Responsibility of Guilty in Driving Accidents at Iran Rights

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ABSTRACT

Some accidents like motorized and non-motorized vehicles related to legal matters, which like other cases have laws, that its traces will be seen as financial and physical damages and to compensate this damage and also for this aim that injured party reach to his rights it is necessary, according to the rules of criminal, that guilty should be determined and punished, and also according to civil and rights law, the responsibility of compensate must be given to him. Unfortunately, this law based on different reasons growing, and every year these accidents make more losses of material and moral damages in country and on the other hand they causes death, disability, injury, other loses of head of families. So in this paper we try, by studying various laws and legal texts, to know responsibilities of guilty in accidents.

INTRODUCTION

These days the rapid development of cities and industrialization of human societies and lack of harmonious development of cultural behaviors that are concordant with technology and also unimportant role of science and research in developing countries, causing social damages and a lot of environmental problems, which this matter forced elites and experts of the traffic transport and judiciary to pay special attention to the role of management in traffic and regulation and also make a scientific and practical expertise by law in accidents.

Every year killing or wounding of more than 300 thousand people and losses more than 64000 billion rials burden costly in community from some aspects like economic, social and cultural. On the other hand, protecting the rights of victims of traffic accident is a category that operators should pay special attention to it. Accident like all other events has legal matters that legislator has treated to it and it is one of the compensation. What is the first word that crash the mind, is related to motor vehicles. Non-motorized vehicles, such as bicycles, pedestrian movement, the movement of livestock by shepherds, Wheelbarrow moved manually by the worker, gear, etc. can also be part of the accident. But nature and rules of the governing in determining guilty and fault of anyone of them is subject to the special rules. So accident categories is related to both motorize and none motorize vehicles that they are lack of propulsion motor. The civil rights in Iran, legislator by using Imami jurist ideas, the matter of vehicles set in the frame of collisions in two ship and train vehicles and by enactment of article 355 of the civil code is considered responsibility of collision.

Definition of accident in law:

Driving accident is an event which happened by involving in a motor vehicle, whether this vehicle move or in a stop mode. The important case here is involving of vehicle in causing event. Based on it, the fire that caused by explosion of a car in a stop mode, is considered as traffic accident.

Definition of accident in expert’s opinion:

Any kind of events caused by a collision of vehicles with each other or other barriers and also driving accident without collision, with factors like a fall or car accident, and also accident that happened in stop mode is called driving accident, Fath Alipour said in his book about accident.

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Types of accidents (driving accident):

Injury accident:
Whenever the collision of one or more vehicles or collision of vehicles with pedestrians, objects, animals or people injured, it is called injury accident.

Murder accident:
Whenever the collision of one or more vehicles or collision of vehicles with pedestrians, objects, animals or people will be died, it is called murder accident. Murder accident is also called fatal accident too. But by paying attention to this point that legislator in unit 29th of IPC that is traffic related offenses, has approved driving accident that causes death as manslaughter and because of that undoubtedly this kind of accidents should be named as murder accidents. In these kinds of accidents anatomical sketch include describing the size of event and also profile of that. At the end the main reason of accident is given to judicial authorities to determine fault and responsibility.

Damage accidents:
Whenever the collision of one or more vehicles or collision of vehicles with objects or animals, specially collision of vehicles or objects and animals the financial losses are imported and there has not been imported any injury to people(drivers, passengers and pedestrians), it is called damage accidents.

Reasons of accidents:

Direct reasons:
These groups of reasons that appear in the form of avoiding actions or committing an action that is contrary to the rules and is also threatening from driver, directly causing the accident, and includes 5 reasons which the main reason have been determined among them. Violation of the military government, recklessness, speed (sure and Regulation), delays in sight, escaped the accident become false.

Mediation reasons:
Mediation reasons that are due to other reasons, because exist before direct reason, is called pervious reason and because of the direct relation with accident it is called mediation reasons, which usually appear as a multiple in an accident. These reasons have expert aspect, although it determine in sketch, but in judicial investigation and decisions they just pay attention to complete reason(original) accident in judicial authorities. These reasons include vehicle-the way- the climate- and human factor that its explanation doesn't need analysis in this paper, seems just for partial information to research and benchmarking.

Primary reasons:
Primary reasons are the reasons of an action or refusal to act on behalf of the person or organization. The distance of primary reasons and accident may take a moment or sometimes be low or high or very high.

