

Theory of "Lost Opportunity" Theory in Iranian Law

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Abstract

"Lost opportunity" theory by considering opportunities valuable as a chance, fortunes, and with the beliefs that opportunity is a material and spiritual right which has been violated by guilty. Therefore, it seeks for an approach to compensate the damage resulted from the loss of opportunity for gaining a profit or avoiding losses.

This theory has been accepted for many years in European and American countries and in the courts, leads to issue many verdicts. However, either in Iranian law or jurists' and theologians opinions, there is no writing to confirm or deny this fact expressly. Also, about this theory sometimes there is no sputum and distinguishing between these two issues for its own complexities, as well as the parallel with the non-profit issue.

Though contemplated on the basis of civil liability established in some laws such as Article VI of the civil liability law, for example, the rule of remuneration in sharecropping, it becomes clear that the legislator shows flexibility. Also, according to the conventional view and the context of some Jurists, the general rule has no harm, which considers the base of the civil liability as valuable.

Keywords: civil liability, lost opportunity, Article Six of civil liability laws, Mudaraba fee, forging fee, reward, sharecropping fee, non-profit

1. Introduction

The main aim of civil responsibility (contractual and non-contractual) in accordance with the general rules of liability, is the citation for indecent and the harm of suffering damages for other compensation. Its inhibitory effect which is done by the realization of the three pillars of liability including the damage, the causal relationship, and harmful act. However, sometimes about the harm of an action or omission by the reader, there are controversy and doubt. The theory of lost opportunity is as this kind of issues that despite according to the rationally and fairness, loss of chance occurs due to the possibility. It is inherently valuable that has been wasted by the reader, but because of the lack of flexible and precise view from the critics, this theory does not exist. So, by considering these issues, the final result is along with possibility and not in the form of loss of the main pillar as fact, then it is not a loss and cannot be compensated.

But according to proponents of this idea, it should be said that regardless of the final result, based on the chance in which gaining profit was serious and real, it was destroyed by faulty. Then the obtained compensation is not compatible with the rules of fairness and justice.

Thus, in this paper, the theory, its various forms, and comparison of the mentioned theory along with the loss of profit will be discussed. Then according to the chapters in Islamic jurisprudence, laws in partnership discussions and various forms of sharecropping and Article six of civil liability laws that opinions of some scholars of jurisprudence and law concerning the approval of lost opportunity are investigated.

2. The Concept and Nature of the Theory of Lost Opportunity

Chance has the same meaning as an opportunity and is a concept that is not compatible with certainty. So chance is inherently uncertain and also the chance is not also synonym with the casualty. Because a coincidence is never expected to happen and an event takes place as not expected.

Someone considers chance as the boundary between simple hope and certainty which means that on the other hand, the chance is higher than the simple hope and it does not reach to a degree of confidence that its realization

in the future is imminent and certain (Kazemi, 2011, 209).

Thus, it must be said that one of the main components or pillars of the opportunity is the possibility of the opportunity, i.e. before its death, these opportunities have not led to results.

If the opportunity is the opportunity of favor, the favor is not achieved or if the chance is the opportunity of avoiding losses, avoiding has not been realized customary.

Sometimes a person is in a position which allows acquisition of an interest in the future, or opportunity to prevent the loss. For example, a person has the opportunity to participate in a race and his attendance at racing is a luck that he can gain a bonus for education, but due to the defendant's fault, he cannot take advantage of it in the race. As a result, he is deprived to acquisition outcome as a good place at university or rank in sports. Sometimes a person who has been exposed to the loss has this opportunity to prevent or at least prevent its occurrence and development.

For example, the person with the disease still has the opportunity for treatment and cure acting. Whenever another fault caused that person to be deprived of access to these opportunities, is presented.

In order to understand the nature and development of civil liability arising from "lost opportunity", two points are important:

A) The first thing to note about missed chances is the degree of probability, in other words, a probability is notable that certainty or arguably lead to gaining benefits or preventing losses. Based on tradition and natural history, it can be predictable, because the illusion of luck and chance is not considered to achieve profits or avoid losses as simple. Since there is a difference between the potential benefits and simple potential benefit. In the potential benefits, the degree is so high that common sense and mind trust it. While this is likely to benefit as appropriate to create a religion that was created, but has not yet met the foreign debt. The law (Article 691 BC) finds it in the existing order and accepts it as a transfer (Katouzian, 2013, 284).

