

# Civil liability in law of Iran and UK

Leyla Hooshyari Ajirlou<sup>1</sup>, Mohammadreza Keykha<sup>2</sup>, Soheyl Jeddi<sup>3</sup>

1, 3. Department of Architectural, Sistan & Baluchestan Science & Research Branch, Islamic Azad University, Zahedan, Iran

2. Assistance Professore in University of Sistan and Baluchestan

**Corresponding Author email:** Leyla.hoshyari@yahoo.com

**ABSTRACT:** Civil liability is the obligation of a person to compensation which the civil liability of another person without authorization from the legal right to occur when one of the loss to bring hurt, damage that may does not care about act of It is a crime or a tort, in any case This study attempts to survey the concept and characteristic of civil liability in law of Iran and UK. Civil liability as a sensitive and important role in guaranteeing civil rights claim and legal rights of individuals and thus opens the regulation of social relations. This study explain the concept of Fault theory as a critical discussion of civil liability. Also, it expressed some Articles of civil liability so 339, 340. The civili liability is raised from insurance system of UK.

**Keywords:** Fault, Law of UK, Civil liability, Law of Iran

## INTRODUCTION

Changes principles of civil liability are affected from several factors so industrial revolution, economical conditions and Philosophical thought (Mobin, 2007). There are some views about civil liability in law of Iran and UK. More important is Fault theory it makes base of civil liability. If there is not specific reference for civil liability then it referred to Fault theory. Principle is based on the presumption of innocence in Fault theory. It means, while a person do act and cause damage to other then principle is based on presumption of innocence. Not to nasty damage liability therefore while damager must compensation damage that its Fault was proven. Also, claimant must prove the Fault. Another hypothesis is Fault assumption theory. Third theory is danger theory. These three theories are about civil responsibility. Danger theory says while responsibility is created that there were a relationship between special act and damage. Risk theory is similar to waste rule because both theories say, every body damage to other people the he must will comensation and don't need to proven about Fault. This case talk about damager that mus destroyed the relationship between damage to release of liability. Generally Fault theory and risk theory applied in civil liability. This study attempts to evaluation civil liability in Iran an UK law.

### **Civil liability in law of Iran**

Law of Iran has several articles and code about civil liability, in this section we show more importants articles that related to our discussion. Article 339 state that while one person would obstacle or thing on the way of people that made damage or loss for pedestrians then subject has liability to compensation this article and article 340 implies to civil liability. Article 339 state while a person works in a factory then he has liability to comensation if he put losses.

Also, this article state that while a person do action and invite other to his home, that guest damaged due to blindness or dark ness then host has liability to compensation of loss but if host do not allow or don't know that guest was into house then he has not any liability guest over. Article 4 is about civil liability in roads and rail safety. It state that if driving caused to damage or loss the driver has no liability in situation of movemeht on the main road although he is bound to park car in right hand, if an accident accured and carry damaged to hospital or agency center. In this case lack of liability of driver don't barrier to applying insurance regulation. Article 9 state that railroad crossing and entering to station, factory and technical installations in railway is prohibited and Iranian state railway has not any civil liability if acurred every accident.

Article 10 state about ban transit vehicles and offending has liability of every loss and accident in this case damaged has not any right and they must compensation of railway organization. Article 333 state that in situation that pedestrian crossing is pro habited if pedestrian cross from road in situations that their crossing is prohibited

and happen an accident then driver has no any liability to compensation. Of course car must have legal speed, lack of mal function, and inability to control the car in this situation. Some articles of civil liability related to labour inspection so, article 3 that state labor inspectors have duty to supervising law enforcement. Article 5 state that if inspectors recognized that continue of devices in dangerous then he is bound to report. Article 5 state that inspectors should be asks of stop work to eliminate the danger in conditins dangerous of work. Article 6 stresses that employer and worker must learn safety at work. Article 27 of bill of technical protection state that all workshops would have enough alarm devices this article show that waning directors will cure liability of losses and damedges due to ignoring warnings. Article 12 state that if employers do precautions then they are not responsible of losses or damages of workers.

### ***History of civil liability law in the UK***

History of civil liability is related to justice policy. It raise of 19<sup>th</sup> century. In this age insurance was limited and offender must pay all loss. Courts to support factory created civil liability. It considered necessary the proof of Fault for claim of civil liability. This issue support by social discussion and morality. In other words, liability based on Fault protects people from antisocial movement. UK law says, it is legal and logical method that incompetent people must be responsible of their mistake. Fault was linchpin of civil lawsuit in 19<sup>th</sup> century. The understanding of Fault was very complex over time because development of insurance allow to courts to spreading standards of Faults. It used molarity relationship between damager and damaged.

