



An Analytical Review of Civil Liability in Mines ,a Look at the Explosion of the Winter Yoart of Azadshahr city

Omid Barzamini

Graduate student of Islamic Azad University of Azadshahr

Original Article:

Received 08 July. 2018 Accepted 25 July. 2018 Published 30 Sep. 2018

ABSTRACT

Typically, preliminary negotiations are the basis for concluding important contracts; at this stage, the preliminary stages of the contract are also the principle of the freedom of the state; however, the problem is that, if negotiations are canceled by one of the parties, in spite of the said principle, on the basis of which the negotiation can be terminated It is responsible for this and what effect does it have on this responsibility. This paper deals with the comparative study of the subject in French law, the Iranian law and the principles of international agreements and the principles of European law of contracts, that in French law and the principles of the foregoing violation of the obligation of good faith and the commission of the blame is the basis of this responsibility and closed in the legal system of Iran The case and, if any conditions exist, one can use the general principles of civil liability (typing, laxer, pride and fault) in this regard. However, subject to the terms of the negotiated settlement's liability, he or she will be liable for any damages incurred; however, no losses will be incurred and, in the sense of a merely probable interest, arising from the conclusion of the contract, will not be required.

Keyword:

Civic Responsibility for Mines, A Look at the Explosion of the Mine, Winter Yard Azad Shahr

* **Corresponding author:** Barzamini@gmail.com

Peer review under responsibility of **Iranian Journal of Social Sciences and Humanities Research**

Introduction

The advancement of civilization and inventions and the new style of social life have made people more likely to be harmed. As human activities become more and more widespread in order to meet their needs and interests, and as much as the legal relationships of people become wider through the increase of tools and means of transformation of life, the variety of losses is also increased.

People are traumatized by neglect, neglect or lack of care. (Tavakoli, Saeed, 2007, p. 56). Today, given the heavy damage caused by accidents to miners, most countries, despite the disagreement in their legal systems, seek to achieve two goals; one is guaranteeing and paying salaries and the loss of community spending on the tools needed by workers.

Economic analysis is one of the main ways that helps policy makers and legislators to identify efficient rules. Economic tools come with the help of lawyers to put aside the test and error and establish the optimal rules and regulations.

In this paper, we intend to analyze the basis of civil liability for work-related accidents. Let's look at economic law and, with a new and multilateral perspective, combine the findings of traditional rights. Pay new rights. Civil liability has the pillars and elements that fulfill them, responsibility will create. So the civil liability element is the set of elements that the law for the realization of civil responsibility is necessary. (Ghorbanpour, Amir Mehdi, 2006, p. 9).

A: Realization of Damage (Loss)

The existence of a loss to create responsibility is obvious and the rules of civil liability are harmful. In connection with it, either to compensate for the loss or to prevent future damage.

In other words, the subject of civil liability studies, - (Badini, Hasan, 2005, pp. 64) It is a loss.

Concept and types of disadvantages

Loss or damage is an essential condition for the creation of civil liability, and in other words, the basis for the loss of 58 is a problem that - civil liability is detrimental (Dormant, Davood, 2006, pp. 37) has been harmed by financial or non-financial benefits.

The principle of one hundred and seventy-two constitutions has raised losses or losses in two general cases which are material and moral harm. In the case of material damage, 1 loss is due to property and is destroyed. The owners of the property or their devaluation or the loss of the benefit and legitimate right of the affected persons, entered them (Katouzian, Nasser, civil rights, out-of-contract obligations; Qahari's guaranty, 1997, pp. 224-227), such as damages to the work of the workers and the goods by which they are carried. The moral damage, 2 damage to the emotional and non-financial interests that the injured person or members of his family become aware of as a result of the incident.

Physical injury, which is a disadvantage between the two groups, includes any kind of physical injury including loss, disability, and disability (unemployment and deprivation of earnings). (227) (Katouzian, Nasser, civil rights, out-of-contract obligations; Qahari's guaranty, pp. 224) The concept of loss or damage in the economic analysis of the law is very close to its traditional meaning. Is, But the criterion of damages and losses in economic analysis of traditional

rights and rights may be in. There are different things to each other, in the sense of both traditional law and economic analysis. Rights, in most cases, the determination of a claimable loss is done by the law. Damage claimable, damages and losses that, according to the custom, may be damaged by reference to it, against causing the loss of litigation; However, economic analysis of salaries, the loss goes beyond the conventional sense. But also from an economic point of view, for example, a worker who ignores the rules. It is unconscionable, it increases the probability of an incident for other workers. Other workers. They have to be more cautious to avoid the accident, and thus more cautious. Suffer. In fact, the reckless worker, his cautious cost to other users. The road has been inflicted and harmed by them; such damage is taken into account in traditional rights. Because it is almost impossible to compensate for it.