B) The second point is that the loss of opportunity is a loss different from the loss of profit and the final damage suffered by the injured person (Zhordan, 2012, 203). A Lost opportunity should not be equal to the loss of certain benefits is going to be developed in the future or final loss caused by the loss of opportunity to avoid it. But it is just the opportunity that has been missed now, so it is possible that it can be considered as a certain loss (Safaii, 2013 101).

The rights of some countries, including France, considering opportunity valuable time, are attached to this issue that the loss of such an opportunity, regardless of the success or failure of demander is a harm that must be compensated and the damage arising from the death of opportunity should not be confused with the losses of the death benefit from it, since loss of opportunity is a definite loss, but the loss of benefits is probable (Barikloo, 2014, 83).

3. Comparison of Non-Profit with the Lost Opportunity

Due to misidentification and accuracy in liability nature due to the lost opportunity with expired benefit or non-profit, sometimes they are considered as same institutions and there is no separation between them in which in this paper, to enlighten the issue, a definition of the non-profit will be discussed briefly to distinguish these two issues.

In the case of harm to non-profit, there is disagreement between jurists.

Most jurists do not consider the loss of profit as damage and inevitably do not look for a compensating for the loss of profit (Taheri, 2012, 345). But today in the various texts in the definition of the concept of non-profit, lawyers often described it as one of the types of losses and have investigated it (Imami, 1995, 244, Safari, 2013, 115, Katouzian, 2013, 243).

Some consider damage from the origin to damage of property loss and damage caused by being deprived of the benefits that will result from the implementation of commitment and the second type is called non-profit (Shahidi, 2003, 255).

As it is clear, this definition is not the comprehensive concept of non-profit and only includes damage resulting from a breach of contractual obligation and others consider it to prevent loss of profit and interest, which is appropriately employed as unlawful detention, which is deprived him/her of the wages and or picking the fruit trees in bloom; because the blossoms lead fruits and fruit are the benefit of tree (Jafari Langeroodi, 1998, 264)

This definition shows that only involve the realistic interests in future, while the other kind is likely receiving loss of profit which is not cited and some writers has shown civil liability in the more precise definition of this

concept: Loss of profit means that the person is deprived of the experts benefit (Bahrami Ahmadi, 1991, 238).

As mentioned, loss of profit is both realistic and possible receiving. It should be said that the aim of definite benefit is a benefit that provided in accordance with the above definition and if a certain harmful act does not appear, the benefit is gained by the person certainly. Therefore, lack of gaining this benefit exclusively due to the occurrence of the unfaithful act would be harmful: (Imami, 1995, 244).

It should be noted that between these two types, uncertainty is for only the first type and the second type cannot be claimable, as there is no definitive causal relationship between the act and the non-emergence of profit and assuming that obligation is not done. Again, it is possible that the benefit is not obtained (Sokouti and Shomali, 2011: 83). With the presented clear definitions of the non-profit, it is obvious that the loss of the opportunity to acquire interests in a way is similar to the non-profit, especially the loss of the opportunity to gain the benefit affects the person and an interest has not achieved due to the expected loss. In addition, the non-profit as well as loss of business opportunity benefit, show the benefit of future acquisitions and it is possible in the absence of action and it may even include non-profit researcher as receiving the degree course.

The possibility of greater losses is causal, yet these similarities are the opportunity to earn high interest to avoid loss of opportunity. The loss of opportunity should be avoided due to the expenses and actually achieved in the future, such that there is a chance to achieve non-profit.

But there are differences between these two institutions distinguishing them from each other entities:

A) In the case, the loss of opportunity hypothesis shows two times opportunity, gaining benefits and sometimes raised in relation to avoiding heterogeneous losses. After this, a speech can be said for its inclusion more than the loss of profit. (Kazemi, 2001, 193)

B) Some legal writers have stated that other differences are related to the non-profit receiving and to create interest in the future based on common sense. There is a reason for the expected normal course of affairs and it is also compensated, but the opportunity is gone from the realization of opportunity and possibility (Kazemi, 2001, 194).

In this regard, the question that arises is whether other types of non-profit, i.e. loss of profit possible in such a situation, is related to the probability of receiving the benefit in the future? And whether in this respect, differences only include non-profit as researcher receiving the probable loss of profit as not receiving?

The answer is employing these differences and making the questions drawn from an incorrect definition of the concept of lost opportunities. As previously stated, it was agreed that the loss in this theory shows that this is your opportunity for loss which is indisputable.