### ***Principles of Civil Liability in English Law***

Since the legal system of England and mother as the source of America's rights, the civil liability of judges can not see a big difference in the two systems is very high immunity of judges and prove Svlyt them in practice not possible or difficult and in rare cases occurs. In the case where the judge acted outside its jurisdiction soon, however, his decision is due to the fault or bad faith liability still is full. In 1863 Judge Crampton Plan refused to fight against his fellow, and said:

"In our law it is axiomatic that the judge in the High Court for a judicial actions cannot be fighting the plan, however, to claim that the judge applied the action he is the corruption of".

And in 1974, "Lord Denning" stated:

"Immunity from damages, not because the judges have the authority to commit the mistake or error, but because the judge is unable to perform his duty to the independence, 'without any be afraid." (Jalilvand, 1994)

Lord Bridge In 1984, a similar explanation and says: "If a judge from thousands of judes, within its jurisdiction, a party's bad faith damage, damage that is less than 99 other judges in subjected to harassment complaint unfounded, as biased against them".

However, the law of UK as well as America's legal system judges if they decide in your jurisdiction, although wrong, however, with because of what they Civil Liability grudging that are outside of their jurisdiction have charge. This means that in cases where a decision has been disqualified or had limited authority to exceed the limits of their jurisdiction, as Article 45 of the Law of Peace Justices Act 1979, is responsible for the loss due to the procedure.

### ***Theory of Fault***

Theory of Fault state that people are responsible for the Fault. Articles 953, 952 and 951 of civil law state that "Fault is violation of the obligation or contract and violate to the rights of others unlike the common custom. Theory of Fault rise from human goal morality. Morality learns damage caused by sin should be compensated (katoozian, 2000)

Theory of Fault is true while prove causality. In other words damed should be prove that losses have occurred and there are due to act of another person. Also, nasty loss can claim that he do not practice due to caused losses. There for, Fault is main requirement of civil liability. While Fault theory is related to civil liability that it caused to compensation (Nabati and Ahmadzade, 2010)

### ***The role of justice policy in civil liability of UK***

Law yers are discussed civil liability with some concepts so duty, protect, indirect losses, Fault and etc. when a profile be checked with these words the there is not any liability because there is not duty of protect or indirect loss. There are formal concept or main principle that recorded in law, although lawyer should be know currently law but they have not a clear concept about it (Darabpoor, 2008:67). Court has the right of solution to imposing loss on the factory owner for example, chuffer isn not responsible. Court states that chuffer isn't

responsible of losses. Generally the losses of civil liability pay with insurance. Court determines who are responsible of insure in probality dangers (Darabpoor, 2008:75).

### ***The role of insurance in civil liability of UK***

Civil liability destroyed without insurance while plaintiff is successful that insurance will compensation. Insurance company has two methods to compensation, first, insurance that company plays the role of guarantee losses. Second, liability insurance that company garanted compensation instead in person who creat damage. More over, physical injuries or death involved both two types of insurance. There are known as life insurance, accident insurance and health insurance. Althout court does not care to being insured to recognizing of civil liability but it's clearly that civil liability is not possible without insurance in UK for example, many people can not pay 500000 pound as loss therefor, without insurance they can not be compensated losses (Darapoor, 2008, 77)

### **CONCLUSION**

Civil liability follows from two goals. First, redress and second, deterrence. Public opinion is that civil liability has not punitive because, this pourpose follow from criminal law althoutg civil liability has punitive damages but they are inhibited. Civil liability destroyed without insuranc system. UK legal system accepted civil liability based on insuranc system. It doesn't point to insurance in courts for recognizing loss. Legal system of civil liability of Iran is based on Fault theory.

### **REFERENCES**

- Darabpoor M. 2008. Main principles of civil liability in UK legal system, view of legal system journal. 44-45: 67-100.  
Ghamami M. 1987. Governmental civil liability to its employeers, 1th edition tustice publications, Tehran, p29.  
Jalilvand Y.1994. Civil liability of judges and state, Tehran, Yalda press, p17.  
Katoozian N. 2000. Legal events, iustice publications.  
Katoozian N. 2009. "Introduction to law", limited press corperation, p.29.  
Mobin H.2007. changes in principles of civil liability and its relationship with Criminal Minds law, Govah journal, wolume 10, Pp 39-50  
Nabati M, Ahmadzade A. 2010. Status of fault on the civil liability, Journal of Islamic Law, Pp 199-223.