Reviewer’s report

Title: The perceptions and experiences of people injured in motor vehicle crashes in a compensation scheme setting: a qualitative study

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Reviewer: Katherine Lippel

Reviewer’s report:

1. Is the question posed by the authors well defined?
I have serious reservations about this article on a number of levels. The authors start by taking for granted that «the evidence that compensation related factors are associated with poor recovery is substantial» yet some of the literature they cite themselves raises serious questions as to whether this is indeed the case (Spearing, for instance, but several others as well). They posit that claim duration or legal representation have been shown to influence recovery, yet several articles cited measure recovery by claim duration (Cassidy) and the authors don’t seem to consider that recovery may influence claim duration, which is a fairly obvious option to explain some of these studies. Similarly, when studies rely on claim duration as a proxy for recovery, this can seriously flaw the findings, and the authors don’t seem to acknowledge this, even though several studies they themselves cite point to this.

The research question is not clearly articulated but I glean from the article that they want to know why claimants seek legal counsel and they also wanted to explore ways to assist people following a compensable injury and improve their experience with the claims process. (lines 90-92.

2. Are the methods appropriate and well described?
One problem I have with the methods given the types of findings that the authors are drawing from this study is that the authors include claimants with “mild to moderate injury” without clearly defining what that includes and excludes. For example, I would guess that a fracture, fibromyalgia, herniated disk, mild concussion, burns and sprains would all be included, but clearly one can anticipate that the claimant with a diagnosis of fibromyalgia will have a more complex claim than the claimant with a fracture. This is not acknowledged as a limitation of the study, and readers don’t have sufficient information to understand why some claimants encounter obstacles while others don’t…and the article sometimes suggests it’s because of the claimants (sense of entitlement, ethnicity) without informing the reader that they have considered the nature of the injury and the nature of the claim. Similarly, we don’t know if litigation is required because of issues of fault or because of issues regarding disability, a fundamental question if we are interested in why they seek legal counsel. They measure injury severity (ISS) but don’t really address the variations of the scores in the sample.
I have some concern as to selection bias. They do not report on whether the claimants were employed before the accident, or at least I didn’t find that information in the paper (Table 3 is ambiguous and could clarify this issue if it indeed addresses pre-injury employment rather than post-injury employment). Given their methods and the sample they obtain it’s possible that those who were previously employed and returned to work are underrepresented in the study. Also, in several studies I know of, the funding of the study by the insurer in itself introduces a selection bias as the insurer, if seen as an adversary by a potential participant, will be associated with the research team and this will affect both participation and content. The authors don’t address this problem and how they dealt with it. Nor do they consider whether it affected their recruitment of subjects.

3. Are the data sound? And Does the manuscript adhere to the relevant standards for reporting and data deposition?

I find the analysis of the data sometimes troubling. For instance, Lines 159 – 171 ostensibly address the complexity of the claims process…but the quotes are clearly about feeling disrespected by the insurer.

Lines 172-176: another claimant feeling disrespected, but it is unclear how this related to psychological or chronic illness pre-existing the injury, or to being from a Non-English speaking background. If the authors include in this category claimants who suffer from psychological consequences of the accident, than this is analytically flawed. There is no section in the paper about the variations based on types of consequences.

182-191 Authors make a good point, that when the claim is not complicated things go well. But the paper doesn’t explain what makes a claim complicated, which should be key, given their research question.

192-211: supposedly this section answers the question, why did they consult a lawyer. But the quotes are disparate. Some suggest that when the claimant feels his or her injury is more disabling (more serious) than she initially expected, she will consult a lawyer as she may have more serious consequences (196-198) 199-201 addresses an issue known in the literature…that claimants feel that if they don’t ask the right question they don’t get necessary information. This is a very different issue.

The authors don’t explain why people felt they needed a lawyer (is it because of fault issues or because of benefits issues) which is fairly key question given the research question as defined.

226-227: there is interesting literature on “blaming” in accident compensation, that is not addressed explicitly in this paper, although the literature cited does sometimes address it. This quote is of interest, be it is key to our understanding to know whether the person is talking about the accident or the compensation system. Who does she refer to when she says “people destroy my life”. The fact that this is not stated illustrates my problem with much of this article.