Suppose that the distribution of the newspaper is the bid that has been inserted to subscribers with the newspaper and he/she does not participate in the tender. Having shared information on this matter, and damages filed again distributor are important

This participating is a tender announced by the Ministry of Petroleum and the winner is the distributor failed to pay for damages. The damages that occurred as a result of not participating in the tender is receiving the probable loss of profit. But here there is another responsibility and liability and the loss of fortune participated in this tender by the contractor. Because the business climate and business confidence participating in a competition sometimes lead to credibility and acceptance in the market economy.

However, it can be concluded from this example, that comparison with a non-profit in the sense of lost opportunities was a mistake, because the opportunity was actually a loss.

The demand with regard to their activities and capabilities could provide your luck and for that opportunity, it is lost as a result of the defendant's fault and the loss of assets is not the loss of profit.

A) Another issue that is mentioned in the difference between these two institutions is compensation. The loss of profit claim is considered in final court judgment based on the value of the interest that the person has been deprived.

However, by accepting compensation for the lost opportunity, the final benefit should generate value that was not debated and is just the same opportunities as basically considered that the loss is less than the value of final losses (Khoshgovari, 2015 112).

4. Theory of Lost Opportunity in Subject Laws

In particular, this theory is not clear text in Islamic law and the law is not observed clearly. According to the rule of law in the field of documentary resources, it can be justified relative to civil liability arising from lost

opportunities. Since common law gives a broad meaning to it, including any loss with the material, spiritual, and physical and non-profit aspects in terms of jurists' views.

Entering the detriment of all other damages and losses is considered (Mohaghegh Damad, 1999, 141). The alleged purpose tends to compensate the loss of a lost opportunity in which the law is spilled. Therefore, while some lawyers argued that Article VI of civil liability laws shows the liability and compensation and the foundation do not accept the theory of loss of chance. (Katouzian, 2013, 282)

4.1 Fee Sentence in the Mudaraba

According to article 550 of the Civil Code in the contract, it is permitted for each of the parties to terminate the contract. However, if at the time of termination, the benefits of the partnership to be created, it divided between the parties under the contract and based on a certain ratio. If trade partnership dose not has benefits, but also be unprofitable, minimum property to be sold or the price, in which case there was a statistically. In this kind of partnership, dissolution will have no rights under the rule action.

But the peace that controversial questions arise here is related to jurists and heterogeneous lawyers with an own termination of the contract before making responsibility for managing interest. Since in the meantime, the measures trade is achieved as operating profit, the expected profit in this particularly heterogeneous conditions, has two terms. Some scholars have addressed the first comment in this agreement and the requirement of this contract and the entitlement has been operating for profit making and nothing else due to contract termination of the contract as the right owner. The owner shall not be entitled to apply (terminate) the amount paid and nevertheless. The acceptance of the contract and the provisions of the act is to his/her own detriment. The ruling has no guaranty fee (Second Martyr, 1992, 616, Naraghi, 2007: 219, Imam Khomeini, 2011: 312). Some lawyers also confirm this view based on lack of entitlement to remuneration, for example in the event of termination by the owners who believe that this will not have any right to the owner as the termination of the owner, because their rackets are awarded to deal the subject to termination at any time (Imami, 2005 117, Taheri: 280). In contrast, another group of jurists believes that in the event of termination is respected in their judgment on the action and expressed rackets while going to have donations hoping to have as part of operating profit to be signed that had been terminated for action that should not be ignored (Shahid Aval, 1989. 115: 133, Mohaghegh Helli, 1987: 388, Allameh Helli, 1993: 89, Najafi, 1983)

Some other jurists seem to confirm the above idea requiring the owner to have to pay for example as subject to two conditions, firstly likely to achieve profits in case of strong and serious termination and second the owner is misused as their authority to terminate the condition (Katouzian, 1996 141).

According to material presented in this issue, detection and resolution on fees for example in the event of termination of this contract is not without drawbacks referring to the following items.

First, the contract in the owner's commitment is for the capital and operating the necessary commitment to its workforce. Any action is permissible in the form of a contract and not outside of its owner's liability as vindication. Thus, it is difficult to accept this basis for payment. Second, some of the lawyers state that one of the conditions is the responsibility of the owner as an abuse of the right to terminate. Since the loss in the true motivation is ineffective and therefore, it is problematic to consider this condition as well. Thirdly, if you missed the chance to be recognized as a loss (which seems to be the same on the right), it can be used as the basis for compensation in case of termination of the contract and the responsibility with unconventional mood. Because the opportunity is dead certain that harm the others and has been noticed by the owner. However, this factor is only in the event of termination entitlements for heterogeneous condition and not spread to the termination of loss in the termination notice. Since someone is not blamed him because the ruling force majeure, such as the commitment level is interpreted as natural disasters (Bahram Ahmadi, 2011 413).

