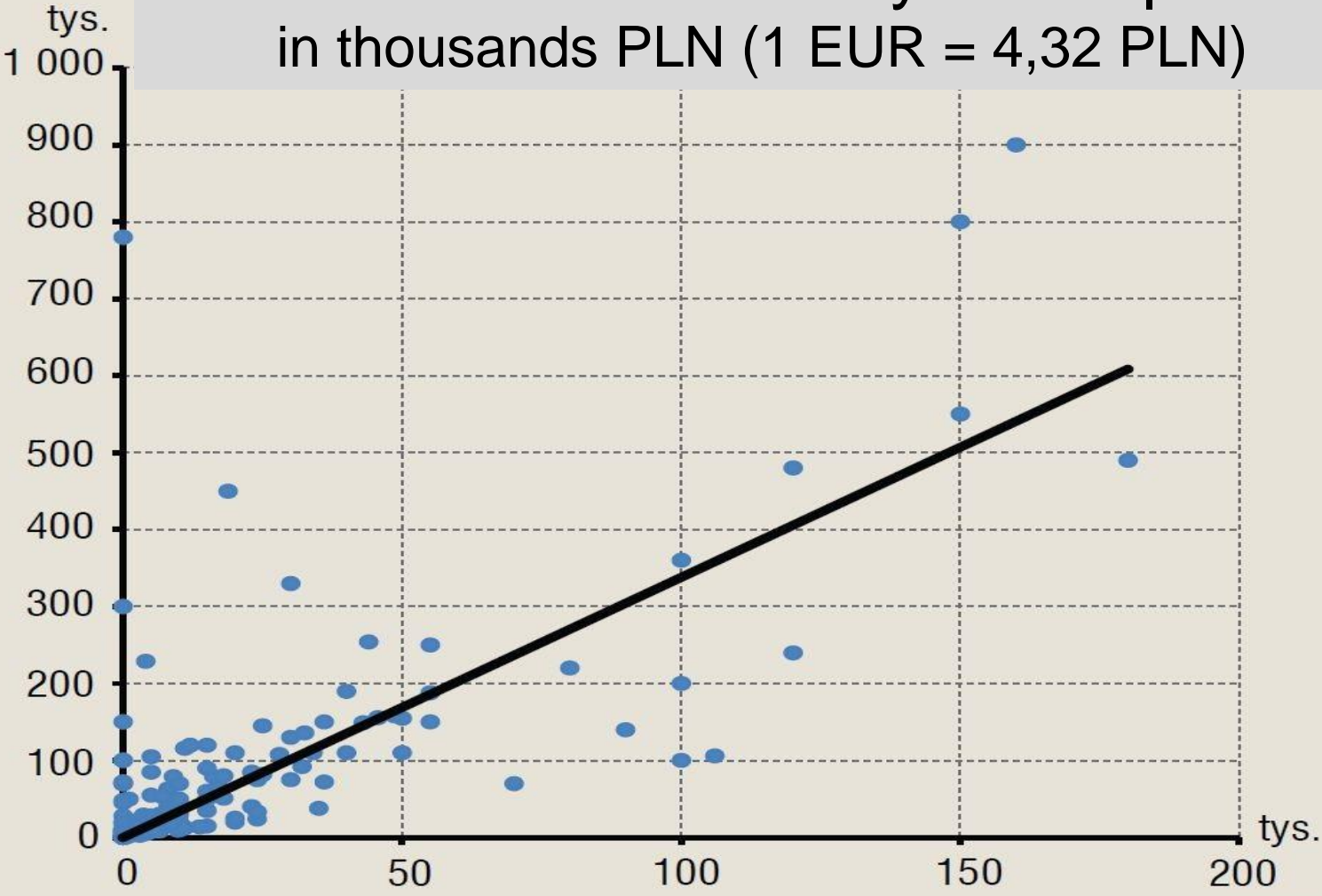
Dismissal of the complaint

*judgments with admission of claim include not only those with fully allowed claims, but also judgments where claims were admitted as to the principle, but the amount of monetary recompense was lowered

Current state of affairs

The amount of monetary recompense in thousands PLN (1 EUR = 4,32 PLN)