Recognition of economic compensation, risk of unclear liability due to non-compliance. Predictability of the burden and the number of potential disadvantages is due to the fact that. The limits of liability should be stopped somewhere. The rule of exception to compensation for loss is solely (B.S. Markesinis & E. Economic) provides a degree of legal and commercial distinction. But the most important reason for the lack of economic compensation should be the lack of S.F. Deakin, 1994, p. 90) The possibility of compensating for such damages, at least in most cases.

On the contrary, in the economic analysis of law, since it relies on directing and directing behavior. And prevention, these seemingly small and tolerable losses can also be the subject of study; Accordingly, in economic analysis of the law, incidence is widespread and disadvantages. Economic, that is, all the harm to individuals and the community, including intermediary damage and damage to non-profit and damages that are not considered as damages are also considered. Gets.

Conditions for claim losses

To compensate for the unprofitable losses is that the loss is eligible; first, that the loss must be. Obviously, the probability of harm is not enough. In the traditional responsibility of which. Compensation for damages is important. The damage is more important and more clear, however. Economic. Economic Analysis. While the purpose of civil liability can be to prevent harm, There is a risk of harm to the application of civil liability rules. Traditionally it is said that. The probable loss is not the cause of liability, and the warrant is not compensated. (Katzian, Nasser, Civil Rights, Non-contractual Obligations; Guaranty's Guaranty, 1997, p. 278) Although analysis

1. To see the principle of impossibility of compensating for purely economic losses in the rights of Kamennela, see:

2. However, in economic analyzes, where compensation is intended, compensation for economic losses has been proposed. Accordingly, it is claimed that, from the economic point of view, it is better to divide the risk between the entire society and not be left to the detriment of the individual;

Economic rights have not changed the concept of being certain, but a more careful look at the damage. Economic and the effects of any incident.

Damage must be straightforward, that is, between harmful acts and losses, there is no other incident. Where it can be said that harm is due to the same verb from the point of view of the custom, and between them is causality. Is established. 2 Against this background, if machinery after dealing with other workers, it would collide with it. Device or another person, Provided that the recent workers are at a normal speed and in compliance with the rules. It has been moving or stopped, in this case, again, the accident in the mines is directly from the means. The offending vehicle (I) is caused and the workers who have been interrupted do not cut off the connection. And it will not be responsible. (Abaslou, Bakhtiyar, 2007, pp. 50-51) This case is of great use. There are work-related accidents in mines, especially where a worker strikes several machines.

The third condition is that the loss incurred has not already been compensated for, because if it is by means of. Losses will be compensated, losses will be lost and no damage can be made again. In the case of insured damages, the insurer will be entitled to compensation against its loss. Refer to the insurer for the loss of the agent. 3 Failure to collect insurance indemnity. It has been extracted from the principle of causing harm (Katouzian, Nasser, civil rights, obligations Out of Contract; Guaranty Guaranty, 1376, pp. 292 and 293).

Compensation over the amount of damage caused. The tendency towards risk is from possible losses; however, the loss is due to. Harmers, more than the damage done, will strengthen their deterrence; this is the same. Inhibition has tended to exceed the amount of damages, punishable as damages.

The fourth condition for claimable loss is that the loss must be predictable and (58) The damage that has not been foreseen can not be provided. (Bozorgmehr, Davood, 2006, p. 37. The ability to predict loss in civil liability is one of the pillars of responsibility or one of the characteristics.

2. Article 4 of the Code of Conduct for Compulsory Insurance

3. Article 30 of the Insurance Law approved 1316

4. Punitive damages are not of a restorative nature. But for punishing and preventing blaming behavior. These types of damages should be outside the scope of civil liability. The main source of these damages is total rights. (Abdollahi, Mohsen, punitive damages in international law, Journal of Law, No. 30, Spring 2004).

Compensated losses, more and less, in all legal systems accepted or discussed. Is a conversation. (Ghamami, Majid, 2006, pp. 48 and 49). The criterion for distinguishing the unforeseen loss of judgment. A conscious and conventional human being is in a situation in which the incident has occurred. Loss is not anticipated unless it is unpredictable in the unpredictable and unpredictable traditions, and it is not enough to consider the detriment of being slack or unaware of it. (Katouzian, Nasser, Civil Rights, Non-contractual Obligations; Qahari's Safeguard, 1997, p. 3301).