There is another point which refers to the as the chance of that is gone.

Consequently, it was clear from the views of proponents and opponents that in the loss of the soul, it is destroyed and unfortunately there is no difference. The disadvantage of this type of compensation is in a dispute condition.

4.2 Fee Sentence Saying in the Jualah Contract

Article 565 of the Civil Code, presented the Jualah contract as a permissible obligations, means that counterfeiters and agent can disrupt this commitment whenever they want. In Islamic finance, ju'alah (also spelled ju'ala) is a contract whose subject matter is a work or task to be done. More specifically, one of the parties (general offeror or ja'il) offers specified compensation (ju'el) to anyone (worker or 'amil) against achieving a predetermined work, task or result in a period of time, whether predetermined or not. In principle, ju'alah is not a binding contract; that is, the offeror or the worker can rescind the contract unilaterally before the

worker sets to work. However, it becomes binding on the offeror when the worker commences work. It is also binding on the worker if he undertakes not to revoke the contract during a specified period. Once the work initiated, the property of the offeror is transferred to the possession, not ownership, of the worker, and therefore, the worker is deemed as a trustee, not a guarantor as to that property. In other words, the worker will not be liable for any losses or damages that may occur except in the case of negligence, misconduct or violation of the conditions stipulated by the offeror. But the result of the termination of the work is done by the general offeror (Jua'il) in the meantime, since the effects are divided into two types:

A: if the job requested by the offeror is degradable by existing components, i.e. Article 566 of the Civil Code for offeror obliged to pay compensation and to take the action that has been operating. Also, in the event that the work is proposed with an indivisible offeror that had no obligation to pay its share of fees, merely the last part of Article 565 is important. During practice, offeror sees it if the agent acts shall pay remuneration saying the case of civil law ordains.

This issue is controversial as a legal ruling on saying termination fees which are presented and some lawyers believe that if the contract is terminated before the start of the operation, the operating authority does not find the offeror, because it is paid for work not done anything to deserve compensation and operating it. But if the contract is terminated and presented in the meantime, the action of the agent is entitled to remuneration for offeror practical as an example that is done, because that practice was carried out with the permission of offeror and respected human action.

Inevitably they have to pay premiums for the acts and legally be respected (Imami, 2005, Shahidi, 2009, 116). As stated in the context of partnership, it seems that paying wages in respect of the operating practice is not a sound basis. First, his/her action was permissible under an obligation of knowing that there is a possibility of termination. Of course, if respected, let us recognize that the purpose of human action has any legal action taken by someone. In some cases, the loss and waste also confirmed this liability as the result of a lost opportunity.

Some other experts refer the responsibility of the offeror to pay wages for compensating the losses of the right to know the legislator on the basis of objective responsibility as the obligation of the offeror. There is no difference offeror to use their right to have legitimate excuses or ask to be informed of their right to exploit (Katouzian, 1997, 258).

As this writer has pointed out elsewhere in this issue, the loss of a job or the loss of a chance of achieving the desired objective is a pursued factor (Katouzian, 2013, 283).

In this view, the loss of opportunity is obvious and logical and due to the liability of the offeror in compensation factor, it is a death for his actions expected to gain favor with the analysis.

4.3 Sharecropping

One of the other contracts that can lay some provisions is regarding remuneration saying it was based on a missed opportunity, is a sharecropping contract. It is obvious that those sharecropping issues are raised in the special characteristics and distinctive condition compared to other contracts. There is only an example of the views of jurists and lawyers, such that if a person, in any case, have a common interest, it will be a chance to achieve more in terms of routine affairs as amplifiers to have the opportunity to sponsor.

4.3.1 Non-submitting the Land by the Owner

In the contract of sharecropping, Owner of the farm implicitly undertakes to surrender land for agriculture agent. If the person refuses to fulfill the obligation, primarily works in accordance with the criteria of Article 476 in farms are submitted to a mandatory request as the obligation of the court. And if it is not effective undoubtedly, it has right to terminate the obligation to the farmer. However, the question that arises is whether farmers cannot use their termination or not and instead of saying remuneration of contract, it brings the benefits?

