

Compensate for the loss of non-profit

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Abstract: Non-profit group of jurists and lawyers know the loss compensation benefits, and it is not and does not guarantee it count. But another set up for it by treating it as a loss to know. At this point it should be noted that the law on non-profit ideas clearly expressed opposition or not. It is derived from the common law in certain instances, strengthen benefits are realized. For example, stunting his imprisonment artisans who make the daily business of living, Examples of deprivation of educational benefits realized that there are different opinions about the liability of its binding. In this section we evaluate the need to compensate for the loss of non-profit focused on jurisprudence and law various theories have been proposed in this field, we have analyzed and appropriate responses to the questions on that. (1). Foundations and documentation necessary to compensate for the loss of non-profit in Islamic jurisprudence is? (2). Principles and legal documentation necessary to compensate for the loss of rights is non-profit. (3). The terms of compensation for loss of Islamic law and the rights of non-profit in Iran? (4). The non-profit status or benefits may be obtained on Islamic law and the rights of Iran?

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1. Introduction

The compensation of non-profit group of jurists disagrees and thinks it irreversible. Others consider it necessary to compensate for the loss shall have the disadvantage of this type. First, consider the opponents and proponents expressed vote. Javaher-al-kalam has no liability for loss strong proponent of non-profit and can be topped their opponents need to compensate for the loss of the great jurists said. In his valuable book Javaher-al-kalam quoted scholar says: "If a person is barred from working craftsmen. If the sentence does not belong to the artisan pay from his last job, he will be entitled to compensation." (Najafi, 1981, vol. 37, p. 15).

Thus, in view of the great jurist not used in the case of lost benefits liability is not surprising, but if the interest held by the person who used the term he used to be, in this case, the guarantee fee will be entitled mood and arrested. This is in the interest of law and non-Exchequer Exchequer interpreted. After subjection to the interests of the Exchequer benefits that a person is entitled to the property other than the property. As though someone had taken the other car is used. But other benefits may be obtained Exchequer benefits that the person occupying the property of their domination, exploitation of stripping it and will not use it. Like the other person's car, but it does not capture. Shiite scholars to consider the benefits of Exchequer, is certainly one proprietor guarantee. (Mohaghegh Damad, 1994, p. 83).

But doubts about the benefits of non-Exchequer. However, the owner of the jewelry that her opponent is not necessary for compensation of non-profit we've

seen in some rare cases, the liability will be accepted. These measures are likely to be the owner of profit before losing it to denounce the actions of the partnership; an example would be entitled to compensation. "(Najafi, *ibid.*, Vol 37, p. 17).

Opponents of Mullah Ahmad which states that: "if the owner is prohibited from selling their wares has considered. This is not injurious. It is forbidden to benefit from education ... and not harm." (Naraghi, 1968, p. 241).

While accepting that some of the non-profit contemporary jurists' damage claim has not authorized it is vital.

For instance, in response to the President of the General Court in Ahvaz Branch twentieth who have asked: In a non fault accident car driving taxis have suffered and according to expert opinion, the time period of one month is required for taxi service and during normal taxi driver of the car had a monthly income of eight hundred thousand dollars. In this month, according to the accident was the taxi driver was deprived of education. Does the taxi driver could not profit amounted to eight hundred thousand dollars in addition to the costs of repairing the damage to the taxi driver is at fault claim?

Responded: "The taxi driver could not assume the damage (non-profit) the demand." (Safi Golpayegani, 1993,) will be considered non-profit accepting that the claim for damages is not allowed for it.

In the case of certain non-profit research and some of it is based on common law jurists viewed as a general rule on compensation for the losses they, but

another set without explicit mention of the need to compensate for the lack of profit or take, and it will suffice to mention have definite meanings.

However, Moghdas Ardabili and Bahrololoom and deprivation, lack of profit from the work of artisans who have been imprisoned in theme and said: "Whenever an industrialist in prison, although he did not, guarantee. Because they may die of hunger itself addition, transitive and the punishment of bad practice, act like it is the innocent who pay the license. "Similarly, a number of other jurists and commentators are considered.