The probability of occurrence of an accident is one of the important issues in economic analysis of civil liability due to accidents in mines. The following chart compares the speed of a worker with the probability and severity of an accident, and shows that with increasing speed of labor, the probability of occurrence of damage and the amount of damage sustained increases exponentially. 1 The probability of damage only reaches zero when the work of the workers

moves at a minimum speed. (Although at very low speed there is a chance of collision, but the damage is close to zero).

In the case of civil liability arising from work accidents in mines, the employer and the holder are considered to be widespread and incidental to the knowledge of the machinery and the ability to predict the loss of the occurrence of work in the mines is researched, but if this damage is caused by factors outside the control. Machines are inevitable, causing these losses to lose their predictability.

2. Note that although unpredictable factors, as its name implies, can not be predicted, the probability of occurrence is measurable and measurable.

The unpredictable factors are mostly those that are external factors. Disconnecting the causal relationship in the incident (Cairo's force, etc.) are taken into consideration. (Fahimi, Azizullah. 60) For this reason, we refrain from detailed discussion here and to the topic - 2005, p. 27. The causal relationship is referred.

B) the occurrence of a collision (a harmful verb)

Many of the human activities in the community are often for the purpose of studying the benefits and disposing of a disadvantage. Accepts it is harmful to others, but it is not considered illegitimate, and their perpetrators. Morally and legally, they are not responsible, because they require social life, acceptance. Such activities are; therefore, for example, legitimate competition is necessary for social life and in terms of Law and ethics are not a fault. The use of the work of workers also has in the life of today. The disadvantages are but the benefits and uses make it easy to use that fault. The most significant consequence of the harmful use of vehicles is the accident in the mines, which is the pillar. Material and external civil responsibility.

Fault

However, in our legal system, civil liability for accidents in mines is not a fault-based one, but. The fault can be attributed to the responsibility of each party to the incident and the amount of effective liability. In addition, the element of fault is still subject to economic analysis, because analysis. Economic rights study the system of liability in various assumptions, including fault and non-fault. They compare their works together; it identifies the strengths and weaknesses of a rule. Legal analysis is also trying to find the best benchmark for measuring. And evaluate the fault.

Generally speaking, the right soul gives the owner the ability and this ability for others. If the custom considers such restrictions to be a disadvantage, the owner has the right to do so. Use is not responsible for the damages caused by them, since the exercise of the right, in principle, should not be a guarantee. Economic analysis of civil liability is due to accidents in mines (Ghasemzadeh, Seyyed Morteza, p. 107).

The notion of illegality or abnormality of a harmful act in liability of the criterion of fault. Each person in the community has a duty to observe caution and accuracy in his behavior so that his behavior does not harm others. It is customary that rape and deviation from the conventional person's behavior are the fault. In the economic analysis of law, one speaks of a reasonable human behavior; the ordinary person is one who observes the standards and rules of the custom and acts accordingly (Mohammad Ja'far, Jafari Langroudi, 1999, p. 612).

In the most cases, the writer's opinion is also the same person of ordinary caution; the cautious person is one who does not commit negligence (neglect) (Qasimzadeh, Seyyed Morteza, the notion of illegality in most cases of a person - or maladaptive maladaptive On Civil Liability, 1999, pp. 88).

1. It is also customary, but there may be some misconceptions from the ordinary person. The meaning of a reasonable person is one who, with the idea of profit and loss, calculates his performance results and chooses the behavior that would have the greatest benefit for him.

2. The assumption of reasonable human behavior is more likely to predict the reaction of individuals to legal labor. But it is also used as the criterion for detecting fault, the most famous of which is in It is given, it is renowned for the rule of India.

3. The term "jurisprudence" in the term "jurists" is also referred to as "habitual" and "interactive" as a continuous ethnic type in behavior and speech.

In order to realize the custom, it is enough that most people have the same method (dominant custom), and if all the people of one tribe have that method, their conventions are recalled common conventions, and the custom is said to be practicable, that the majority of the guilds of the guilds (or class of classes Or a community of people), and that practice is in accordance with the expediency of a particular class or class.

1. A lot of criticisms have been made in this regard and it has been shown that this rule does not apply in practice as it appears at first. However, this view can at least be regarded as a primitive, though imperfect, beginning, for economic consideration of the fault. (Babaei, Iraj, Economic Analysis of Law, 1. A pamphlet of the Master's Degree in Economic Law, Allameh Tabatabaei University. 2010).

The social costs and the level of effectiveness of caution, in addition to what is mentioned, are due to other factors. The behavior of other users of the way also depends. In the incidents of work in mines usually two sides are involved in the incident. The precautionary level that the parties are likely to take to prevent an accident. They can be involved in the extent and severity of the incidents; each of them. The parties to the accident must do so with a variety of points, including the behavior of the party. The opposite depends.