Some jurists contrary to popular opinion in the case of termination of the mandate refer farms liability to pay compensation to farmers, for example, stating that there have accepted funds (Tabatabaei Yazdi, 1999 305). One aspect of the supreme leader is seemed to accept the ability to compensate lost opportunities as the liability of the owner of the farm share as the resulting estimate.

In this way, the farmer owns the guarantor as part of the harvest likely based on the estimation of the result due to the weather conditions by analogy with similar positions in other cultures and in that year, the final product is obtained.

In this case, there is no law writing for some lawyers to comply with this legal vacuum container for farmers who have predicted the right to terminate it (Imami, 2005, 75).

Other authors, however, refer civil rights giving more rights to farmers with the possibility of contract claiming does not go away (Katouzian, 1997, 89). Because of the loss of benefits that would be derived from the farmer's land, the negligence destroys farms (Katouzian, 1997, 190). The claim for damages for farmers by estimation of the possible product was supposed to be his/her income.

4.3.2 Leaving Agriculture by Agent

Agriculture conducted by the commitment would result in a sharecropping contract. If the cause of the obligation under article 534 BC refrain, landlord, we can ask the court to force him/her. And if it is not possible for him to establish the right to terminate your rights, farms are not entitled to wages (this case and the legislature has provided in Article 535).

If the agent does not care agriculture and farms, the term expires as entitled to remuneration for example.

The question is the reason of the responsibility of the owners. Farms are entitled to remuneration instance and some lawyers refer the lack of responsibility of the owner of that land interests and other factors strengthen the culture (Imami, 2005, 77). It cannot be said that in terms of the amount of the price of the product and in that event, the owner would pay income because of the culture was grown, while he reached the damage as a standard calendar (Imami, Ibid).

But some other jurists believe that general rules of civil law in this case on the basis of loss and causality operate contractual liability to pay compensation as it did not consider (Katouzian, 1997, 198).

Because of the farms and lack of commitment from the lost chance of survival, it could be part of the product to make the income. However, in the assessment of the probability of the product, it must be very high and reliable with high index of suspicion created on damages, as in the case of disability of workers in the future, the same basis should be trusted as the judgment of the damage as given strong suspicion (Katouzian, 1997, 199).

As we have seen in this case both an opportunity and a chance are important to gain favor as something that has been considered valuable and should be compensated to strengthen it. Although the law provides just compensation, for example in this instance, we cannot assume the payment of damages due to lack of vindication as the owner of the land, but to pay the remuneration statement it is not important, while there is a waste of opportunity. Because iodine is not conquest to consider it, he/she is responsible for searching, as some jurists have expressed objection to the need to pay for saying the same thing (Najafi, 1983,; 20, Tabatabaei Yazdi, 1990, 714)

4.3.3 Lack of Care in Agriculture

Article 536 of the Civil Code provides that if care is traditionally at a low level, it yields agriculture. In this respect, this is the guarantor of the difference showing that after signing an agreement on sharecropping and after surrendering the land, owner, and farmer, the farmer is related to agricultural growth.

For example, there is no irrigation or spraying pesticides as necessary or did not provide fertilizer necessary to plant and the resulting product was low. So, the difference between cultivation and complete product resulting from the operation of all functions would be estimated as farmers and can guarantee that it will be a waste. Contrary to popular opinion in jurisprudence, some scholars believe that if operating procedures and shortening the growing season, the resulting product is low and the farmer sponsor does it in according to expert estimates (Tabatabaei Yazdi, 1988, 732, Mirzaye Qomi, 1992, 367)

But what is the basis of this ruling? Is it because of the sentence describing the loss and usurped rate of the primary factor?

Whether it is the basis of the decree of the non-profit? In this case, some lawyers have found no explanation's guarantee in accordance with the provisions of causality (Imami, 2005, 78). According to legal principles and rules based on article 493 BC, farmers were in the preservation of the land owner and faithful to him/her. If the route commits violations and negligence of their iodine, the responsibility becomes a usurper that is in order and in this case, the farmer is responsible for paying the remuneration for example land and there are no differences for existing product compared to the expected product. After usurping the farmer, it cannot be blamed on the ruling. The other assumption is that the proposed compensation of the loss of profit is a not correct assumption because of the referred letter of the law including loss of profit as not likely with that liability.

Obviously, there are still green seeds that several factors participate in its growth such as weather conditions, natural disasters as a result of the fruitful and effective conditions and it seems likely that we want to know the basis of this judgment not granted to the non-profit.