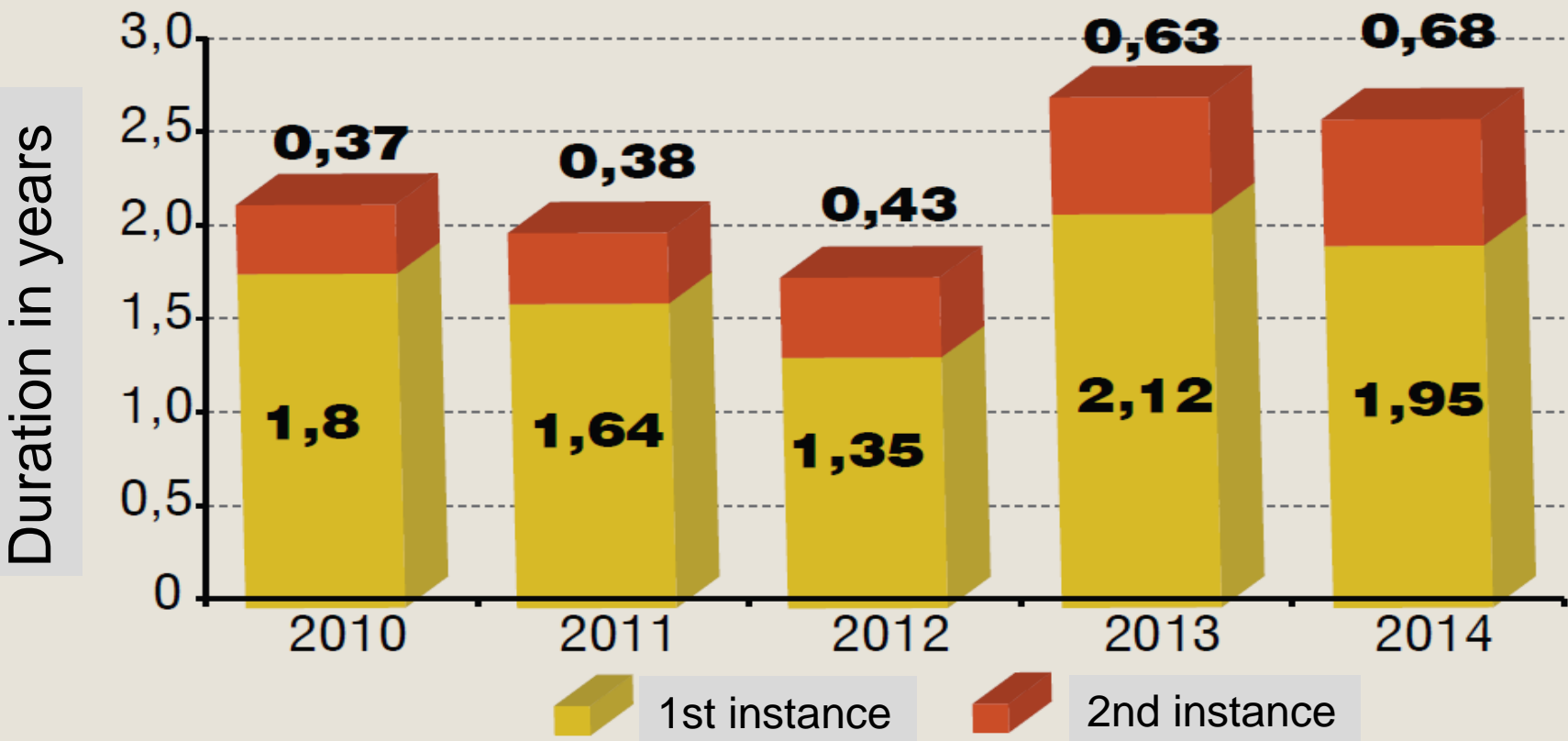
Final court judgment including earlier payments



Monetary recompense awarded by insurer

Current state of affairs

Duration of court case in both instances*
(cases concluded by final judgments in a given year)



* 68% of cases (102/150) were not subject to an appeal and the 1st instance judgment was final

Current state of affairs

Therefore – specifically in the case of third party liability insurance –

it is expedient to implement a uniform system for evaluation of the consequences of insurance-related events which would be used by all entities involved in similar claims.





The HBT Index System – Human Body Trauma Index (hbtindex.com), created as a result of cooperation between the Polish Association of Insurance Medicine and the Polish Society of Forensic Medicine and Criminology, offers just that.





The HBT Index system is an offering made by scientific societies to the whole market interested and involved in an objective evaluation of the consequences of damage to a person. Since the legal regulations relevant to the issue are very general, the proposed system is based on an arbitrary adoption of scientifically valid models, solutions and premises derived from both the existing law as well as the doctrine, judicial practice, and professional experience of its authors.



The adoption of this system demands a certain agreement between the interested parties which will enable the implementation of a unified formula for personal injury settlement, encompassing all circumstances leading to a final recompense.

RECIPIENTS OF THE HBT INDEX SYSTEM

- Insurance companies
- Aggrieved parties and their counsels
- Insurance claim law firms
- Other law firms
- Courts and expert witnesses
- Certifying doctors
- Medical facilities



The HBT system is already fully operational, verified and utilized by expert witnesses for the courts.

The system has been also tried and tested in practice – in over 400 legal cases concluded by final and binding sentences (200 cases in district courts and 200 in regional courts). It has been proven that the HTB not only enables its users to measure the “gravity of the case”, but it also allows them to estimate the expected amount of recompense.



What is HBT?