Suppose that workers are usually mistreated by neglect and ignorance of the rules.

In this case, the probable losses are compelled to stay safe from the risk of an accident.

More cautious, versus if the users know the way other workers are. Typically working with caution in mines, it may be more safely (and less cautiously) through the way. To use.

On the one hand, the cost of a possible incident is, as its name implies, probable, and any. The employer considers himself to be immune to it and its amount is not clearly specified for the employer; On the other hand, the cost of caution is directly attributed to the employer and more than what. It seems that the role of civil liability rules is determined. Not everyone can. People expected to correctly calculate their behavioral costs for themselves and society. Act. The rules of civil responsibility, with the responsibility

of individuals, their behavior in relation to use. They control work tools and help prevent and prevent accidents they do.

Accordingly, the guideline for these analyzes is to regulators of civil liability rules. Define the criterion of the guilt of the workers so that their level of precaution is appropriate. Take. But due to the problems of determining the fault through the criteria related to the situation in each. In fact, an incident is, in practice, a single criterion for all things; that is, from what is in it. The subject of the human criterion is a kind of recognition of responsibility and goes beyond reasonable and conventional human behavior. It is also determined by the criteria that the law offers.

4. In the field of work accidents in mines, The rules of civil responsibility are strongly bound in this way and the legislator is a normal human criterion.

2. Of course, social costs are not just cautious. However, social costs will be optimized during effective caution. But we must not forget that prospective contributors play a significant role in determining the level of precaution, because in the event of a cross-sectional look, we will face a shortage of resources and inefficiencies in the future. For this reason, the mere cost-benefit curves will not bring about any efficiencies.

3. Problems such as mistakes in determining the extent to which the liability is commensurate, obscure behavioral standards, and workers' uncertainty about their compliance with these criteria, administrative costs, and the problems caused by the contradiction of the rules of liability with insurance can be cited in this regard.

;This means that it is expected that the rules and regulations of the "lawful person" will go to a legal standard from the ordinary person and that the violation of the rules will be applied to the determination of the fault.

Interdisciplinary findings also show that focusing on violations of law has not been futile (Zulfi, 121). Although studies have been conducted to present a model, Ali and Maleki, Hamid. 1385, pp. 100. A fairly complete explanation of the incident has failed, but to a large extent we have achieved acceptable results. 17) The figure below is a model that attempts to provide. (Chigel, Salem, 2004, pp. 11). A combination of fault criteria with the findings of new research related to human error and human misconduct. Slowly.

The actions and behaviors that lead to the incident each have a separate role in the chain. Causes and effects. Environmental and peripheral factors are involved in the incident, but. In this regard, and in relation to the employer, the main role is the errors (human errors) and labor misconduct in the mines. And the incident comes from these two factors.

C: Relationship of causality. The relationship of causality has different aspects of philosophical, legal, moral and religious. (Frantis 32. The relation of causality in law has a conventional meaning, and in a certain sense - Alexander, 1342, pp. 27. It is the emergence; that is, when the commonality of relations between two things occurs and an event is the result. The other incident is that the origin and the appearance are that there is a causal relationship between the two. The existence of such a relationship makes it possible to claim damages caused by its agent.

Proof of the causal relationship has been damaged, but typically - (Ghorbanpour, Amir Mehdi, 2006, pp. 36-9). The judge finds this relation from the same conventional appearance (Bazmomehr, Davood, 2006, pp. 37 58). Today, paying attention to the needs of humans and departing from customary rules, The causality is verb conjecture. Traditionally, we know the cause as an agent of existence, existence It's necessary and not lack of it. In the current law, the same amount as to lack the necessary means As one of the conditions or causes of harm, it is enough (Katouzian, Nasser, 29) The result of this tolerance is, at least in some cases, the recognition of the relation between the cabit with the terms - 2007, p. 27

Economic necessities. The overcoming of thought and economic efficiency can be unconsciously Our judgment is influential.

In an incident in mines, usually several parties are directly involved; the employer's working conditions The most prominent of them. On the other hand, the specific circumstances of the incidents of work in the mines of the legislator have it Owners of workers are also responsible for the incident. The complexity of work tools and the dangers of defects The process of producing them has led to the responsibility of the manufacturer of work equipment as well Attracting lawyers and employing workers also to take responsibility for the incidents of working in mines Make.

