



Pillars and Realm of Judgment Enforcement Officials' Civil Liability

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Abstract: *A long process is taken from the filing of a lawsuit in a court to the verdict issuance stage, and it might seem that the job is finished here; but, a new stage is commenced that is per se of importance. The job has been assigned to the judgment enforcement unit and officials. The enforcement of a verdict is in itself a new process wherein an individual acquired an ordinance after spending much cost and time seeks its enforcement. Carelessness, disorder, and instability might come about at this stage. The verdict enforcement is comprised of several stages and the enforcement officials are granted numerous responsibilities in this stage. Meanwhile, verdict enforcement might become a factor causing harm and loss to another person. This study aims at investigating the pillars of enforcement officials' civil liability, one being the incurrence of damage and loss. So, the first pillar of the civil liability actualization is the incurrence of a loss or damage of a type that will be examined later. The questions are raised that how is guilt conceptualized and what are the examples of enforcement officials' administrative guilt? In the end, the discussion is dragged to the role of fault in actualization of the enforcement officials and agents' liabilities. Besides the occurrence of loss and the perpetration of a harmful action, verifying the causality relationship between the imposed loss and the harmful action is necessary, to wit has the loss been caused by a harmful action or not.*

Keywords: *Civil Liability, Loss Incurrence, Administrative Fault, Causality Relationship.*

INTRODUCTION

Enforcement of a verdict issued by a court is the duty of the government and ruling body and, the individual in charge of enforcement is in an occupational and organizational relationship with the government. The daily increasing development in the government's involvement in economic and social affairs of the people and the constant expansion of becoming bound to the administrative organizations have caused the relationship and contact between the people and the government to be increased in number, and become simultaneously more extensive day in day out. These contacts sometimes instigate discrepancies between individuals, government and government agents and, as it practices in regard to any other disagreement, there should be an authority or authorities to try them and serve justice. The types of these authorities, their organizations, duties, jurisdictions, as well as the domain of their qualifications, are not identical in various countries and in various periods and governments. Nowadays, the majority of the countries around the globe have accepted one of the two versions of English or French methods of settling the complaints of the state and governmental

institutions. Corresponding to the English method, there is no special authority for trying the people's complaints of the administrative institutions, and the general courts are qualified for the trial of them. On the contrary, there is a governmental council in France that is established in line with the principle of governmental branches' separation, and it is the same council that is qualified for investigating the individuals' complaints of the government (Reni Daved, 1985).

The government is to be held liable in regard to the administrative fault. Secondly, the enforcement officials are personally responsible for their faults. Third of all, the enforcement officials, as government employees, are held civilly liable when performing their duties. Enforcement officials are government employees, and a part of the government body. By government, the threefold branch, legislature, judicature and executive branch, are intended. These branches take measures in line with verdict enforcement. But, they, playing the role of a servant and like a citizen, feature a legal personality that makes them equal to any other citizen before the law hence the sole performing of the government's duties cannot render them exempted from liability and loss compensation by itself and its employees.

The essence and framework of the civil liability claims consist of the fault verification and liability rate determination based on the extent to which certain tools have been involved therein as well as according to the causality relationship. So, considering the administrative nature of such faults, they have to be realized as obedient to the general law regulations (Sadr Al-Hefazi, 1993).

Civil liability of the enforcement officials is composed of various pillars, including the incurrance of loss and damage, the existence of a fault in actualization of the enforcement officials and agents' liability and the existence of causality relationship between the imposed loss and the harmful action.

The present article tries to propose the pillars of civil liability of verdict enforcement officials, and it will be clarified that how loss is conceptualized from our perspective and how it is objectified following which the harmful actions of the enforcement officials are investigated and the causal relationship and causality between the two are dealt with in the end.