Among contemporary jurists of the loss and the compensation terms are non-profit. (Text of the question: "Is the taxi driver could not profit from the price ... rials, as well as damages for the cost of repairing the vehicle cab driver guilty of the charge?" Answer: "For some time, it is necessary to repair the car must pay for the damage that is not the functional equivalent of leasehold machine to give him his own.". That observed in the absence of the profit and loss statement should have been dealt damage. But not on the performance of the machine, but on leasehold machine, however, compensation and unemployment compensation benefits strengthen their machine has been accepted. Finally, as the benefits are obvious and scholar died machine, the price is considered to have no function of the machine. Because the machines would be busy at this time to do something else and certainly not withdrawn his undoubted ability to work is vital.

Here are some great views of jurists whose interests may be obtained (non-profit) loss to know and therefore it is legitimate and necessary compensation from encounter to assess lawyers in this field are presented.

2. The Lawyers theory

Although the vast majority of non-profit loss to the detriment of contemporary jurists has considered it a great liability, but some of the jurists who followed no difference between the benefits obtained and the possible loss of their research, in general it is considered unlawful. The opinions expressed here are Lawyers for and against.

2-1. Theory opponents

Some lawyers think that unlawful damage was not consistent with the holy law, it is not surprising to guarantee compatibility with the Constitution have (Khalilian) "about negating lack ... Prime profit of the domestic law can be discussed. For example, say the termination of some legal action, including civil procedure according to Article 4 of the Constitution of the Islamic Republic of Iran. Article 728 must be in harmony with the laws of Islam that says:

"It may be due to the loss of financial loss due to death or strongly benefit from the commitment has been achieved." Obviously, this is due to religious and non-profit research necessary to offset the Shiite jurists, according to well-defined is not correct.

1- Rule that it is a waste of money to me guarantee interpret and rule is crushed between two sects agree on. Of course this does not include text tradition. "Whoever you are violated. So what rape is like you, he raped you "(194) and the many traditions of religious books mentioned, it is rule say. This rule is meant to destroy anyone else's property, guarantee. But argued that the "liability" in question is not true. Because regardless of some form into the case, certainly not the rule to include the issue of non-profit. Not achieved. It does not in any way related to the subject matter. (Mahdavi, 1342, p. 23)

2- As the saying and al-Islam is meant to deny the loss, loss provisioning is not necessary, as some have hallucinations. In this case the provisions of Islamic Sharia law in ruling that the approach is safe. Assuming that meant the loss sustained by the rule need not be provided, if the purpose of a loss of words in books and uses the judgment in good faith and in the interests of that failure on the object of, property, respectively. In this case, the purpose of the rule is that if someone actually enters upon the property of another defect guarantee, if they do not act in the interests of someone he does not expect, is the guarantor. Thus, in Islam there is no reason that the person who made the guarantee is non-profit. "

This is in the third paragraph of this topic is discussed. (Mahdavi, *ibid.*, P. 23).

2.2 proponents Theory

The vast majority of contemporary jurists strengthen the interests of the researcher know (Shahidi, 1368, pp. 41 to 45) and believe that Article 728 of the Civil Procedure Code for remedial law enacted which are non-profit in silence, and beside it indifference to the past. Also, as mentioned earlier legislation enacted in 1339 in which civil liability for damages to compensate for any damage nasty, whether or not the property is required to determine the profit vacuum text and civil law explicitly considered.

The legal theories advanced by the current legal systems of other developed countries in the world matches. For example, in kind is made against the plaintiff litigious including the possible benefits obtained against your desire to read the description of the project and that, while they might want to store it in certain barber purchase of another person under the influence of false reports he was called to deal with, which leads to harm him. He was able to recoup losses through the courts, but the benefits may be obtained

difference. Read therefore bound to compensate for lost benefits that can be obtained by buying the store in the same vicinity.