Employer

In a division, the various employer responsibilities in incidents in the mines can be in three

The assumption was: The first hypothesis: the incident does not have any means assigned to any worker: this assumption Normally, the observer is responsible for causing a foreign agent, such as Cairo, or a third party's fault The incident has been in mining; in this case, the employer can not be held responsible for any of the two devices Knowing, because it is assumed that the external cause causes the loss and they have an effective role in this However, if it is possible in the part of the accident, for example, in the intensification of damage, the causality relation The customary confrontation between the verb of the employer and the entry of the damage has to be held accountable to him in accordance with the law.

Second assumption: an accident is cited to one of the parties to the incident: as if the incident occurred in The result of the fault of one of the two employers has happened. Obviously, in this case, responsibility The accident is the responsibility of the worker. 2 In this assumption, all liability is for the wrongdoer It turns out. On the contrary, in case of non-error, his responsibility reaches zero. So the employer The devil always, even if he makes a small mistake, is likely to The responsibility to compensate for the incident of work in mines; if the other party to the incident Has committed an error, it is natural that the employer knows that if he does not make a mistake, he can do all Impose a liability on the wrongdoer (the other party). It is wrong for the employer to be careful about his performance and be sure That the possible damage caused by other workers would be offset. Third hypothesis: A crash is due to an offense or error on both sides. Like that A means of subsiding alley, without observing the priority, goes to the main street and with the other means in That street is moving at an unauthorized speed. On the assumption, this is a solution

That the employer who committed the more severe error is responsible for all damages. (Katzian, Nasser, 1354, No. 18).

In this assumption, the employer is encouraged to be cautious, but in all cases it is not necessary to make a mistake Get yourself to zero. He is enough where other workers are heavily discreet To do a moderate level of caution to get rid of responsibility; in other words, in this way The level of caution required for each employer is determined by the average caution of the community, and the type of work in the mines Typically, the society has a direct impact on the behavior of each employer; on the other hand, it is the rule for The lucid and unproductive workers are alarming because the general workers are better off working in mines. And consequently responsibility is imposed upon them; In this way, the employer will try to work on his mines with a degree of caution and observance of the rules that are more cautious about other workers who might be the other party to the incident. (Shawl, Steven, 2009, pp. 218-217).

Because there are different people in a community of different ways of working in mines, each The employer takes a modest amount of precaution for the entire workforce, and it is a criterion Gives. In the minds of each employer, there is a conception of the type of work in the mines of other workers that it creates It is considered as the average and common practice in mines in that community, such an impression in The performance and behavior of that employer can be effective. Consider a society in which 30% of workers are very careful or attentive Commit major offenses. 50% of workers have moderate caution and less abuse 15% are very abusive and very cautious, 5% take the most caution Spend; the precaution level of each group is shown numerically on the table The higher the level of caution and attention to the rules, the number rises from 1 to 10; In the last column, the number of events that each category generates is displayed; Clearer, the last column represents the extent of events (assuming the employer's liability rule based on Severity of error) are responsible for it.

The question now is, what kind of employer is going to take in order to face it Give the incident responsibility. It is precisely indicated in the diagram that an employer is not required Always keep caution and adhere to the rules of guidance and work in your mines to ten units It is no longer necessary to always be free from mistakes, but just enough 6 to 7 units of the rules, at least 85% of cases in the event of possible accidents, responsibility Not to be Although there is still the possibility of being held responsible, but the cost of caution Compliance with the law is greater than the cost of this probability, and it encourages the employer to respect the law At the same level, this conclusion is taken in the minds of the workers, not with Mathematical equations and exact calculations, but also in a conventional way and through inferences that over time It comes to them.

As we have seen, in this method of division of responsibility is not said, because, though The two sides of the incident have been guilty of blaming the responsibility for one side of the incident in the hypothetical In which responsibility is attributed to both sides of the incident, and both are accountable, There is talk of a division of responsibility and a discussion of that position. Different legal systems, In relation to the division of responsibilities, they give

different criteria. Accordingly, solutions Variety is presented, including the following: division of responsibility based on The degree of fault, the division of responsibility based on the degree of impact and, finally, the division of responsibility into equality (Junaidi, Liaia, 1999, pp. 90-51). The first is the division of responsibility into equality; a group believes in equality of arms and everything They consider the gadget to be the cause of the accident and it does not cause any cause exclusively. They did not. The total damage to both sides must be equally divided between them and each One half of the total damage is due, because each side causes only loss Do not enter the other party to be responsible for all the damage on the other side, but assume that The fault of the parties is equal; consequently, the effect of the verb of each of the two employers on damages to The other, with the intervention of the verb of the same side, has been realized.