Study Literature:

Civil Liability:

Liability is the legal commitment of a person to the compensation of loss caused to another, whether it is the result of the fault of the cause of loss or the outcome of an action done by him or her (Ja'afari Langarudi, 1989). Moreover, liability has also been defined as an assumption holding that every individual demands his realized actions (Hosseininejad, 1991). In jurisprudence, the guarantee is a term used in lieu of liability, and it is a very general term including different kinds of liability, such as civil and criminal liabilities.

One effect of the governance of civil liability law is its domination over the actions and interventions taken by the government the result of which is its liability to the compensation of the losses it causes to others when performing its activities and duties. This beautiful aspect of the law has been focused by the legislature that has, to some extent, specified the government and state institutions and organizations' civil liability conditions in article 11 of civil liability law, passed in 05/07/1960. Based on the article, "the employees of the government and municipalities and their associated institutions are personally responsible for the compensation of losses they have inadvertently or intentionally caused to the other individuals when performing their duties. But, the corresponding office or institution is obliged to compensate the losses when the imposed loss is found related to the defection in the instruments used in the aforementioned offices and institutions hence not attributable to the employees.

Conceptualizing the Enforcement Officials as Government Employees:

Government is defined as a legal personality in the form of an organized and centralized political society established in a certain territory and enjoying the supreme power and international prestige. The legal

personality is indicative of the real existence or credibility encompassing the people and the territory and the supreme power altogether (Saffar, 1994).

The terms “government and its employees” have been used in the present article to mean governance and sovereignty. Thus, the liabilities of the judgment enforcement officials and employees, as government staff, are investigated in regard to all three branches, i.e. executive branch, legislature, and judicature. Enforcement officials are generally either recruited or contracted.

Article 12 of the civil liability law has enlarged the liability circle of the employers subsumed by labor law with respect to the actions of their employees as compared to what has been specified in article 11. While article 11 of the civil liability law bases liability on fault theory, article 12 of the civil liability states that “the employers subsumed by the labor law are responsible for compensating the losses imposed by their administrative employees and/or workers when performing their duties, unless it is proved that they have exercised all the due cares required by the work status, and/or that they could have not prevented the loss incurrence even with the exercising of all the due cares.

Pillars of Judgment Enforcement Officials’ Civil Liability:

The incurrence of Loss and Damage:

As it was mentioned above, one pillar is the general axiom of loss and damage incurrence. Thus, the first pillar of civil liability actualization is loss and damage incurrence. In other words, a loss of a type should be imposed by enforcement officials so that the loss sufferer could claim its compensation.

1. Loss Conceptualization:

The loss is amongst the special pillars of civil liability distinguishing it from criminal and ethical liabilities (Hosseininejad, 1991). If the actions of the enforcement officials do not pose any loss, no civil liability would come about. In England, the government is not responsible for the actions done by its employees rather it is held liable for the harmful activities or faults of them and the government is not held liable if an employee has not conducted any harmful action .

The loss is a common term indicating the damage caused to the properties or the sure interests of a person or the physical health or dignity and honor of the individuals (Katouziyan, 1997).

Material losses are the damages as a result of which a property of a type has defected, or the interest of the obtaining of which has been definite is not acquired (Katouziyan, 1997). The second type incorporates the spiritual damages caused to the dignity or fame of the individuals or the physical and somatic pains as well as the psychological suffering stemming from one’s loss of his or her relatives and kin (Parvin, 2001).

But, the important thing here is that loss compensation can be demanded by a person the legitimate and legal rights of whom are abused. Thus, when an enforcement official following the imperative orders of a judicial edict takes measures in adherence to the law to evict a property and enters the privacy of another person by having first acquired the required documents, the culprit cannot claim that his or her legal rights have been breached hence s/he cannot demand loss compensation.

2. Conditions of Claimable Loss:

A) Sureness of the Loss:

In this regard, article 728 of the civil procedure states that “the court rules the loss compensation when the claimant proves that s/he has sustained a loss of a type”. By sureness of the loss, the occurrence of the loss is intended. In other words, the mere loss contingency cannot provide for loss compensation claim (Emami, 1991). Loss sureness was a more accentuated topic a little more while ago, but it had to be proved, and it was difficult to prove it. But, there are special provisions and regulations today for verification of the loss occurrence that render the sufferer needless of its justification. It only suffices the abuse of one of the radical or essential rights and it is not needed to be investigated if losses have also been imposed by the breach of these rights or not (Badini, 2005).

