The American Journal of Political Science Law and Criminology
(ISSN – 2693-0803)
Published: June 30, 2021 | **Pages:** 61-66
Doi: https://doi.org/10.37547/tajpslc/Volume03Issue06-09

IMPACT FACTOR
2021: 5. 952

Journal Website: http://theamericanjournals.com/index.php/tajpslc

The Relevance Of Attitudes Towards Compensation For Losses To An Employee

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ABSTRACT

This article is aimed the relevance of employee remuneration relations, the existing theory and legal practice of compensation, liability arising from injuries of workers and employees in the workplace, compensation for damage to the life and health of workers and employees in the process of work, and provided to employees, discusses the types of guarantees and compensation.

The article also discusses the obligation to compensate for the damage caused to the employee, civil liability by its legal nature, whether it arose as a result of damage caused to the employee in connection with the performance of labor duties, and the employer's obligation to fully compensate for the damage.

KEYWORDS

Damage to the employee, compensation for losses, labor activity of workers and employees, recovery of losses, the obligation to compensate for damage caused to the employee.

INTRODUCTION

The question of the relevance of the attitude to compensation for damage to an employee is very relevant in national jurisprudence. We can say that in the existing theory and legal practice there are disputes about compensation for such damage.

Lawyer V. Boldyrev considers it logical that compensation should be considered as a civil law relationship, and relations on ensuring healthy and safe working conditions should be considered as regulated by other branches of law (labor, administrative, constitutional law) [1]. The views of this scientist were supported

by other experts. In particular, A. Erdelevsky notes that relations arising from damage are civil relations even in the case of labor relations between the victim and the victim [2].

Obligations arising from harm to the health of workers and employees in production were regulated in the 1920s by the Civil Codes of the Union republics. Later, these rules were adopted in the Fundamentals of Civil Legislation and Civil Codes of all Union republics. This attitude of the legislator to the doctrine of law classified the relationship about damage caused to workers and employees as a clear civil law relationship.

Until 1962, all authors who studied the problem of the sectoral significance of liability for damage considered it as a civil law relationship. With the adoption of the Decree and the Regulations of the Presidium of the Supreme Soviet of the USSR of October 2, 1961 "On the procedure for compensation for harm to the health of workers and employees in connection with work" in the legal literature is not. Opinions were expressed that the institution of compensation should be of a labor-legal nature [3].

In the days of the former Soviet Union, the analysis of material liability in the field of labor law always began with the criteria for separating the material liability of workers and employees from property liability under civil law, limitation. These features (limiting criteria) include the entities that caused the damage, the basis and amount of material liability, the procedure for compensation.

Much attention was paid to determining the sectoral nature of material responsibility in the views of O. Leist. He was one of the first in the field of legal theory to define the place of material responsibility as an independent type and to reveal its essence. At the same time, O. Leist believed that material responsibility arises from civil liability [4].

Commenting on this issue, E. Agibalova noted that the norms governing liability for causing harm to a person are combined into a single institution of civil law - the institution of obligations arising from the harm caused. The circle of persons entitled to compensation, the procedure for determining the amount of compensation, changing the amount of compensation in the event of a change in the victim's working capacity, etc. Are common to all other cases of harm to the health of employees [5].

Injury to an employee is, by its very nature, part of a civil tort obligation. However, damage is not only a condition, but also a measure of tort liability. Because the amount of civil liability is determined by the amount of damage, and not by the offense. Accordingly, the amount and grounds for liability for damage will undoubtedly depend on the damage itself. Thus, the definition of the concept, size, signs of damage, finding the points of integral regulation of labor law and tort norms in civil law are the basis for constructing compensation for harm to an employee, the goal of our study.

Depending on the various types of legal activities of subjects, the theory of law divides damage into "contractual" and "non-contractual" types, depending on the time of occurrence of the damage.

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Contract damage arises from failure to fulfill obligations arising from law or contract. The parties enter into a relationship before the damage occurs, and liability for damage caused by a breach of this relationship is determined in accordance with the provisions of the law governing the relationship or the terms of the contract.

In the Russian Federation, the views of scientists on the formation of relations on compensation for harm to the life and health of an employee in accordance with the norms of labor legislation have recently been refuted. Because today Russian labor legislation, in particular the Labor Code, does not provide for such responsibility of the employer. Article 184 of the Labor Code, entitled "Guarantees and compensation in case of accidents at work and occupational diseases", states that only in the event of an accident at work or occupational disease, the loss of wages of an employee (family), as well as additional costs of medical care, social and vocational rehabilitation for injury or costs associated with the death of an employee. In these cases, the type, size and conditions for the provision of guarantees and compensations to employees are determined by federal law [6].

Opinions on this matter are also expressed in the domestic legal literature. In particular, the issue of compensation for harm caused to the life and health of workers and employees in the process of their employment is still controversial. Because such relations are regulated not only by civil, but also by labor and administrative legislation [7].