Such a method has the advantage that the law enforcement or judicial system is responsible for determining the amount of the fault The mistake of the parties is exempted and it is not even necessary to determine which side has had more error

1. To see more about the impact of various factors on incidents in mines, Rack: Sotoudeh, Yaqub.

External gadget

External causes causing the causality relationship to be interrupted between the harmful event and the damage, to three Categories are divided. However, the realization of each of these factors varies from one another, but its effect Is the same and causes the general or partial exemption of the responsible person. These are: 1. Potential Cairo and sudden accidents 2. Compromised damages 3. Third party activists 4. Road safety measures.

First: Cairo's power

Cairo Force and Force Majeure 1 means unpredictable and unpredictable incident. goes. Although Cairo's force usually refers to natural disasters, such as floods and earthquakes, but not to It is unique to these incidents because the accident itself has no role in eliminating responsibility, but the nature And its effect is of interest to the legislator. On the basis of Articles 227 and 229 of the Civil Code, although in It is a contractual obligation, it can be said that Cairo's power is an accident: 1 external and non-existent Assignment to the responsible person; 2 conventionally unpredictable; 3 unavoidable, somehow That the responsible person can not repel it.

In this way, unexpected events, naturally occurring within the scope of responsibility of the employer and the holder Because, if proved, the accident is due to an external cause, the causality relation between the machinery and the The harmful event is interrupted and, as a result, the owner or employer will be held liable. (Commentary, , 130; Adil, Morteza. Cairo Authority in the 1980 International Convention on International Law, Irandokht, 2002. Pages 111 (60. Journal of Legal Views, Spring & Summer 2001, No. 21 & 22, pp. 43).

Second, the loss of fault in investigating the existence of the causation relationship as one of the pillars of the fulfillment of civil liability, with the fault of the loss of 3 as an important factor in the incident or the intensification of the

damage caused by it Are. The notion of damaged fault usually means that conventional care is not maintained (90) The health or the preservation of their interests in property and rights. (Janeidi, Liaia, 1999, pp. 51).

Whenever proved to be a defective fault, the cause of the accident occurred in mines and its occurrence Irreconcilable and unpredictable, the causality relation between machinery and the occurrence of damage And it turns out that the incident does not attribute to it.

4 Overall, the criteria for determining the fault in the case Responsibility for maintenance and repair of mines is explicitly included in the law 2010/12 /. Accordingly, note 3 of Article 14 of the Law on the Investigation of Labor Misuses in Mines If, according to experts, safety is a defect in the way or machines that are effective. " The cause of the accident is, as the case may be, the suitably responsible caretaker responsible for the damages incurred and They will be equal to the law.

In discussing the probability of predicting the loss, we noted that the external factors are causing The incident, however, as their name implies, is not predictable, but the probability of occurrence It can be estimated in different conditions. The reason for this is clear: the ability to anticipate custom The incident in mines is specific to a machine, but the probability of an incident is based on An overall attitude towards all events in the community is achieved. For example, for a specific machine, it is possible There is never an accident, but based on events that have already happened, you can Determined the probability of an accident in those circumstances and circumstances. Basically the difference between the look of an employer (Individual look) to work accidents in mines, with the look of the transport safety officer (general and social look).

A legal look at safety in coal mines

The first curtain, the ploskoo disaster, depoliticians, staring at the depths of the debris, scouting and sympathy for people in cyberspace, firefighters, instantaneous coverage of audiovisual media, clean and high-volume firefighting bodies, the report of the polling staff of the polls. .

The second curtain; the winter Yurtas coal mine, the gazing eyes at the depths of the corridors, the occasional cover of the visual and auditory media, the reflection of the virtual space and the real, the coal, the quiet bodies of coal in the coal, the unlucky, the black, the unemployed, the true teams. Who is to blame The plague lasted for a long time, and the hot dogs continued to burn up on their breasts, neglecting several devices or institutions, or individuals or equipment, and others.

The answer to the question is whether the pathology of such an event is properly fulfilled or not, for the future ... and the story of the Yurt mine. The Ministry of Industry, Mine and Commerce is the main regulator of the issuance of mineral licenses, which means that, in order to obtain mineral exploration permits (including exploration, exploitation license or withdrawal permit), it is necessary to pay attention to the criteria and completion of the documents in order to obtain mineral rights licenses.

The introduction of technical responsibility in areas with more than 25 workers, the introduction of the responsibility for mine safety (in addition to the responsibility of professional occupations) is imperative.

These assignments have not yet been completed, and the monitoring and supervision of mineral activities must also be fulfilled, such an obligation is explicitly stated in the provisions of Articles (2) and (34) of the Mining and Materials Act 100 to 107 of the Executive Order of the Act To be seen.