Primary reasons which are in the far distance, are those reasons that relate to responsible state agencies like delay in the diagnosis of cars, Installation brief news, not repair roads, etc.

Main reason:
Main reason is a reason that by deletion of that the accident doesn't happen. In fact, this reason is the diagnostic criteria of event or accident, which can be exploited by judicial authorities. This reason may be appear in the result or symmetry of two error and error is considered as fault, and according to it, dived to 4 groups: imprudence, recklessness, lack of compliance with the councils of government, lack of driving skills and each consisting of several offenses, that based on it decision or judicial ruling issued.

Definition of fault:
Fault is exceed from normal conduct of wrongdoer:
Doing an action that a person should avoid it due to contract or custom, or avoiding an action that must be done.
Fault is quit an action that he must do it, or it is committing an action that is prohibited from doing it. the former one is called waste reduction and the latter one is called incursion and the fault is include waste reduction or incursion. The sign of fault in civil law is to guarantee the implementation of the compensation.

Definition of guilty:
Late Dehkhoda said about accident in his dictionary that: guilty is a person who frailty in his works and stops it.
Relation of guilty (Responsible for the accident) with responsibility (Legal and Criminal)
Accident is a legal event, that its effects is determined by legislator and does not relate to consent and agreement of parties and by looking at types of accidents (loss-injury-death) and handling conditions of them (legal), everyone is different, since the accident includes loss of life and property and the aim of determining guilty of accident (reason of accident), is to realize the responsibility on him and compensation in criminal cases that in this case he pay attention to responsibility and also these days major of the lawsuits claim for damage and criminal cases related to motor vehicle accidents and decisions of the courts is based on the opinions of experts in traffic. So the analysis of accident from legal aspect including technical and expertise data to experts, provide a fortune to present accurate opinion and consistent with legal and also make a barrier to apply personal tastes and the purpose of the accident analysis is to matching every event with norms and standards of legal responsibility and responsibilities in accidents include two aspects of civil and criminal.

Responsibility of legal and criminal:
In some accidents the responsible of event (accident), have the responsibility of the civil (legal) retributive at the same time. It means that in addition to being responsible for compensation, the third party or the other side, to maintain order and public security should be punished (retributive responsibility), these kinds of responsibilities often appear in damaged and death accidents. Legal articles of 714 to 719 that was listed in penal code act 1392 without any change and just the number of article changed, is about criminal responsibility of the driver or responsible of the event in driving accident that cause injury or death.

In addition to punishment, he should compensate, and in an accident In addition to death and injury, the vehicle of that person damaged, by presenting lawsuits and amount of lose by expert, in the criminal proceeding, he should pay the lose too or like an independent legal file handle and a warrant is issued.

Civil legal responsibilities, including the 328, 331, 332, 335 of the Civil Code and Articles 1 and 2 of the 1339 Act are 1339 civil responsibility.

Lack of Legal – Criminal responsibility:
In some events and accidents, driver or owner of the vehicle does not have a legal and criminal responsibility and despite happening of security, he doesn't have any responsibility. One of the cases is when subjects of safety roads and rails law that was enacted in 1349/4/7be with subsequent amendments and additions. So if pedestrian or a vehicle that is forbidden, enter to free way and crash with other vehicles, the driver of the other party doesn't have any legal or criminal. According to article 4 of above law, legislator to protect compensate lose, has pointed at the end, that lack of the responsibility of driver dose not forbid the other party to use assurance.

Legal responsibility and lack of retributive responsibility:
In some cases driver is responsible to compensate lose but doesn't have any retributive responsibility. By paying attention to this point that responsible criterion in accident is experts criterion and in retributive cases it is personal criterion and based on legislator opinion to the owner or driver of vehicle, he suppose that a person who drive a car, is like a normal human being and lived at the normal condition of society and learned rules and regulations, and in general, he consider the condition of the normal human being. So, if a person who is not of legal age, or an instance take vehicle and drive it, in general incapacitate people who need guardian, take his or another ones vehicle, and crash with it and cause injury or damage to other party, there were not any retributive responsibility because of his physical or spiritual mood. But he should compensate the lose, that according to waste legal rules and public rules, civic responsibility, the subject of accident, have the responsibility to compensate lose. And it is articles 328 and 331 of civil code and civil responsibility that enacted in 1339.

Conclusion:
These days driving accidents is major problem of society, that because of these events, make casualties and financial damage and impact on the economy of the country and also some spiritual damages on his families.

REFERENCES