



## Procedural justice and quality of life in compensation processes

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### ABSTRACT

**Background:** There is considerable evidence that being involved in compensation processes has a negative impact on claimants' health. Previous studies suggested that this negative effect is caused by a stressful compensation process: claimants suffered from a lack of communication, a lack of information, and feelings of distrust. However, these rather qualitative findings have not been quantitatively investigated yet. This observational study aimed to fill this gap of knowledge, investigating the claimants' perceived fairness of the compensation process, the provided information, and the interaction with lawyers and insurance companies, in relation to the claimants' quality of life.

**Method:** Participants were individuals injured in traffic accidents, older than 18 years, who were involved in a compensation process in the Netherlands. They were recruited by three claims settlement offices. Outcome measures were procedural, interactional, and informational justice, and quality of life.

**Results:** Participants ( $n = 176$ ) perceived the interaction with lawyers to be fairer than the interaction with insurance companies ( $p < .001$ ). The length of hospital stay was positively associated with procedural justice ( $\beta = .31, p < .001$ ). Having trunk/back injury was negatively related to procedural justice ( $\beta = -.25, p = .001$ ). Whiplash injury and length of time involved in the claim process were not associated with any of the justice scales. Finally, procedural justice was found to be positively correlated with quality of life ( $r_s = .22, p = .004$ ).

**Discussion:** The finding that the interaction with insurance companies was considered less fair than the interaction with lawyers may imply that insurers could improve their interaction with claimants, e.g. by communicating more directly. The result that claimants with mild injuries and with trunk/back injuries considered the compensation process to be less fair than those with respectively severe injuries and injuries to other body parts suggests that especially the former two require an attentive treatment. Finally, the fact that procedural justice was positively correlated with quality of life could implicate that it is possible to improve claimants' health in compensation processes by enhancing procedural justice, e.g. by increasing the ability for claimants to express their views and feelings and by involving claimants in the decision-making process.

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### Background

There is considerable evidence that being involved in a compensation claim process has a negative impact on the claimant's health.<sup>1,2</sup> Some have argued that this negative compensation effect is caused by the fact that claimants (un)consciously perpetuate illness behaviour for as long as the

compensation process lasts (*secondary gain*).<sup>3</sup> However, nowadays, a lot of compensation researchers believe that claimants experience renewed victimisation because of the stressful compensation process and the attitude of legal professionals involved in the compensation process (*secondary victimisation*).<sup>4</sup> For example, claimants were found to suffer from a lack of information, a lack of communication, and feelings of mistrust.<sup>5,6</sup> Claimants who engaged a lawyer were found to have reduced well-being compared to those without lawyer,<sup>7</sup> and the adversarial relationship with the insurance company was found to be a burdening factor in the compensation process.<sup>8</sup> However, whether the communication and interaction with lawyers and insurance

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companies are indeed quantitatively associated with claimants' well-being has yet not been investigated. The aim of this study is to fill this gap of knowledge.

A validated way to measure how claimants perceive the communication and interaction with legal professionals in compensation processes is by assessing the level of *procedural justice*. Procedural justice implies that a process is perceived to be fair if an individual feels able to express views and feelings and one was able to have influence on the process.<sup>9</sup> Procedural justice is often discussed in relation to *distributive justice*, referring to whether the outcome is perceived as fair.<sup>10</sup> An important finding in procedural justice literature was that claimants consider procedural justice to be more important than distributive justice.<sup>9</sup> In addition, Bies and Moag distinguished a third justice component called *interactional justice*, which embodies the impact of interaction and communication on the perception of fairness; people want to be treated with dignity and respect.<sup>11</sup> Finally, Colquitt distinguished a fourth justice category called *informational justice*,<sup>12</sup> which holds that explanations need to be reasonable, timely, and specific to be perceived as fair.<sup>13</sup>

Procedural justice has mostly been investigated in court settings or litigation procedures and not so much in out-of-court settlements. This is remarkable considering the fact that in most countries the majority of cases are settled out-of-court.<sup>14</sup> To the best of our knowledge, only one study investigated procedural justice in bilateral settlements as compared to trial settings and found that the former were perceived as less fair than the latter.<sup>15</sup> The extent to which claimants perceive the interaction with lawyers and insurance companies to be fair has also not yet been investigated. In order to establish whether the interaction with lawyers and insurers has a negative effect on claimants' well-being,<sup>6–8</sup> it is important to assess the interactional justice scale regarding these legal professionals in out-of-court claims settlements.