Together with the duties of the Ministry of Industry, Mining and Trade, the Ministry of Co-operation, Labor and Social Welfare, the Labor Code (special provisions 85 and 86) is responsible for monitoring workplace environments. The Safeguards Directive in mines approved by the Supreme Council on Technical Protection was issued in this regard. As stated in the predecessor, the purpose of its adoption is to prevent accidents causing injuries and financial losses and the safety of the work environment in the mine.

In accordance with Article 2 of the Code of Conduct, if the mine safety officer fears a danger to the workers, he must stop the mine activity and provide a report to the mining authorities in writing, in accordance with Article 3 of this Regulation, the safety officer must be informed before starting Each shift based on checklist forms evaluates the safety of the mine.

Article 4 of the Code of Conduct is also applicable. The date of commencement of operations for the monitoring of the mine has been notified to the General Directorate of Cooperatives, Labor and Social Welfare. Let's not forget other current assignments in the Safety Regulations such as the need for safety training and the familiarity of workers with the ways of extraction and emergency from the mine, the way of mine ventilation, access routes, special provisions for coal mine ventilation, first aid and rescue, all explicitly explained in the Safety Rules.

And definitely paying attention to the materials that it describes will reduce the risk of working in mines to a large extent, and ignoring the issues that have been described would be a disaster such as the Yurt mine accident.

The pathology of the incident and the investigation of the incident depend on the explanation of the measures taken by the Ministry of Industry, Mining and Commerce together with the Ministry of Cooperatives, Labor and Social Welfare, including the responsibility of the holder of the license, the safety officer and the technical manager of the mine should not be neglected, though The proper monitoring of the sovereigns will certainly not allow the officials to neglect or neglect. It is hoped, after all, to be analyzed with the approach of all Sungar, the incident of the Yurt mine, and with determination, the accused persons will be held accountable.

Result

In examining the civil liability aspects of work accidents in mines, we considered the three pillars of damage entry, gravity and causality relation in terms of economic analysis. The economic analysis of rights affects the meaning of loss in civil responsibility and gives it a more in-depth look. This shift is the result of a shift in economic analysis to the goal of civil responsibility and attention to deterrence.

The extension of the economic analysis approach has reduced the importance of fault in the civil liability system. However, this should not mean the uselessness of this legal rule. There is still a great deal of blame on civil liability, including in work accidents in mines, although taking into account the standard criteria for fault has removed it from its original concept.

According to the discussion of Sabet's relation, about the best rule about the owner, the employer and the workers we discussed. In the case of the holder, the principle of sole responsibility appears to be economically justified The way our legislator has chosen it. The most important reasons for this choice are difficult And in some cases it is impossible to prove the fault of the holder. The sole responsibility for the imposition of costs Provides events to the holder and the holder is in any way trying to make the damage possible. Reduce. The sole responsibility, in addition to having an impact on the level of caution, is also the level of his activity Efficient. The difficulty of proving the fault is also true of the workers of the makers. This issue is due to the situation And the producer's position is most apparent. For this difficulty, one can only be absent The workers' health and defect are the fault of the workers, or that the workers, Foreseeing responsibility without fault.

1. As one of the differences with the legislator is conventional.

Regarding the employer's behavior and the efficient rule in this regard, we should pay attention to the nature of the accident.

The choice of the appropriate rule depends on how we evaluate the factor affecting the risk (risk) of the incident. In economic analysis, the result of an incident is taken into account rather than the focus of the verb from the conventional point of view, and, as stated, one of the elements involved in the risk of an accident is the severity of possible damage. Obviously, fault-based rules can not be a suitable method for evaluating and managing these factors. Accordingly, in general, it seems that imposing responsibility on the employer on the basis of the degree of effect is more consistent with the goal of performance.

Reference

Civic Responsibility Caused by Motor Vehicle Tools, Ahmadi Khalil (2004).

Master's Thesis; To Guidance: Parviz Ameri. Shiraz university.

The Effect of the Level of Blame on Civil Liability in Imamieh & Law, Shahram, 2006 (2006).

Journal of Law and Political Science Research. No. 2 & 3. Autumn, p. 13, "Iran - 36).

Critique of the principle of the ability to compensate for all damages in civil liability law "(Babaei Iraj, 2005).

Journal of Law and Policy Research. No. 15 and 16. Autumn and Winter, pp. 45, "Iran -82).

Economic Analysis of Law 1. Master's Degree Leaflet. Allameh Tabataba'i University, 2010.

Badini Hassan (2005), Philosophy of Civil Liability. Tehran: Public Joint Stock Company.

Bariklo Alireza, (2006), Civil liability. Tehran: the rate.