It seems that the aim of the legislature of the state in the article is to follow according to some jurists and respect

for opportunities and chances according to the owner of the expected product. So it is right that the scope of the order is based on acceptance of compensation to eliminate the opportunity to gain favor as loss compensation laws.

As some scholars judgment of liability against the owner and the farmer dominating ideology to the share of each of the products and in the absence of income, each can be usurped by guarantee and expert suggested it (Tabatabaei Yazdi, 1998, 310)

Some lawyers also have said that because the contract saying how to calculate wages for sharecropping farms, it owns a share of the operating profits as a portion of the interests of owners of the land.

Therefore, the violator must pay for saying the practice of the amount of the contribution of farms to him and to pay him (Imami, 2005, 82).

Since sharecropping contract is not a contract possessory, farmers employ procedures, which the beneficial owner is also the owner for preserving the land and sharecropping partnership contract is out. But that ownership is not so difficult to accept these terms. In contrast, some scholars suggest that the violator must pay these proverbs land and work to pay the vested interests of those who died and this distribution method is the best way to pay the contribution of each product to be achieved (Katouzian, 1997: 193).

However, payment to the owner is justified because the farms owned property and usurper required to pay damages under the general rules of usurped land grabbing with a certain salary as the cause of the event. However, according to the argument, the directive was not caused by the marriage contract and the sharecropping contract is the beneficial owner of the land and the compensation factor does not seem justified than that the owner of a business opportunity and product value.

Loss of expropriated condition by the appoint damage caused by the loss of its position is based on being deprived of their interest in the event of the future (Katouzian, 2013, 283).

But referring to some points in the analysis of this material is essential. Compensation in civil liability laws is required to pay by way of loss of profit because what little assets is wanted for such an ordinance, which strengths the theory of value as a lost opportunity.

4.4 Sentence of the Sixth Article in Civil Liability Laws

Another issue that can be explored to an example of a missed opportunity to accept compensation is Article Six of civil liability laws, which pointed out by the legislator. In this article, if it was legally obliged in the event of damage suffered by the victim or a third party, it may later be required to maintain. Its death has deprived the party of the importer to pay a pension commensurate loss surviving as long as possible habitually damage and the duty to hold the third party to pay that person (Katouzian, 2013, 283).

He has made losses in the future but to the benefit of his feet. The legislator here and irreparable loss of profit and loss is recognized and the second point is considering that issue which I mentioned the possible loss of profit or non-profit is possible because the first person legislator at the time of death of the deceased person was not among those required for maintenance

In the next part of alimony obligation, it is likely to put the subject. This is not far-fetched in the future that may survive the deceased person if it is not part of the alimony obligation. For example, if the person ahead of them dies or divorces the spouse, the person referred to in the law is beneficiary of the deceased person's alimony obligation to pay alimony to his/her base commonly, because it is stated in the jurisprudence and law requires alimony payments, alimony and firm deserve poverty as charity (Safayi and Imami, 2009 408).

Certainly, the possible loss of profit mentioned in this article is considered as a non-profit, so, as we have discussed in past issues, there is no guarantee regarding the possible loss of profit either in law or our rights from the obvious condition.

5. Conclusion

The purpose of lost opportunity theory is that people seem to respect the valuable opportunities in the Iranian legal system and it is necessary to be provided by the jurisprudence and legal context. Given that there are doubts and obstacles to acceptance of this theory, is due to the rejection of an opportunity lost, as a loss.

The spirit and the basis of discussions in the papers that mostly originated are civil rights of our jurisprudence as the main source of the general principle accepted by scholars. Personal responsibility in this regard is not important. Another case is that of the differences in this theory is the cause for uncertainty in assessing the damage. It is also valuable in principle lost a fortune, whether as a violation of the right not causing serious

doubt and as spiritual damage of this kind of damage able to recognize this kind of handicap causing harm. However, in jurisprudence, as was stated in the minutiae of these verdicts, jurists note traditional evidence that has not been documented. Therefore, from the perspective of jurisprudence, it is accepted to strengthen opportunities to eliminate its cause as known liability and the legislator. Also following the law in most cases implicit and sometimes explicit for opportunities and even in the ultimate interest of respected and valued condition, it is responsible for inducing infringement.

In addition, in the most country's laws, this theory has been accepted totally or partially. While it seems that in Iranian law by adhering to the principles and rules, this theory is important. By looking at the material and spiritual losses valued in line with the requirements of updating laws up to now and further this theory becomes strengthened to explain the new rules and laws.

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