B) Directness of the Loss:

It is stated in article 728 of the civil procedure that loss should be the result of immediate non-performance or delaying of obligations (Katouziyan, 1992). In other words, directness of loss incurrence is one general condition rendering it claimable. That is to say, the loss should have directly resulted from the actions of enforcement officials.

C) Loss Predictability:

It was stipulated in the old Islamic penal code of law that “a person is not held liable when s/he starts fire in his or her property to the extent needed or beyond that and knows that the fire will not be transmitted to other places and it does not habitually occur but it accidentally catches another place and causes damage and loss”. It is inferred from the article that the predictability of the loss should be placed amongst the general conditions of claimable loss as stated in Iran’s laws. In other words, if, as a result of the usual and conscious behavior of a person, an abrupt and unpredictable, but harmful, accident comes about, s/he will not be held liable (Katouziyan, 1995).

D) Having Not Been Compensated Before:

In a case that several persons impose damage together or when the legislator holds several persons jointly liable to the compensation, acquiring the compensation from one exempts the others, and a victim has no right to receive the loss compensation sum twice (Katouziyan, 1995).

Harmful Action:

1. Actualization of a Harmful Action:

Harmful actions are not always accompanied by civil liability. A person may happen to sometimes perform certain actions the result of which the sustaining of loss by another without it being followed by a liability of a type. The individual who causes harm when serving justice and exerting legal authorities or legitimate defense is not always held liable. The harmful action should have been socially abnormal, and the loss incurrence should have been commonly intolerable.

The existence of harmful action is necessary for civil liability, and it is considered as a pillar thereof, and it takes one of the following three modes: positive action, leaving an action undone and an action resulting from leaving an action undone.

Therefore, judgment enforcement officials should have the pillar of harmful action actualized to be held civilly liable. The issue is well-evident in case of positive actions. In other words, the enforcement official causes damage to another via performing an action. As for the leaving of an action undone, it is a person’s falling short of performing a duty that, in regard of the enforcement officials, it has to be stated that they fail to fulfill the responsibilities assigned to them parallel to judgment enforcement or they do them improperly.

Concerning the leaving of an action undone, in which the enforcement official should have definitely not done an action, but she/he has caused damage to another by doing so, it is to be enumerated amongst the first set with the only difference being that, enforcement official has been prohibited in a more accentuated manner from performing the action such as when the enforcement officials, as government employees, are prohibited from taking part in judgment enforcement bids, or when they are prohibited from disclosing the information of bid sums to the others to the disadvantage of the convicts, and they have done so by way of which a loss of a type has been caused to the others, and it is in these cases that they are held liable.

In sum, the important idea for finding an enforcement official liable is the occurrence of a loss of a type or a harmful action that can take one of the following forms: performing of an action or leaving an action undone.

2. Harmful Action's Characteristics:

The question raised herein is that what are the characteristics of harmful actions? The actions of the enforcement officials should be harmful but under what circumstances do the harmful actions cause liability of the enforcement official? And, according to the fact that these are government employees, under what conditions do their harmful actions cause the liability of the government?

The government is only held liable to the compensation of losses caused by its enforcement officials in some of the cases and under certain conditions specified in Iran's civil liability law. It has to be stated that there are different theories in this regard but they all agree on the point that the harmful actions deserving the civil liability of the government should have been relevant to the administrative duties of the enforcement officials and they should have occurred during performing of the duties by them (Ghama'ei, 1997).