Thus, in English law as well as the interests of Islam may be obtained if the gain certain benefits accepted, but the English law of certain veterans benefits is much simpler and easier to simply accept certain of obtaining benefits. (Drkhshan, *ibid.*, P. 189)

The contemporary legal opinions mentioned this word in order to avoid prolonged refuse to refer to these resources.

2.3 Review Comments of opponents

The survey has been said about the non-profit is not compensated and it turns out that some of the non-profit expressly rejected the opposition and some notable examples of typical non-profit event and researchers have rejected it.

Base and support the views of the following:

First, this argument of "non-profit licking disadvantage" which was attributed to the jurists is vital. And justify opinions opponents with the responsibility of non-profit is key. But this argument can not be strong support for them, because if they say no profit loss is not known, but they do not say is certain profit research should be compensated le plus grand jurists unanimously considered customary rules and criteria for the diagnosis of a loss, and the need to compensate for the effects of other words there is no difference.

Second, some researchers because the rules governing waste and simply wasted or incomplete nature of the property is available rules, waste and no tax profit in nature, and is only applicable interest that may not be achieved, it would have not been compensated. (Georgian, 1362, p. 125)

In this theory, which is carefully trying to strengthen self-interest, such as imprisonment, artisan mystics pay for education and prevention of violence is considered a financial failure, Therefore, knowing the theme of violence is certainly strengthen gain Muslim scholar relying on ignorance strengthen certain benefits and realize that violence is definitely relying on the rule waste is not correct. Because the loss of self-interest, especially when the crime action plan, the infringement is considered (Mohaghegh Damad, *ibid.*, P. 87).

This comment further explicit some great jurists such as Moghadas Ardabili and S. Bahr are the artisan of imprisonment would have liability. Based on the above verse also considered him worthy of pay is considered. The research interests of examples of waste treated and strengthen the rule based on the content of the judgment is wasted (Gorji, *ibid.*, Pp. 126 and 127). Sheikh Morteza Ansari (RA) for the benefit of the sale price and the marriage can be as

interests of instances of property counted. But for this to be true as the taxes on them due to the nature rationally and respect the principle of financial compensation believe it is necessary.

Documents based on the principle of rejecting most famous jurists against losses and the rule and also indicate the verses. But followers of the famous theory argue that the compromise on the implications of Quranic verses loss denial rule only relates to sentences imposed and the existence of non-existence, not rules. In other words, the rule does not warrant rejecting loss eliminating fraud sentence. Thus, the losses can not be ruled according to the norm of the forgery. It also raised the cases because of lack of liability caused harm to workers. The rule denying liability losses can not be set. And that human interests as long as the contract has not been executed yet or is not available, so money is not wasted.

But in defense of the opponents of the jurists we can say that: First, the lack of the rule is critical (discussed in detail in the discussion of the rule). Damage to human labor and forced labor prevented by force is undeniable and if the law requires a person convicted of a crime not to pay damages. The loss which the aggrieved legislator has imposed, In this case the loss is attributable to the legislation under rule, Innocence offender is canceled and will be committed to pay damages. (Mohaghegh Damad, the Department of Civil, p. 91)

Secondly, money is what Wiseman opinion takes the money or property had been paid to implement interchangeable and traded on the exchange is made. Undoubtedly, people in the labor market can be exchanged with money and credit contract or taxes. His famous followers acknowledges that if the arrested workers were hired and led to his exclusion from the work he would be arrested on the guarantee fee (Najafi, *ibid.*, Vol 37, p. 40) Here the question is whether the mere fact that financial contracts can not rent, taxes forgive? (Researcher groom, *ibid.*, P 89) Given the above, it can be used much rules, waste was allowed to guarantee.

3. Compensated the loss of non-profit

As mentioned previously achieved only if the damage that crime are compensated and repaired with special conditions are completed, however, this feature is that the private claimant entitled to claim damages or losses resulting from the offense will have. However, certain conditions, which include the loss of direct losses and the loss of its legitimate non-profit is necessary.

