



The Basis of the Collateral Source Principal of Compensation and Its Application in the Insurance System (American and Iranian Law)

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Abstract

In general, when an event occurs, the cause of the loss is responsible for all the damages caused to the victim, and based on the principle of compensation, the damage caused to the victim must be fully compensated in a way that restores the person's condition to the previous state and at the same time does not lead to a windfall in his favor. This principle is one of the principles of the general system of civil liability. The general system of civil liability in the law of civil liability to compensate for the damage suffered, although it was the rule in the past, and based on that and the cause of the damage compensated the damage caused, but the necessity of collective life and the development of societies and their transformation made the existence of collateral resources undeniable. Gradually, with the industrialization of societies and the creation of high-risk environments and the increase in damages, and the huge amount of damage, the speed and confidence in compensating, collateral resources such as insurance companies were created, which brought up the problem of summing up with the cause of loss, and following that, the role of the general liability system gradually diminished. In general, four methods were proposed to face and deal with this problem in the world. The laws of the countries of the world have been chosen for each of them according to their policies, goals, and functions. Applying the rule of the collateral source of compensation is one of the methods of compensating the injured person in the field of civil liability, which was formalized as a general rule in American law nearly two centuries ago and is one of the principles of the doctrine of common law. According to this rule, the liability of the loss agent is not reduced by the pretext of compensation from collateral sources, and the courts and juries do not accept the documents related to the receipt of lost funds from collateral sources that may be presented by the loss agent. Based on this, the liability of the loss agent is not reduced, and even with the damages received from other sources, the agent is required to pay the total damages. The documentation of the application of this rule can be found in the decisions issued by the courts of the United States.

Proponents of this rule have relied on strong evidence and state that payments from collateral sources such as kinds of insurance are not valid against the debt of the cause of loss and no relationship can be imagined between these sources and the cause of loss.



Also, maintaining the deterrence function of the potential and actual damage agents prevents us from reducing the responsibility of the damage agent. In fact, the payment of collateral resources cannot be contracted as a means of benefit to the damage agent, because the payment by the damage agent, in addition to compensation for his damage, also entails punishment and public order. This group argues that the damage caused to people does not end only with its appearance and the spiritual damage caused is not compensated by external resources. Therefore, the payment of funds from multiple places can be effective in creating the satisfaction of the victim and returning him to his former state, and provide a means of full compensation for the damage. In this time, even if the received funds lead to a double profit, this is preferable to the profit of the cause of the loss and its lack of responsibility. Also, although some consider solving this problem and maintaining deterrence of the damage caused by referring collateral institutions to the cause of loss, and believe that these sources are the vicegerents, this solution is not acceptable because it leads to mistrust and negative thoughts of the general public towards collateral sources. According to the arguments presented in support of this method, any legal system that finds this method in accordance with its policies and goals can apply it; Although we have seen the application of this method in the United States of America as a general rule and in some cases such as the summation of blood money and social insurances in Iran. Also, its application in insurance should be accepted, based on which the vast majority of countries in the world agree on the application of this rule in life and accident insurances in which the nature of investment is the majority aspect and the insurance premium has been paid against it.

Knowing this rule leads us to know what was the reason for creating this method for compensation and on what basis it is based, and in addition, we can identify the application of this method in the insurance system. In this article, while explaining the collateral source rule, the arguments in favor of the rule in American and Iranian law have been examined and its application has been applied in certain cases of insurance.

Even though considerable works have been presented in the field of compensation and numerous existing methods, none of them have investigated the reasons for creating the method of applying the collateral source rule and its application. The existence of the collateral source rule raises the question of what factors have caused it and what issues support it. Also, what is the use of this method regarding insurance, which is one of the collateral sources? The present research is descriptive and analytical method, and it collects information and data in the form of a library and takes samples from various domestic and foreign works, such as books, articles and authentic publications, so that based on that, the answer to these issues can be effective in choosing or not choosing this method to compensate the injured and determine the status of its application in different types of insurance.

Keywords: Insurance, Double Compensation, Damage, Collateral Sources, Civil Liability.

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