



LEGAL FEATURES OF THE RELATIONSHIP BETWEEN DAMAGE AND FAULT IN CIVIL LIABILITY

Tursunkulov Elbek

**2nd-year student of the Faculty of Law at the
“TIHAME” National Research University**

Abdukhakimov Anvar

**2nd-year student of the Faculty of Law at the
“TIHAME” National Research University
<https://doi.org/10.5281/zenodo.21289109>**

ARTICLE INFO

Received: 03rd July 2026

Accepted: 05th July 2026

Online: 09th July 2026

KEYWORDS

*damage, fault, causation,
pecuniary damage, non-
pecuniary damage, loss of profit,
compensation, civil liability*

ABSTRACT

This article provides a theoretical and practical analysis of the legal relationship between damage and fault in civil liability. It also systematically examines the concepts of pecuniary and non-pecuniary damage, loss of profit, and the presumption of fault, while conducting a comparative legal analysis of the civil legislation of the Republic of Uzbekistan, the Russian Federation, and the Republic of Kazakhstan.

Introduction

The civil law is one of the main branches of private law that regulates property and related personal non-property relations in society. One of the most important institutions of this branch of law is civil liability, which serves to restore the property balance disturbed by the violation of rights, protect the interests of the person whose rights have been violated, and ensure the stability of civil proceedings. Unlike criminal or administrative liability, civil liability performs a compensatory function rather than a punitive one.

The emergence of civil liability requires the existence of a number of legal prerequisites. In his textbook Civil Law. Part I, Doctor of Legal Sciences and Professor O. Okyulov identifies an unlawful act, damage, a causal relationship between the act and the damage, and fault as the general grounds for civil liability, characterizing these elements collectively as the legal conditions giving rise to civil liability [1]. Although each of these elements has an independent legal significance, they together constitute an integrated legal mechanism. In particular, the relationship between damage and fault represents one of the fundamental theoretical issues determining the essence of civil liability, since not every instance of damage automatically gives rise to civil liability.

The Civil Code of the Republic of Uzbekistan recognizes compensation for damage as one of the principal means of protecting civil rights. Pursuant to Article 14 of the Civil Code, a person whose rights have been violated is entitled to claim full compensation for the damage suffered unless otherwise provided by law or contract [2]. This provision distinguishes two components of damage. The first is actual damage, which includes the loss or deterioration of property as well as expenses incurred or to be incurred in restoring the violated right. The second is loss of profit, referring to income that the injured party would have received under ordinary conditions of civil transactions had the unlawful act not occurred. This rule

demonstrates that the primary purpose of civil liability is to restore the injured party's property interests as fully as possible.

Furthermore, in civil liability, the concept of damage is not limited solely to pecuniary losses. Civil law theory recognizes that adverse consequences affecting a person's honor, dignity, business reputation, personal inviolability, health, and other personal non-property rights also constitute objects of civil law protection. Accordingly, the function of civil law extends beyond safeguarding property interests to ensuring effective protection of personal non-property rights and other legally protected interests. This approach is also reflected in the Civil Code of the Republic of Uzbekistan, where the institution of moral damage is regulated separately, defining moral damage as non-pecuniary harm manifested in the form of physical or mental suffering [3].

Compensation for moral damage constitutes one of the principal legal mechanisms for protecting personal non-property rights within the system of civil liability. It serves to remedy the legal consequences of non-pecuniary harm inflicted upon an individual's honor, dignity, business reputation, privacy, and health. Accordingly, the Resolution of the Plenum of the Supreme Court of the Republic of Uzbekistan "On certain issues of the application of legislation on compensation for moral damage" emphasizes that, when determining the amount of compensation for moral damage, courts must comprehensively take into account the victim's physical and mental suffering, the degree of fault of the person who caused the damage, as well as the principles of reasonableness and fairness [4].

In civil law theory, damage is regarded as the objective element of civil liability because it represents the adverse consequences caused to a person's pecuniary or non-pecuniary interests as a result of an unlawful act. Fault, by contrast, constitutes the subjective element of liability, reflecting the person's mental and legal attitude toward his or her conduct and its consequences. According to Professor H. R. Rahmonkulov, the existence of damage alone is insufficient for civil liability to arise. Rather, the damage must result from an unlawful act, and, as a general rule, the fault of the person who caused the damage must also be established [5].

Therefore, although damage and fault are closely interconnected in civil law, they do not constitute the same legal concept. Damage represents the objective consequence of a civil wrong, whereas fault serves as the legal basis for attributing liability for that consequence to a specific person. Professor I. B. Zokirov, in his analysis of the institution of civil liability, also recognizes that an unlawful act, damage, causation, and fault must coexist as interconnected elements constituting the general prerequisites of civil liability. He emphasizes that it is precisely the combination of these elements that forms the legal composition giving rise to civil liability [6].