Some jurists believe that the government is only responsible for the faulty actions carried out when performing the governmental duties and works, and there are some who know the government also liable for the legal incidents occurring during performing of the duties and, according to the fact that the enforcement officials are functionaries and organs of the government, they are of the belief that the faults stemming from actions done during performing of the administrative duties should also be attributed to the government and, based on civil liability law, these include the administrative faults hence the enforcement officials' personal faults are excluded. Following the lead of the idea, England's laws realize the government liable to the compensation of the losses imposed by its employees during or by way of performing the duties. In Iran's laws, unlike article 11 of the civil liability law, article 12 accepts two types of criteria meaning that it makes a distinction between the incidents occurring during performing of duties and the job-related activities and the ones occurring outside and beyond the occupational duties and the employer is held responsible for the damages caused by its employees when performing duties or by way of doing them (Katouziyan, 1995).

Fault:

The thing in compliance with Iran's civil liability law is the fault theory and the criterion in distinguishing the personal liability from government liability has been laid on the foundation of separation between personal fault (guilt) and administrative fault (guilt).

1. Conceptualization of Fault:

In French, the fault is literally associated with sin that is to be accompanied by the guilty individual's reproach for the actions s/he has done or the thoughts s/he has had. In the English language, the term is usually expressed with such expressions as reprimand or mistake (Ghasemzadeh, 1999).

An individual is said to have committed a fault when s/he performs an abuse via performing an action not expected from a normal person. This idea is inferred from article 951 of the civil law. It is stipulated in article 952 of Iran's civil law that "frugality includes not performing an action that is conventionally or commonly deemed necessary for protecting a property belonging to another. Therefore, when an action is considered necessary for the protection of another person's property, leaving it undone is enumerated as guilt whether the guilty is a party to the contract or not" (articles 486, 334, 225, 220, 168 and other articles of civil law).

So, leaving undone the legal obligations with the specified conditions and limits and in the area of the enforcement officials' mission is to be envisioned as guilt. Based on this theory, the existence of liability depends on an individual's fault in such a way that the sole refrainment from performing an action, though is against the regulations, does not suffice the civil liability attribution rather the victim should also prove the guilt of the enforcement official. Some jurists know it unfair to hold a person liable for the compensation of the victim's losses solely based on the existence of a fault of a type. In their ideas, it is better to replace the unusual nature of the performed action for fault and guilt meaning that a person doing a job corresponding to the mores and habits is not to be held liable.

Conversely, an individual is responsible for performing an action prohibited by the ordinary conditions of the society (Katouziyan, 2007).

Article 1 of the civil liability law bases civil liability on fault. According to the article, loss incurrence to another person should come about as a result of an intentional or unintentional action while, corresponding to the civil law, the existence of a causality relationship between an individual's action and wastage of a property suffices the verification of his or her liability. Article 328 of civil law states that "a person is liable for the wasting of other's properties, and s/he has to provide him or her with an exact example or price of the wasted property, and it does not matter if wastage has been done intentionally or inadvertently, and also it makes no difference if the property is a certain object or an interest thereof; in case of causing defection in a property, the person is only liable to the defected part and its price".

From the perspective of the civil law, fault comes about when a person does something that s/he has been commonly or conventionally prohibited or when a person refrains from performing something s/he has been commonly or conventionally obliged to (Katouziyan, 1995).

2. Examples of Enforcement Officials' Administrative Fault:

Generally, it can be stated that an administrative fault can be posited when a transgression contradicting the general law regulation is perpetrated.

Cases of violation of the general law regulations can be found in Paragraph A of article 2 of the government council law that has also been repeated in part two of paragraph C of section one of article 11 of administrative court of justice law. These cases are as explained below:

- A) Being against the general law regulations: if enforcement officials make a decision or perform an action against the explicit text or spirit of the law, they are responsible for their illegal actions and liable to the compensation of the losses incurred. For example, if a judgment enforcement employee tries transferring of the convict's property without first holding a bid, s/he is held liable for breaching the law.
- B) Violation of jurisdiction rules: the constitution and the other state regulations have explicitly delimited the governmental units' authority domains. Due to the same reason, each government unit should perform its duties within its jurisdiction and avoid interfering with the other administrative organs' fulfillment of responsibilities. The jurisdiction of the enforcement officials has also been specified, and now the actions done by them beyond their jurisdiction are invalid, and they will be held liable for the compensation of the imposed losses. For instance, the enforcement official taking executive measures and intervening in a file that is still in the process of investigation and no decisive judgment has been made for it and is yet to be delivered to judgment enforcement unit is held liable for the compensation of the losses as a result of his or her violation of jurisdiction rules. The jurisdiction can be in a range from an organization to another and/or between the independent and various sectors of an organization.
- C) Misuse or abuse of authorities: improper use of the authorities given to the enforcement officials by law or as specified in the regulations has been prohibited by the legislator. In fact, "abuse of authority occurs when the enforcement officials exceed beyond the permitted or common limits of their executive and administrative power in making decisions and performing the related executive actions and, in doing so, they set the ground for the divestment of rights or suffering of losses by the others; misuse of authority comes about when a normal decision or action is found illegitimate, imbalanced and harmful with the difference that when the misuse or abuse of authority is found accompanied by male fide and malicious intention or negligence and default and a result of an individual's fault, it is attributable to the enforcement official who would be consequently held liable. In case that it is found devoid of an individual's fault or a result of an

unusual understanding, the action is attributed to the enforcement official, but the government is held liable”.

- D) Violation in enforcing the legal rules and regulation: breach of the legal rules and regulations, as a special type of actions against the law, refers to the cases in which the governmental organizations or their agents perform their legal duties and responsibilities in opposition to the criteria and conditions and the intended formal and substantive qualities in such a way that the obtained results and outcomes are found not consistent with the legislator's objectives and cause wastage of rights and incurrence of loss whether being intentional or unintentional or even devoid of the aforementioned factors (Musazadeh, 1998). In a nutshell, it can be stated that the breach of the rules and regulations pertains to the violation of the executive qualities of a verdict or legal axiom.
- E) Avoidance of duty fulfillment: as it was mentioned in the discussion on harmful actions, enforcement officials' civil liability is not exclusively derived of harmful actions rather it might come about as a result of leaving an action undone and its subsequent incurrence of loss by others. In other words, if the conditions and facilities required for performing the administrative duties are provided and the enforcement official refrains from fulfilling them, and this causes loss incurrence by another, s/he will be held liable .

3. The Role of Fault in Actualization of Enforcement Officials' Civil Liability:

In Iran's laws, article 12 of civil liability law has been written based on fault assumption and Act 171 of the constitution, which expresses the government's liability in respect to the judges' faults and is based on their unintentional faults, has been laid on the foundation of guilt, as well (Katouzian, 1995). But, the literary interpretation of the paragraph one of article 11 of the civil liability law indicates that neither the government nor its employees can be held liable in both intentional and unintentional performance of faults, and the third party is liable in whatever the case. However, the enforcement officials are liable to the losses they cause to individuals whether be it included by article 11 or article 12.

Of course, it has been criticized as to it is, in practice, firstly difficult to find the guilty person in such wide and long organs and secondly it is even more difficult after finding the guilty person to prove his or guilt for the occurrence of an accident and vanishing of the harmful action's actual effects and thirdly claiming the serving of justice entails incurrence of extravagant costs of justice department and spending of a lot of time and waiting for a longer period of time that is not affordable by the victim and fourthly the aforesaid organizations are mostly associated with strong judicial organs and their lawyers dash to defend them hence the victim would not have any chance to win the case. Additionally, even if the victim can prove the guilt of the enforcement officials, s/he will be faced with an insolvent debtor (Ansari, 2001). Although the criticism intends getting the subject closer to the justice so that the victim can definitely receive compensation, the very available guilt scale should not be discarded in line with this and then consider the enforcement official who has fallen short of performing his or her duties equal to the official who properly carries out his or her duties and has been barred from doing his or her best only due to the conditions and shortcomings of the organization. In other words, the victim's losses should be compensated in all of the cases but, herein, the fault is a scale served to make a distinction between the persons maximally deserving the compensation of losses.