Lines 272-274: presumably this refers to the claimant’s lawyer? Or that the
insurer communicates with all claimants via its own lawyer. This is a key question. If the latter, it needs to be addressed. If the former, it appears to be inaccurate as many of the participants didn’t have a lawyer, so what makes this typical?

295-304: There is no literature underpinning what the authors mean by a “sense of entitlement”. The content suggests this is some kind of psychological characteristic of the claimants. But in the context of a compensation claim, claimants are entitled to compensation if the rules are correctly applied, and if what they want is the rules to be applied to them fairly, this is not a “sense of entitlement”.

305-309, this is particularly troubling given the funding source for this study. It reads as if the authors are defending the insurers, and that the voice in line 308309 is that of the insurer and not that of the claimant studied.

310-314: these are clear examples of the stigmatization felt by the claimants. In the literature cited in the discussion 359-361 the evidence for stigmatization is that claimants felt they were treated like criminals. Yet the authors say there is no stigmatization in their study. This is very problematic...as if the authors don’t fully comprehend the concept of stigma in the literature.

323-324: I don’t understand this quote, it needs to be contextualized.

4. Are the discussion and conclusions well balanced and adequately supported by the data?

344-348: this is an interesting finding but it isn’t sufficiently supported by the data presented.

359-361: see my previous comment on the misunderstanding of the concept of stigma.

378-385: see my previous comment on sense of entitlement. There is also an interesting element in this section: we don’t know from the paper how the system studied actually works, but the authors suggest that the ‘entitlement’ is about entitlement to treatment. If that is so, that is worth developing. Are there treatments that wouldn’t otherwise be available in the NSW healthcare system? If it’s not just about treatment then it would be important to look at the other aspects of “entitlements” that are pursued.

393-402: this paragraph is not clear is some places and not sufficiently anchored in the literature, either because it’s not clear what the authors mean, 399-402 or because the authors don’t actually engage with the literature. Several articles they quote suggest that an association between consulting lawyers and poor outcomes is bi-directional, or uni-directional in the opposite direction than that underpinning the authors’ discourse. In other words, if people with more complex health problems feel the need to consult counsel, it is the complex health problem that explains the counsel and the duration of disability and not the counsel that explains the other outcomes. The tone underpinning this paper is that the direction is clear, counsel consultation leads to bad outcomes. The design of the study, which never addresses the health outcome of the people involved, fails to provide a complete picture that could contribute to the ongoing
debate in the literature as to the direction of the association. One other minor point, line 43, drivers of what? Drivers of consulting a lawyer? Or of having difficulties with the compensation system?

404-413 is difficult to follow. What is a propensity for legal representation?

5. Are limitations of the work clearly stated? The fact that the nature of the injury does not seem to have been considered is a limitation worth mentioning. Selection bias should also be mentioned. See my comments above.

6. Do the authors clearly acknowledge any work upon which they are building, both published and unpublished?

The literature review is quite good, in that many of the studies cited are relevant. But it is unclear that the authors understand all the literature they cite. Two recent systematic reviews by Kilgour and colleagues are worth consulting.

7. Do the title and abstract accurately convey what has been found?

Sort of…but the title is overly broad. The abstract is a bit strange as the research question becomes a coding theme, and the conclusion is about risk factors for poor prognosis and co-morbidities, which is not demonstrated at all in the paper and which wasn’t a research question.

8. Is the writing acceptable? The English is good but the meaning of the authors is not always clear. It’s not so much a writing problem as a clarity of thought problem.

In conclusion I think this study may have some potential interest but I would suggest the authors make major revisions by rereading some of the literature they cite and focussing on the real research questions they are trying to answer in this paper.

**Level of interest:** An article of limited interest

**Quality of written English:** Needs some language corrections before being published

**Statistical review:** No, the manuscript does not need to be seen by a statistician.

**Declaration of competing interests:**

I declare that I have no competing interests