Within the institution of civil liability, the relationship between damage and fault is manifested through the concept of causation. Causation is the legal criterion that establishes the objective link between the unlawful act and the resulting damage. If the damage did not arise as a consequence of the defendant's act or omission, civil liability cannot arise. Consequently, neither the mere existence of damage nor the establishment of fault alone is sufficient to impose civil liability. Rather, it must be proven that the damage was directly caused by the defendant's unlawful conduct. In this regard, causation remains one of the most complex and controversial theoretical issues in civil liability law.

One of the distinctive features of civil law is the application of the presumption of fault. Under the Civil Code of the Republic of Uzbekistan, a party who fails to perform an obligation, or performs it improperly, is presumed to be at fault unless he or she proves the absence of fault. This rule simplifies the procedural mechanism for imposing civil liability and provides more effective protection of the injured party's rights. In practice, the injured party is not always able to fully prove the defendant's negligence or intent. Therefore, placing the burden of proving the absence of fault on the defendant constitutes an important legal mechanism for ensuring fairness and maintaining the balance of interests in civil legal relations.

Methods

The study employed formal-legal, systematic, comparative, and theoretical research methods.

Using the formal-legal method, the provisions of the Civil Code of the Republic of Uzbekistan concerning damage, fault, contractual liability, obligations arising from causing damage, moral damage, and compensation were analyzed. In particular, Articles 14, 324, 333, 985, 999, 1004, 1021, and 1022 of the Civil Code constituted the principal normative basis of the research.

The systematic legal method was applied to examine the fundamental elements of civil liability - unlawful conduct, damage, causation, and fault - as a unified legal mechanism. The legal classification of these elements was analyzed on the basis of the scholarly views of O. Okyulov and H.R. Rahmonkulov.

Furthermore, the comparative legal method was used to compare the civil legislation of the Republic of Uzbekistan with that of the Russian Federation and the Republic of Kazakhstan. The analysis demonstrated that all three legal systems recognize unlawful conduct, damage, causation, and fault as the essential elements of civil liability and, in certain cases, provide for strict liability, that is, liability regardless of fault.

Results

The findings demonstrate that the relationship between damage and fault in civil liability constitutes a complex legal mechanism. An analysis of the Civil Code of the Republic of Uzbekistan and national civil law doctrine indicates that civil liability generally arises only when unlawful conduct, damage, causation, and fault are present simultaneously. The absence of any of these elements, except in cases expressly provided by law, precludes the emergence of civil liability.

The study also established that damage represents the objective element of civil liability, whereas fault constitutes its subjective element. Damage reflects the adverse consequences inflicted upon a person's property or personal non-property interests as a result of a civil wrong, while fault serves as the legal basis for attributing liability to a particular person. Although these two concepts are closely interconnected, they remain legally distinct.

The research further revealed that the concept of damage is not limited to actual property loss but also encompasses lost profits and moral damage. While Article 14 of the Civil Code establishes the principle of full compensation for damages, Articles 1021 and 1022 provide the legal basis for compensation for moral damage. This demonstrates that the civil legislation of Uzbekistan has developed a legal mechanism aimed at ensuring equal protection of both property and non-property rights.

The comparative legal analysis showed that the general methodology of civil liability in the legislation of the Republic of Uzbekistan, the Russian Federation, and the Republic of Kazakhstan has evolved on the basis of a largely common legal model. Since the civil codes of these countries developed within the traditions of the Romano-Germanic legal family and on the foundations of the former Soviet civil law system, the essential conditions for civil liability share a similar legal structure.

Specifically, under Article 985 of the Civil Code of the Republic of Uzbekistan, damage caused to the life, health, or property of an individual, as well as to the property of a legal entity, must be compensated in full by the person who caused the damage. This provision establishes fault as the general basis of liability while allowing the tortfeasor to be exempted from liability if they prove the absence of fault.

A similar approach is reflected in Article 1064 of the Civil Code of the Russian Federation, which establishes a presumption of fault, requiring the person who caused the damage to compensate for it unless they prove the absence of fault. In addition, Article 1079 introduces strict liability for damage caused by sources of increased danger, including motor vehicles, industrial enterprises, machinery, and other hazardous activities. This provision is intended to strengthen the protection of victims by imposing liability on the owner or operator of the hazardous source regardless of fault.

A comparable rule is contained in Article 917 of the Civil Code of the Republic of Kazakhstan, which establishes the general obligation of the tortfeasor to compensate for damage in full and recognizes unlawful conduct, damage, causation, and fault as the constituent elements of civil liability. Furthermore, Article 931 specifically regulates strict liability of owners of sources of increased danger, irrespective of fault.

Based on the conducted analysis, the principal legal characteristics reflecting the relationship between damage and fault in civil liability were systematized and summarized in Table 1.