Causality Relationship:

Besides the two foresaid pillars, the occurrence of loss and perpetration of harmful action, the existence of a causality relationship between the imposed loss and the harmful action is also necessary. It has to be verified whether the loss has been caused by the harmful action of an enforcement official or not. By causality relationship, the verification of the common causal relation between the two aforesaid pillars is intended.

When the fault is taken as the basis of the enforcement officials' liability, the verification of causality relationship would follow and incidents would be taken into account that has happened as a result of carelessness and fault of the enforcement officials following which losses have occurred.

1. Causality Relationship Conceptualization:

When the action performed by a person is not per se an example of wastage, it is said to be the cause of a subsequent happening. In civil liability discussions, the cause is the factor giving rise to the harmful action, but its mere existence does not lead to the accident meaning that it is quite possible for a cause to exist but for a harm or loss to be absent. In regard of the discussions presented herein, the harmful actions of the enforcement officials should be the cause of the harm so that the personal liability of them could be actualized or an administrative fault of a type should be the cause resulting in the occurrence of an accident so that the government could be held civilly liable.

If a gap is found between the harmful action and the will of an empowered person, the harmful action is attributed to the action of the conscious empowered doer and not to the cause. If the enforcement officials perform their duties in adherence to the criteria, but a loss is incurred due to a certain action by a culprit, and there is found a gap between the loss and the action, the causality relationship knows the convict's harmful action as the cause and the factor contributing to the loss hence the enforcement officials' liability when performing their duties will be revoked.

2. Congregation of the Instruments and the Causes Effective in Loss Occurrence:

Now, it is time to recognize the effective and responsible causes giving rise to the civil liability of the enforcement officials. Two kinds of affairs should be excluded from definition in recognizing the effective cause: one is the improbable instruments, and the other is force majeure that accompanies the volitional cause of occurrence of a loss of a type. Therefore, the cause that is effective is considered as the factor bringing about liability and, in regard of the effectiveness scale, two subjects, named action or intention and the doer's awareness, should be taken into consideration. Determination of the cause is not always an easy task, because not few losses can be found in the today's complicated world that are caused by one single factor rather they are the effects of numerous instruments, all of which are somehow involved in loss incurrence. Thus, recognition of the individual responsible for a loss of a type is a precise and complex task. Considering the legal conception of cause, those factors should be investigated that are necessary conditions of loss occurrence and commonly cause its emergence.

There are different theories proposed for determination of the cause such as the theory of conditions' equality which means that no distinction should be made between the instruments that together and equally cause a loss of a type, to with the loss emergence is bound to the existence of all these instruments (Katouziyan, 1995). The common cause encompasses the complete relationship between a cause and an incident in the actualization of which it has played a more accentuated role than any other conditions and the incident is per se defined as the happening that leads to the loss emergence in the course of normal and common performing of usual actions (Katouziyan, 1995).

Reference is also made to the scale "if ... not" in regard of which a question is raised as to whether the victim would suffer the loss if the harmful action had not been conducted by the defendant (Badini, no date). Of course, there are some who believe that the exertion of this theory is not favorable hence they have resorted to the primary scale or the cause theory (Katouziyan, 1995).

Therefore, in spite of the jurists' efforts, no general philosophical axiom could be offered for the determination of a cause effective in loss incurrence for none of them are decisive and do not render trial needless of paying attention to the incidents and nature of each lawsuit. So, a person should be held liable if there is found a common causality relationship between his or her actions and the loss incurrence and the best scale for recognizing this relationship is common judgment and sound intellect (Ghama'ei, 1997).