Protecting the rights of vulnerable employees required a review of this mechanism. The Law of the Russian Federation "On the responsibility of the employer for damage caused by an accident at work" of 1903, "correcting" the norms of civil law, provided for [8]:

1) Damage caused by an industrial accident is insured. Except in cases caused by gross negligence and revenge of the victim.
2) The employer is responsible for proving revenge and gross negligence.

In accordance with Article 1005 of the Civil Code of the Republic of Uzbekistan, harm to the life and health of a citizen in the performance of contractual obligations, as well as military and service duties, is compensated in accordance with Chapter 57 of the Civil Code. Code (liability for damage). Thus, relations on compensation for harm caused by an employee with an occupational injury or occupational disease during the term of the employment contract are fully regulated by the norms of tort obligations, which are reflected in the Civil Code.

After the Republic of Uzbekistan gained independence, relations related to the compensation of the employer to employees for harm caused by disability, occupational disease or other damage to their health in connection with the performance of their official duties, the Labor Code of the Republic of Uzbekistan, the relevant articles of the Civil Code (Chapter 57). It is regulated by the Law of the Republic of Uzbekistan "On labor protection", the Rules for determining disability, the Regulation on the procedure for the investigation and registration of accidents at work and other rules. According to these laws, the damage caused to the employee is compensated in accordance with the Labor

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Code and special norms, as well as, in some places, special norms of the Civil Code. However, by its legal nature, it is within the framework of the doctrine of national law in terms of obligations arising from harm.

The system of responsibility, based precisely on the basis of risk, by its very nature was closer to this system of responsibility. The developing industrial society needed a system of professional responsibility based on risk assessment. The risk-based liability framework needed to be changed so that the employer could be held liable for injury caused by injury in the absence of illegal action by the employer, other employees, or a source of high-risk production equipment.

Compulsory social insurance was one such protection mechanism. It includes not individual, but special, insurance (collective) liability (in the broadest sense - collective responsibility to protect the property interests of the employee in the event of damage). The socio-economic theory of the late 19th - early 20th centuries considered this responsibility as the responsibility of a specific industry in the form of an employer for the objective professional risks inherent in the industry.

It should be noted that the health and life of an employee is the highest value, which is protected by the Constitution and laws. And these inalienable rights cannot be regulated by any contract or employment contract. In the event of harm to the health or life of an employee (disability at work, occupational disease, etc.), his or her absolute rights are violated, and an absolute violation of his or her own rights automatically entails civil obligations [9].

The opinion of the scientist in the field of labor law A. Inoyatov about the sectoral nature of compensation for harm to an employee is also relevant. In particular, the scientist noted that the civil law of the republic also provides for the relevant legal norms on these issues. However, it is difficult to say that the articles of the Labor Code of the Republic of Uzbekistan and the Civil Code are fully consistent with each other in structure and content. In such cases, that is, in the correct application of the norms of both codes in practice, a special place is occupied by the Resolution of the Plenum of the Supreme Court of the Republic of Uzbekistan dated September 5, 1986 No. 13 [10].

In addition, the fact that relations on compensation for harm to an employee are also regulated by the norms of the Labor Code does not mean that the legal nature of relations related to this harm belongs to labor law. The fact that moral damage to an employee, other damage to health and life is mentioned in the Civil Code, i.e. liabilities arising from damage indicate that the legislature does not consider the relationship as an employment relationship.

In the legal field, protective equipment for employees has also been developed. According to the prevailing legal doctrine of the time, the employment contract was viewed as a kind of civil law contract for the lease of services (location condition). In theory, this would allow the worker to use a contractual liability system rather than a civil liability system in the event of an injury resulting from an occupational injury. However, due to the principle of freedom of contract, which was fully valid at the time, the employer was only liable for an occupational

injury if he was willing to do so. Such a liability system will not provide the employee with adequate protection. Moreover, in the context of more de facto inequalities in social, property and information status between the employee and the employer, it would be more difficult to prove the employer's guilt, especially the family of the employee who died as a result of an industrial accident. In response to such difficulties, the legislature passed special laws that somewhat "corrected" the civil compensation mechanism in the event of injury to an employee as a result of an industrial accident.

Similarly, in the second paragraph of clause 17 of the resolution of the Plenum of the Supreme Court of December 19, 2003 No. 18 "On judicial practice on compensation for harm to the life and health of an employee in connection with the performance of labor duties." "There is a dispute about the method and amount of compensation. In this case, the courts must comply with Article 1022 of the Civil Code of the Republic of Uzbekistan. This is one of the proofs of the position of the court on the civil status of damage caused to an employee in the performance of his official duties.

Thus, the obligation to compensate for the damage caused to the employee, by its legal nature, is a civil liability arising from the damage caused to the employee in connection with the performance of labor duties, and the employer is obliged to fully compensate for the damage in this situation.

Thus, liability arising as a result of harm to the life and health of an employee is a condition arising from property associated with deterioration (death), unlawful dismissal or transfer to another job as a result of an industrial accident or occupational disease and (or) moral harm. damage. the existence of harm or other form of moral harm. (or) the presence of property damage, expressed in losses associated with the deterioration (death) of the employee's health due to moral harm.

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