Table 1. Key legal characteristics of the relationship between damage and fault in Civil Liability

Legal Characteristic	Description	Legal Basis in the Legislation of the Republic of Uzbekistan
Damage	Actual damage, lost profits, and moral damage constitute the principal objective consequences of civil liability.	Civil Code, Article 14 (full compensation for damages); Article 985 (general grounds for liability for causing damage); Articles 1021–1022 (compensation for moral damage).
Fault	The person's intentional or negligent mental and legal attitude toward their conduct and its consequences, constituting the subjective element of civil liability.	Civil Code, Article 333 (fault and proof of absence of fault in the breach of obligations); Article 985 (fault of the person causing damage).
Causation	The objective legal	Civil Code, Article 985 (damage

	relationship between the unlawful act and the damage caused.	must result directly from an unlawful act or omission).
Presumption of Fault	The person liable is presumed to be at fault unless they prove the absence of fault.	Civil Code, Article 333 (burden of proving absence of fault rests on the debtor); Article 985 (the tortfeasor is exempt from liability if the absence of fault is proven).

Source: *Compiled by the author based on the Civil Code of the Republic of Uzbekistan.*

Discussion

The analysis presented in **Table 1** demonstrates that **damage, fault, causation, and the presumption of fault** together constitute a unified legal mechanism of civil liability. Although each of these elements has its own independent legal significance, only their combined application ensures the lawful and equitable implementation of civil liability.

The findings of this study indicate that the relationship between **damage** and **fault** represents one of the fundamental theoretical and practical criteria of the institution of civil liability. The analysis confirms that **unlawful conduct, damage, causation, and fault** form the unified legal structure of civil liability. As a general rule, the absence of any of these elements precludes the establishment of civil liability. At the same time, the study found that statutory provisions imposing liability regardless of fault in certain situations serve to ensure more effective protection and restoration of the injured party's rights.

The findings are consistent with the scholarly views of **Professor O. Oqyulov** regarding the general foundations of civil liability. According to the author, civil liability is a compensatory legal institution aimed at restoring the injured party's property status to the position existing before the violation occurred. He further emphasizes that the simultaneous existence of unlawful conduct, damage, causation, and fault constitutes the essential prerequisite for civil liability. The results of the present study confirm that this theoretical approach is reflected in the current civil legislation of the Republic of Uzbekistan.

Furthermore, the findings support the scholarly views of **Professor H.R. Rahmonqulov** on civil liability. According to his approach, the mere existence of damage is insufficient to establish civil liability; rather, the damage must result directly from an unlawful act, and, as a general rule, the fault of the person causing the damage must also be established. Likewise, this study identified causation as one of the central legal criteria for determining civil liability. This demonstrates that the relationship between damage and fault should be assessed not only from a factual perspective but also from a legal standpoint.

The comparative legal analysis revealed that the provisions of the **Civil Code of the Republic of Uzbekistan** governing obligations arising from the causing of damage are substantially similar to those contained in the civil legislation of the **Russian Federation** and the **Republic of Kazakhstan**. In all three legal systems, **damage, fault, causation, and unlawful conduct** are recognized as the essential elements of civil liability. Moreover, liability without fault for damage caused by sources of increased danger is based on the principle of providing enhanced protection for the rights and interests of injured persons. These

similarities indicate that the civil legislation of Uzbekistan continues to develop in accordance with contemporary trends in international private law.

Conclusion

In conclusion, the emergence of civil liability is based on the interrelationship of **damage, fault, unlawful conduct, and causation**. The findings demonstrate that, under the civil legislation of the Republic of Uzbekistan, the concept of damage encompasses both **pecuniary** and **moral damage**, while the **presumption of fault** serves as an important legal mechanism for protecting the rights of injured parties.

The comparative analysis of the civil legislation of the **Republic of Uzbekistan**, the **Russian Federation**, and the **Republic of Kazakhstan** confirms that the fundamental principles governing this legal institution have been developed on the basis of a common legal approach. Accordingly, the consistent interpretation of causation and the presumption of fault, together with uniform criteria for assessing pecuniary and moral damage, will contribute to the further improvement of civil liability practice and the effective application of civil law.

References:

- 1.Oqyulov, O. (2016). Civil Law. Part I (Textbook). Tashkent: Tashkent State University of Law.
- 2.Republic of Uzbekistan. (1996). Civil Code of the Republic of Uzbekistan (Law No. UZ-163-I of December 21, 1995, Article 14). <https://lex.uz/docs/111189>
- 3.Republic of Uzbekistan. (1996). Civil Code of the Republic of Uzbekistan (Articles 1021–1022). <https://lex.uz/docs/180552>
- 4.Plenum of the Supreme Court of the Republic of Uzbekistan. (2000, April 28). On Certain Issues of the Application of Legislation on Compensation for Moral Damage (Resolution No. 7). <https://lex.uz/docs/144189>
- 5.Rahmonqulov, H. R. (2009). Law of Obligations (General Part). Tashkent: Tashkent State Institute of Law.
- 6.Zokirov, I. B. (2009). Civil Law. Tashkent: Adolat Publishing House.
- 7.Russian Federation. (1994). Civil Code of the Russian Federation (Articles 1064 and 1079). http://www.consultant.ru/document/cons_doc_LAW_9027/
- 8.Republic of Kazakhstan. (1994). Civil Code of the Republic of Kazakhstan (Articles 917 and 931). <https://adilet.zan.kz/rus/docs/K940001000>