3-1-certainty of loss

To the detriment of the non-profit resulting from the loss criminal restoration should be decisive.

Because no actuality for losses that may not exist yet. It is not clear, as it is not compensated and who can not be condemned to spend the possibility of loss compensation. For example, workers injured as a result of a crime that can work for a long time loses, therefore he is wage income that normally remain suspended. Such damage in custom and law, it is certain. As discussed in detail in this regard in the first quarter of their repeated refusal and readers can refer to the above. (Derakhshanya, *ibid.*, P. 194).

3.2 straight losses

Another condition that claims is that it is detrimental to the lack of direct profit. This means that immediate and direct losses caused by the alleged crime and directly related to criminal penalties. Article 11 Code of Criminal Procedure, which provides: "Contrary to the claims and misdemeanors and crimes involving private as long as there will not be resolved in criminal court." The loss is directly related to crime. Studied for loss of profit on this bet should be no difference between harmful and harmless non-profit resulting action established causal relationship. It's being direct and immediate disadvantage that no other cause of loss involved. But harmful enough to the action and incurred losses relationship is customary. Although the gap between the crime and the harm is detriment of other factors provide context. For example, Article 326 of the Penal Code Act 1370 states: "If someone else is to scare and cause his escape and a person running away from the place of long throws or falls into a hole and die. If fear leads to deterioration of the will and determination to stop him, the eerie guarantee» several factors are involved in this secret but common cause is the same dismay. Thus, in case of loss, no profit should be the loss of mass due to the criminal acts of this kind of damage has been caused to enter is to be charged. Therefore, if one farm to another fire destroyed the farm and its blossoms can claim that if action was not guilty of the fruit garden and he sold fruit garden or farm would buy the machine and by working with a large amount of its monthly income was earned, After the loss to the perpetrator of the destruction and burning of his farm to pay and the price of fruits in the future and destroyed by fire and the loss of income due to lack of education with car demand. The recent loss is resulting directly from the crime yet. (Mahdavi, *ibid.*, Pp. 23, 24).

3.3 legitimate of loss

To the detriment of the non-profit caused irreparable damage should benefit and protection of the law is legitimate. Exercised contrary is the legitimate interests not opposed to the law and not in conflict with good behavior. For example, if someone

claims that as a result of illegal detention deprived from participating in gambling games and if he was not arrested in the game, and gambling companies were certainly win it. Thus a large amount of money because of his gambling income was lost or could have committed the robbery; property owners can not feel their compensation claim. Because gambling and property from theft and interest is as well as that portion of this security is not legitimate. (Mohaghegh Damad, the same, pp. 94 and 93) and because of the conditions discussed earlier losses this amount is sufficient.

4. Non-profit foundations and documentation necessary to offset losses in the law and regulations

According to the opposition group of jurists known theory and practice on the basis of clear, non-profit research Data receiving is the loss. It is necessary to recall that the jurisprudence in this area, most of which cover not only include profit that we consider our losses. Because it is evidence in relation to the absolute disadvantage because we have proved in the last debate, which is considered non-profit loss. It is not to be repeated. In addition to our non-profit researcher, interest is the requirement of the development is complete. And thus strengthen its repeated premises were all considered to be harmless. In other words, if you're content focus on non-profit research Data receiving. Bases its claim on the basis of a claim is a loss. Therefore, all of the conditions and characteristics of the compensable loss is certain to be positive, to be legitimate, relationship between the harmful action and its development and it already was expressed about the non-profit decomposition care is also necessary. We will now need to compensate for the non-profit foundations and the mass of legal documents and legal bases of the two topics are discussed.

Conclusion:

Data receiving no profit or interest that may have been deprived of the mass of private claims, "harm" is defined. The general rules for compensation for loss, it is taken and such other damage as compensation expense is charged. In all of these cases were found to not only compensate for the loss of material and spiritual losses and non-profit legal and religious opposition to the conflict and not, but religious and legal texts explicitly compensate them fully legitimate and even some contemporary jurists decided to permit any doubt claim these losses have been destroyed.

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