Review of Motor Vehicle Accident Fault Determination Rules in Korea

The number of disputes on automobile accident fault ratios has been rising since 2010, as the portion of imported cars began to soar up. More frequent disputes would impair credit-worthiness of auto insurance companies, related institutions and fairness between injurer and injured drivers involved in an accident. Furthermore, impaired credibility and fairness might increase the probability of auto accident and cause to burden social cost by weakening drivers incentives to abide by traffic law.

The purpose of this paper is to find the reason of the rise of the number of fault ratios dispute and to suggest some measures to this issue. We review motor vehicle accident comparative negligence rule of Korea and analyze the fault ratios data of a big Korea motor insurance company. The results show that determined fault ratios of the similar accident are different and this fact leads to weaken fairness: applicants to fault ratio dispute found to have reduced their own accident cost up to 43%. This would be resulted from the lack of objective accident report as well as the lack of guideline to fault ratio determination.

Based on the results, we suggest two initiatives. One is to mandate motor insurance companies to document an accident report confirmed and signed by injured/injurer. This document would be expected to enhance objectiveness of auto accident evidence as the case of Japan and New York. The other is to establish guideline for fault ratio determination by a credible institution like a court. As the result shows the source of variation in the similar accidents’ fault ratios seems to be discretionary application practice of correction factors and one remedy to this discretion would be to find “a key factor” to an accident like “a proximate cause” in New York. If the number of correction factors applied to fault ratio is limited, then fault ratio variation in the same automobile accident situation would be lessened,