Jafari Langroudi Mohammad Jafar, Extensively in the Terminology of Law. Tehran: Ganj Danesh, 1999 Journal of Faculty of Law and Political Science of the University, "The Devil's Death", (Jannidi Laya, 1999)

Tehran No. 46 Winter, pp. 51. Study of the causes of labor accidents in mines in Iran and comparison with others "(-Chigal Salem, 2004

New World Insurance, No. 73. Thir p. 11, "Countries - 17. Disaster Recovery; Review of Role-Related Research ", Zaleqi Ali, Maleki Hamid (2006).

Journal of Law Enforcement. Issue 30, "Human factors in work accidents in mines; towards a model for explanation. 121. Autumn. Pages 100

Compilation of the Mathematical Model of Factors Affecting Accidents at Work in Mines with Interest ", Sotoudeh Yaghoub (2001).

Master's Thesis; To Guidance: Nizamedin Faghih. "Getting statistics from Iran Insurance Company Faculty of Management and Administration. Shiraz university.

Relationship of causality in French law and Islamic Republic law ", Savadkoohi Faram Sam (2002)

Journal of Hearing. No. 31 Pages 23, "Iran - 25. Shawle Steven, (2009), Basics of Economic Analysis of Law, translated by Mohsen Esmaeili. Tehran:

Rights Losses in Occupations in Mines and Supply Chain, Salehi Mahmud (1991).

Insurance industry magazine. No. 24, p. 10, "Damage - 19. Journal of Legal & Judicial Justice. , "Tassibi and its Funds", Salehi Rad Mohammad, (1999) No. 28 and 29, pp. 37

Quarterly Journal of Entrepreneurship, "The Nominee's Responsibility for Occupations in Mines", Abasloo Bakhtiyar (2006). No. 31

Journal of Legal Collections, "The Fault in the Civil Law of Iran and France," Azizi Ezatullah, (1322) .175-31. No. 258. Tir, pp. 172

Judgment Magazine. , "The Predictability of Loss in Civil Liability," Gholami Majid (2006), No. 43. Esfand, pages 48 and 49

The Importance of Standard Safety Belts in the Employer's Health ", Fath Ali Poorzalouy Ataollah, (2005).

Journal of Hearing. No. 49 March and May, pp. 40. "The occupant of the motor vehicle of psychological and responsible algebra; the principle of causality and its effects in the field", Frantis Alexander (1342).

Translation by Parviz Sanei. Today's Journal of Law. No. 5. August, pp. 27, "Human Behavior, Civil Responsibility Caused by Collision of Motor Vehicles", Fallah Ahmad Ali (1373).

Master's Thesis; To Guidance: Mehdi Shahidi. Law and Political Science. Shahid Beheshti University, Tehran.

Quarterly Viewpoints, "Predictability of Losses in Civil Liability," Fahimi Azizollah, (2005) Legal. Faculty of Judicial Sciences and Administrative Services. No. 34 and 35

Ghasmzadeh Seyyed Morteza, (2008), Civil rights, civil obligations and obligations without a contract. Tehran: rate., "The concept of illegality or abnormality of a harmful act in civil liability" (1999).

Magazine Legal Perspectives. No. 13 and 14. Spring and Summer, pp. 83

Magazine, "The fault and the attachment relation in the civil responsibility system", Ghorbanpur Amir Mehdi, (2006). Justice and judicial affairs of the judiciary. No. 54 Bahar Pages 9

Judgment Magazine. Issue, "New Values and Developments in Civil Responsibility", Katouzian Naser, (2007) Farvardin and May, pp. 27

Economic analysis of civil liability for work accidents in mines 129, (1376) civil rights, out-of-contract obligations, coercive guaranty. Tehran: Tehran University; Publishing &

Printing Institute. Magazine. "Protecting the Losses and Producer's Responsibility in French Law," (2005), Faculty of Law and Political Science. University of Tehran. No. 68 Summer, pp. 179

Journal of the Faculty. "Responsibility of Owners of Ground Vehicles" (1354), Law and Political Science of Tehran University. No. 18 January.

Kooter Robert, Eulen, Thomas, (2009), Law and Economics. Translated by Yadollah Dadgar and Amadeh Ibn Hazaveh. Hamedan: Research Institute of Economics, Tarbiat Modares University and Nour Alam Publications

Cooter Robert, and Thomas Ulen. Law and economics. 3rd edition. Addison Wesley Longman. 2000.

Denis J. Brion. Norms and Values in Law and Economics, Encyclopedia of Law and Economics. 1999.

Shavell Steven. Economic Analysis of Accident Law. Cambridge, Mass: Harvard University Press. 2002. <http://papers.ssrn.com/abstract=367800>.