In other words, it has to be investigated that whether there is a cause more effective than the harmful action of the enforcement officials or not? There should be commonly a causality relationship between the harmful action of the enforcement officials and occurrence of loss meaning that the harmful action of the enforcement official should be commonly envisaged as the direct cause of loss incurrence and no other more effective factor cut the causality relationship. As a specimen, if the enforcement officials completely fail to perpetrate their duties due to the occurrence of a force majeure of a type, they are to be exempted from liability because there is a more effective and more original cause that intercepts the common causality relationship between the harmful action and loss occurrence. As it was said, the enforcement officials are exempted from liability if a gap comes about between the will of the enforcement officials, as empowered doers, and it cuts the common causality relationship and it is commonly known to be more effective than the enforcement official's harmful action.

3. Criticizing the Causality Relationship Theory:

It is necessary that the civil liability is actualized nearly in all common theories if verifying the causality relationship. In regard to the civil liability of the enforcement officials, the loss might be the result of the harmful action of the enforcement officials, but the common causal relationship might exist in the administrative fault or the personal fault and this is the issue that makes us face problems unless reference is made to the same criteria that were mentioned in regard of distinguishing the administrative fault from personal fault and this solution is only effective to some extent. On the other hand, if, based on these scales, it was found out that the administrative fault is the cause of loss or, in other words, the issue is posited in regard to the government's civil liability, the victim is to prove the causality relationship between the loss incurrence and administrative fault in the corresponding governmental organ and this is a very difficult task and the victim might be incapable of proving the causality relationship hence have his or her loss left uncompensated or when the loss cannot be solely attributed to a single governmental unit rather it might be the case that several governmental units are involved in the loss incurrence, the determination of the cause of loss is very difficult if not impossible and this means depriving the victim of his or her loss compensation (Musazadeh, 1998). Thus, the day that the compensation of the victim's losses is a step towards serving the justice, the causality relationship should be made less highlighted. So, some jurists have suggested that the special plans of loss compensation should be devised in some cases such as physical injuries and accidents disregarding the cause and/or at least with making causality relationship less accentuated (Badini, no date). Up to here, it is suggested that the victim should be freed of proving causality relationship where the defective formation of judgment enforcement system causes victim's incurrence of loss.

Conclusion:

One pillar of the civil liability of judgment enforcement officials is the loss caused by enforcement of verdicts. Loss is a common term. It occurs whenever damage is caused to the properties or sure interest of a property or the physical health or dignity and honor of individuals. In other words, the very damage to the properties or losing of sure interests or health damage and blemishing of the prestige and personal feelings, as well as the material harms, are all instances of loss. In opposite, the spiritual harms are the losses imposed to the dignity or fame of individuals causing physical pains and somatic suffering or psychological damages such as in loss of one's relatives and kin. Therefore, the civil liability of the enforcement officials can include financial losses and lack of enjoying the interests of a property as well as blemishing of one's honor and prestige as well as physical and mental health damages (spiritual loss).

The conditions of the loss resulting from judgment enforcement are being direct, predictable and left uncompensated otherwise the compensation cannot be claimed.

Another pillar of civil liability of the enforcement officials is the doing of a harmful action. In case of positive action, the enforcement official causes harm to another via performing an action; in leaving an action undone, as well, the individual falls short of doing something. In regard of the enforcement officials, it has to be stated that this latter case comes about when they leave a duty unfulfilled or perform it improperly meaning that they could have prevented the emergence of loss if they had properly fulfilled their duties. In respect to the loss resulting from leaving an action undone as it becomes the case that an enforcement official should not sometimes do an action but s/he does it, it can be stated that the important thing is that the action should be harmful.

In order for the enforcement officials to be held liable, it is necessary to verify the causality relationship between the loss and the harmful action as the third pillar of the civil liability actualization. Of course, such cases as premonition, legitimate defense, emergency, victim's risk acceptance, administrative fault and enforcement of wrong judicial orders are amongst the reasons that, in case of the verification of the required conditions in a case-specific manner, lead to the interception of the causality relationship and enforcement officials' exemption of loss compensation.

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