This study firstly examined the overall levels of procedural, informational, and interactional justice in injured claimants who are involved in compensation processes. Specifically, it was investigated whether claimants feel differently about their interaction with their lawyers versus the way in which they are treated by insurance companies. Secondly, it was studied whether there were associations between age, gender, employment, education, severity of injury, type of injury (e.g. whiplash), blame, length of the compensation process, and procedural, interactional, and informational justice. Given the fact that there is no golden diagnostic test to medically establish whiplash injury,<sup>16</sup> it was hypothesised that claimants with that type of injury would report lower levels of procedural and interactional justice compared to claimants with other (e.g. orthopaedic) injuries. Moreover, given that a lengthy compensation process was found to be aggravating,<sup>4</sup> it was expected that the length of the compensation process would be negatively correlated to procedural justice. Finally, we examined the relationship between the justice scales and quality of life. It was hypothesised that quality of life would be positively related to the perceived justice scales, as this was also previously found in employees in work settings.<sup>17</sup>

## Method

### Participants

Participants were individuals who had been injured in a traffic accident, and were claiming compensation for their financial losses. The accident should have occurred less than 2 years ago, and participants needed to be older than 18. During a 6 month period, participants were recruited by three Dutch claims settlement offices: Korevaar Van Dijk (Capelle aan de IJssel), Hofmans (Amsterdam), and Kloppenburg (Amersfoort). The claims

settlement offices were asked to send their clients a recruitment flyer by email or, if no email address was registered, by post. Clients enrolled in the study by filling in their name, email address, phone number and an informed consent form on a website of the VU University. On the same form, clients confirmed whether they met the inclusion criteria. Participants who met the inclusion criteria were sent the questionnaire by email. Reminders were sent after 7 and after 14 days of non-response. This study concerned the baseline measurement of a randomised controlled trial, investigating the effect of an internet intervention in compensation processes.<sup>18</sup> Approval was provided by the Medical Ethics Committee of the VU University Medical Centre.

### Compensation scheme

In the Netherlands, the compensation scheme is based on classical tort law, i.e. a fault-based compensation scheme. Worldwide, compensation schemes for traffic accidents are mostly based on tort. Claimants are required to prove liability and causality between accident and injury and between injury and damages. After liability and causality are established, the insurance company pays for (additional) loss of income (to a certain level, employees receive social security benefits), travel and household support services, additional medical services (to a certain level, claimants' health insurance pays for health services), rehabilitation and disability services, lawyer services, and pain and suffering. Damages are paid lump sum, but claimants normally receive advances. Less than 5% of claims end up in a litigation procedure, which is a minority, as is the case in the majority of countries (e.g. in the US, about 10% of compensation claims is settled out-of-court).<sup>14</sup>

### Data collection

Data were collected using an online questionnaire. Participants indicated gender, age, education, employment status before the accident, role in accident (car driver/motorcyclist or cyclist/pedestrian), date of accident, and to what extent they blamed the offender (1 = not at all, 5 = very much). In addition, participants were asked to indicate which body part(s) was/were injured, whether they were admitted to hospital, and if yes, for how long. Length of hospital stay was used as an indication of severity of injury.<sup>7</sup> It was also investigated whether participants suffered from whiplash injury. Finally, participants were asked on which date they first contacted their lawyer (this date was used to calculate the length of time involved in the compensation process), and which claim settlement office they engaged.

Perceived justice was measured by the organisational justice scale developed and validated by Colquitt,<sup>12</sup> which we applied to the compensation process. Although this questionnaire was developed for organisational settings rather than legal environments, this questionnaire was chosen because of its separate interactional and informational justice scale. The distributive justice scale was not taken into account because this study investigated only pending compensation claims. The questionnaire contained seven items regarding the compensation procedure (*procedural justice*), e.g. whether the participant had been able to express his/her views and feelings during the compensation process, whether the participant had influence over the compensation process, and whether the compensation process was free of bias. Four questions were asked about the communication with their lawyer (*interactional justice*), i.e. whether the lawyer had treated the participant politely, with dignity, respectfully, and without improper comments. Five questions concerned the information provided by their lawyer (*informational justice*), e.g. whether the lawyer had been candid in his communications, whether he/she had explained the procedures thoroughly, and whether he/she had tailored his/her communications to the

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