THE WALL STREET JOURNAL.

‘Nuclear’ Verdicts Have Insurers Running From Trucks

Zurich Insurance, AIG dropped coverage of most for-hire fleets earlier this year

BRIAN BASKIN
Oct. 14, 2016 5:30 a.m. ET

Truckers are finding it harder and costlier to line up coverage for their fleets, as a wave of blockbuster payouts over accidents pushes insurers out of the market.

The number of people killed in accidents involving large trucks fell 20% in the last decade, according to the Transportation Department, though it ticked higher last year. But a string of so-called “nuclear” verdicts, where juries award tens or even hundreds of millions of dollars to families of accident victims, have made the financial consequences of those crashes harder to predict.

The 2014 accident involving a Wal-Mart Stores Inc. truck that injured several people, including comedian Tracy Morgan , and killed another is widely seen as a watershed. That case didn’t go to a jury, but the children of the man who died received $10 million in a settlement, while Mr. Morgan and Wal-Mart settled separately for an undisclosed amount.

Unwilling to bear the risk of large settlements and verdicts, Zurich Insurance Group AG and American International Group Inc. dropped coverage of most for-hire fleets earlier this year. Both insurers still cover trucks operated directly by retailers and manufacturers, brokers say. They had been two of the biggest underwriters for the business. Other insurers hiked premiums anywhere from 10% to 30%.

AIG stopped covering trucking fleets via its Lexington Insurance Co. unit as part of a wider effort to improve profits in its commercial insurance division, the company said in a statement. Other AIG units continue to cover truckers, the statement said.

“When they pulled out, it really triggered a panic,” Mark Brockinton, a broker with AonPLC who works with large trucking companies, said of AIG’s retreat. “Some of these verdicts I think caught them flat-footed.”
AIG was dominant in the trucking insurance market, Mr. Brockinton said, and its exit touched off a scramble among trucking companies to line up alternative coverage for thousands of drivers.

Federal law requires trucking companies to cover drivers up to $750,000 per accident. Many self-insure up to around $1 million, then buy tiers of outside insurance to cover additional costs.

The cost of that extra coverage is putting fresh pressure on the trucking industry, which already is mired in its worst slump since the recession. The average U.S. trucking company spent about 9.2 cents per mile on premiums in 2015, a figure that is up 44% in two years and doesn’t include this year’s hikes, according to the American Transportation Research Institute, an industry group. The figure is dwarfed by the 40 cents per mile spent on fuel and 50 cents per mile paid out to drivers. But diesel prices have fallen and salaries have edged up slightly, making the jump in premiums stand out.

“It’s providing a tremendous amount of heartburn,” Joey Hogan, chief operating officer of Chattanooga, Tenn.-based trucking company Covenant Transportation Group Inc.,said in a July earnings call. He said some small fleets “won’t be able to survive long-term” if the trend continues.

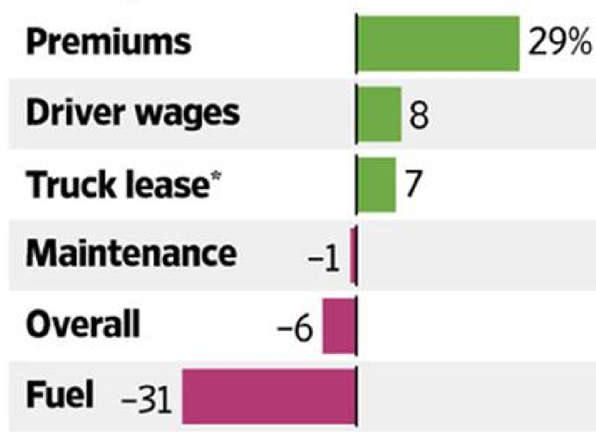
Surging Premiums

Trucking companies face rising insurance costs. While accident fatalities have declined in the last decade, insurers are pulling out of the market following a wave of blockbuster payouts.

Fatalities in accidents involving large trucks per 100 million miles traveled

Cost of premiums per mile driven

Change in 2015 trucking cost from a year earlier



Sources: Department of Transportation (fatalities); American Transportation Research Institute (premiums 2008-2015, cost); brokers and trucking companies (premiums 2016 est.)

*Or purchase payments

THE WALL STREET JOURNAL.

On Thursday, Covenant's shares fell sharply after the company warned its third-quarter earnings would disappoint, in part because its insurance costs rose $1.7 million from the same period in 2015. Covenant cited the "increased frequency and severity" of accidents for the rise.

Large accident settlements and verdicts became more common starting around 2011, although settlement amounts tend to be private and aren't easily tracked. Aon counts at least six cases topping $20 million this year, the most since 2012. Part of the reason is a tactical shift among plaintiffs' attorneys.

Steven Gursten, a Michigan attorney specializing in severe trucking accidents, said lawyers have moved away from blaming individual drivers and are instead looking for signs that companies have violated safety regulations fleetwide. Evidence that they have can open a company up to millions of dollars in punitive damages, he said.

A Texas jury in 2013 awarded $281 million to the family of a man struck and killed by a truck's drive shaft that had detached and smashed through the big rig's windshield. The jury found the vehicle hadn't been properly maintained. The judgment was later reduced to $105 million and then settled for an undisclosed amount.

Highly publicized accidents—such as the one that injured Mr. Morgan—also make it easier for plaintiffs' lawyers to convince juries to slap trucking companies with large damage awards, Mr. Gursten said.

Landstar System Inc., with about 9,500 contract drivers, was hit with its first "nuclear" verdict in 2011, said Chief Executive Jim Gattoni. A jury in Georgia awarded $40.2 million—later raised to over $55 million—to the widow of a man killed in 2007 after a driver ran a stop sign and hit his pickup truck. Landstar admitted liability before the case went to trial, and the driver was convicted separately of homicide by vehicle, according to local news reports. The company settled in 2014 for $42 million, according to SEC filings.
Landstar has been hit with several more unexpectedly large verdicts since then, said Mr. Gattoni, whose company has been involved in fewer fatal crashes than average, according to federal safety data.

“It used to be if you have a bodily injury and a guy was out of work for six months with medical bills, we were pretty good at getting the math done, what we think it will cost,” Mr. Gattoni said. “Now the market’s being a little unpredictable with what verdicts are going to be.”

Landstar is self-insured up to $5 million per accident and had relied for two decades on AIG, most recently to cover damages between $5 million and $25 million. The Jacksonville, Fla.-based trucking firm had to cobble together a policy backed by six underwriters to replace AIG, Mr. Gattoni said. Premiums jumped 20% overnight and have more than doubled for that tier of coverage in the last five years.

Brian Fielkow, who owns a fleet of 100 trucks serving the energy industry in Houston, said his fleet never tapped an AIG policy covering accidents above $1 million in a decade with the insurer. His premiums rose about 15% when AIG dropped him and he signed with a new company.

Concerns about accidents involving sleep-deprived drivers led the federal government to impose stricter limits on truckers’ hours behind the wheel in 2013, and starting late next year most trucks will be required to carry electronic monitoring devices to help enforce these rules. Higher insurance costs are spurring the trucking industry to adopt accident-prevention technology, including devices that alert drivers if their trucks drift outside their lane, he said.

“A bad thing can happen to the best company,” Mr. Fielkow said. “And if a bad thing happens, $1 million doesn’t get you very far these days.”

Write to Brian Baskin at brian.baskin@wsj.com