

LCQ2: MTR passengers' safety and accident compensation

Following is a question by the Hon Wong Kwok-hing and a reply by the Secretary for Transport and Housing, Ms Eva Cheng, in the Legislative Council today (June 1):

Question:

A number of members of the public have approached me for assistance, indicating that they had sustained injuries in accidents in MTR stations, train compartments and controlled areas, and when they requested for compensation from the MTR Corporation Limited ("MTRCL"), it had unreasonably delayed its response and rejected their requests; they also feel very helpless and dissatisfied because they are unlike victims of ordinary traffic accidents who are able to receive assistance under the Traffic Accident Victims Assistance Scheme ("TAVAS") regardless of whether the accidents concerned were caused by their faults. I have also learnt that government departments have not assisted the injured persons in recovering the compensation in question. In this connection, will the Government inform this Council:

- (a) whether it knows the total number of accidents which occurred in the MTR network involving casualties among MTR passengers since the rail merger; the number of persons involved; whether MTRCL and its appointed insurance providers have paid damages or made different kinds of compensation under various categories to such injured persons; if yes, the amount involved; if not, the reasons for that;
- (b) whether it knows if MTRCL has taken out adequate accident insurance to safeguard passengers' interests; if yes, of the details of the protection coverage for passengers and the sum insured, and among the compensation cases in (a), the number of cases involving insurance compensation and the amount involved; if not, the reasons for that; and
- (c) whether TAVAS of the Social Welfare Department covers any accident which occurred in the MTR network; if yes, of the details; if not, the reasons for that; whether the authorities will extend the coverage of the scheme, e.g. by amending the Traffic Accident Victims (Assistance Fund) Ordinance to also cover passengers or members of the public injured in accidents which occurred in the MTR network, or

whether MTRCL will establish a similar fund to make up for the deficiencies of TAVAS; if yes, of the details; if not, what measures the authorities have to protect passengers who were injured in railway incidents but have not received any damages or different kinds of compensation?

Reply:

President,

(a) and (b) The MTR Corporation Limited (MTRCL) attaches great importance to passengers' safety. The railway system meets stringent safety standards in its design and operation. Various facilities have been installed for the prevention of accidents. The major facilities and measures include:

- installing platform gap fillers to narrow the gap between the platform and the train doors;
- installing yellow tactile strips along platform edges to remind passengers not to stand beyond the yellow line;
- broadcasting door chimes before train doors close to remind passengers not to charge doors;
- making public announcements on platforms and in train compartments to remind passengers to mind the platform gap;
- installing illumination and flashing lights under the platforms where the platform gaps are relatively wide to remind passengers to mind the gap;
- arranging platform assistants to assist passengers in boarding and alighting from the trains during peak hours;
- displaying notices at escalators in the MTR network to remind passengers how to use the escalators safely;
- displaying notices in conspicuous positions at entrances/exits of concourses of stations (if the floor has become wet and slippery in rainy days) to remind passengers to mind the wet or slippery floor so as to prevent falls; and
- conducting passenger education activities from time to time to raise the safety awareness of the public.

Although MTRCL has already taken the above measures, it is difficult to prevent the occurrences of accidents completely. MTRCL indicates that it takes each and every accident very seriously and takes follow-up action accordingly.

Information on accidents involving injuries or fatalities of passengers in the past 3 years as provided by MTRCL is set out in Annex 1.

To protect the interests of both MTRCL and the passengers, MTRCL has taken out the Third Party Liability Insurance covering MTRCL's legal liability and compensation payable to any third parties arising from accidents or incidents related to the operation and business of MTRCL. The amount of such indemnity for each and every occurrence is no less than HK\$100 million.

MTRCL has established procedures for passengers to make claims for compensation. Passengers who wish to apply for compensation have to write to MTRCL specifying the particulars of the accident (such as date, time and place of its occurrence), the circumstances of the case and the amount of the claim, supported by the relevant documents such as medical report, payment receipt etc. Hotline and frontline customer service staff of MTRCL are also able to explain the relevant procedures to passengers.

After a passenger has submitted an application for compensation, MTRCL will process the application in accordance with established procedures. After seeking the advice of its legal adviser with regard to the application, MTRCL will decide whether to handle the application on its own or refer the application to its insurer for follow-up or investigation.

If the legal adviser of MTRCL considers that MTRCL should have liability to the third party and offer compensation in a case, and the amount of claim is below the deductibles (commonly known as "policy excess") under the insurance policy, MTRCL will directly handle the application to facilitate a prompt provision of compensation to the claimant. If the legal adviser of MTRCL considers that MTRCL has no liability to the third party in a case, MTRCL will also promptly notify the claimant.

Other than the above scenarios, MTRCL will refer the application to its insurer and the appointed loss adjuster of its insurer for consideration having regard to the individual circumstances, including whether the accident or incident was attributed to any fault on the part of MTRCL, and whether MTRCL should be liable and offer compensation to the third party in relation to the accident or incident. Upon the completion of the investigation, the loss adjuster will notify the applicant of the result as soon as possible.

The amount of compensation paid in relation to accidents that occurred within the MTR premises in the past three years and the number of accidents concerned are set out in Annex 2.

MTRCL will continue to take the aforementioned measures to prevent the occurrence of accidents, and at the same time organise campaigns from time to time to raise the safety awareness of passengers. These activities are kept under review and planning every year.

(c) The Traffic Accident Victims Assistance (TAVA) Scheme was established under the Traffic Accident Victims (Assistance Fund) Ordinance (the Ordinance), Cap. 229 of the Laws of Hong Kong. The TAVA Scheme aims to provide speedy financial assistance to road traffic accident victims or to their surviving dependents on a non-means-tested basis, regardless of the element of fault leading to the occurrence of the accident.

The Ordinance requires that the traffic accident must involve vehicle(s) (including trams and Light Rail vehicles) and occur on the road (including tramway tracks and railway of the Light Rail) or a private road. The accident must also cause death or injury to any person. Road or private road, as interpreted under the Ordinance, does not include railways other than the Light Rail.

Railways other than the Light Rail do not connect with roads and are not affected by other road-based transport. The public is also prohibited from trespassing onto the tracks of railways. Since the operation of and chance of accidents involving railways (excluding the Light Rail) are different from those of road-based transport in general, the Labour and Welfare Bureau has no plan to extend the TAVA Scheme to cover railways other than the Light Rail.

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