HBT Index is an IT system which analyses:

- age and sex of the aggrieved party
- information about the injury
- first aid
- health disorder
- bodily injuries
- severity of injuries
- extent of injuries



- complications
- prognosis for recovery
- temporary impairment of functions
- permanent impairment of functions
- impact of chronic diseases
- impact of pre-existing injuries
- duration and hardship of treatment
- level of pain and suffering inflicted by injury
- change in quality of life
- scope of necessary assistance
- period of incapacity to work



and, taking into account all this data, calculates a final points value. The higher the value, the more serious are the consequences of the injury. For similar factual circumstances the obtained points values are predictable and reproducible.





HBT Index system:

2. How to use it?



HBT Index system:

3. Possible applications.

Possible applications

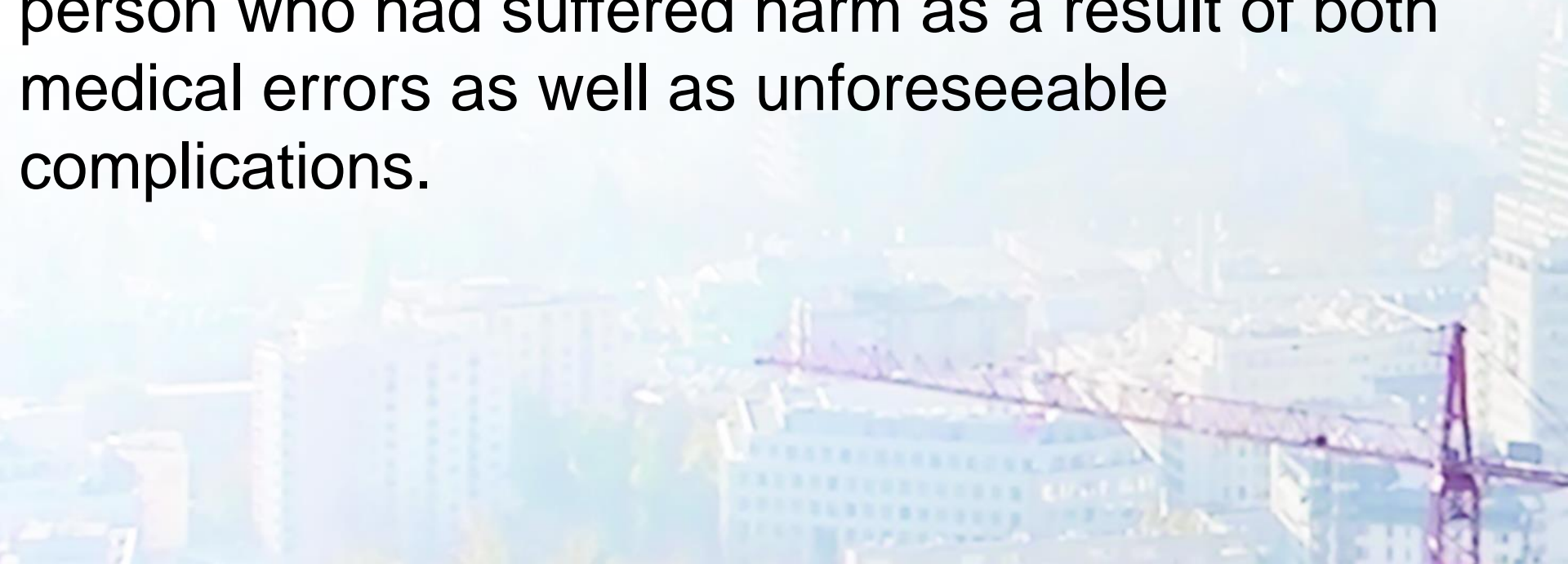
In virtually all types of third party liability insurance where personal injury is concerned, the vast majority of which seem to be motor insurance claims.

But also for example in no-fault compensation systems. Such system has been discussed for some time in Poland in connection with the medical cases.



Possible applications

The concept of no-fault compensation has been known and used in many countries, for instance in Scandinavia. Different countries obviously adopted different legal regulations, but these legal solutions all essentially attempt to award recompense to the person who had suffered harm as a result of both medical errors as well as unforeseeable complications.



Possible applications

Traditional court proceedings in personal injury cases are costly, prolonged, complex as regards the evidence, and their outcome is unpredictable, because proving culpability, necessary for both criminal and civil liability, is often very difficult. A medical doctor is obliged to act with due diligence, however, complications have always been an inevitable consequence of medical activities. It is well known that if a group of patients subject to a given medical treatment is sufficiently large, the complications will occur – sooner or later.

Possible applications

And yet, on a mass scale, positive aspects of a given treatment prevail and, in consequence, it is applied and helps many patients. However, the patients who had undergone complications should be given the option to quickly receive recompense without a prolonged court trial. If relevant legal regulations were created, they would have to include a means for evaluating injuries suffered by individual patients. The HBT Index system would be a useful tool in such cases.

Possible applications

The only remaining point would be to determine the rate for the conversion of an HBT point into a specified sum of money. The conversion rate could also be included in a relevant legal act. Such procedure would greatly streamline and shorten the duration of the proceedings, minimize its cost and reduce the work of the courts.





Thank You...