

REVIEWS EFFICIENCY OF CIVIL LIABILITY BASED ON FAULT WITH CONSUMER ENSURE THE RIGHTS

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Abstract

Responsible for selling a defective drug, traditionally based on the contract and the relationship of the contracting parties is limited. Defective civil law remedies available to the buyer to terminate the contract of sale or purchase price difference between healthy and damaged the lower price. However, the risks caused by certain drugs may be more than the cost of the transaction and beyond, and to John consumer harm. Moreover, it is possible that the manufacturer of the skirt stuck foreigners do not have any legal relationship. Remain limited liability under the contract, the buyer will not pay for all losses and group rights that are not in agreement, not though it is a shortcoming of the rights recognized in the law of civil liability, non-contractual obligations raised, However, the acceptance of responsibility based on fault is it that the law failed in many cases to compensate the injured party. In this study, the authors using analytical research tool for taking notes on the contents of the books documents and legal papers seeking a comprehensive description and analysis of all liability of manufacturers and sellers of medicines in the EU and Europe.

Keywords: drug manufacturers, drug dealers, rights in Iran, Europe Union.

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Introduction

Today perhaps one of the most obvious concerns that the statesmen investors legal relations between the members of the society are examined are not limited in the form of commitments people are. Because waitresses in legal relations assumed that outside the realm of the contract that has been in the form of investigation is not. This concerns the solutions to them but which one has been able to with the Aim high-the same rights justice help the factors including experience of such rules in the communities returns. This also constantly change and of evolution and the justice. The legal system the unity why subject to needs and needs of the society industrial Separator that where, Despite this, the share of legal tradition every country in the growth and movement institutions also is remarkable. What society to European of responsibility are to supply the drugs defective regardless of fault in the design and production and supply of the product and the type of connection with loss is seen; a responsibility that due to lack of dependence on fault and relation a contract, a responsibility as soon as Called and guarantee a healthy and tacit goods of the safety the amendment as to the seller that.

Statement of the problem

In a society based on social contracts and fair system of cooperation always rights and responsibilities. The government as a powerful lever and the observer in the surface of any society with laws on cooperation and relations between the individual control society. The existing laws though not perfect, but to the extent a significant amount has been able to observe the human rights people mutual influence of. Today world rapidly toward standard and observing aspects of public health and welfare is in motion. The return of that consumption items and equipment health and especially medicine more than before is spread. In a way that provide medicine, production and distribution of one of the concerns of modern

societies constitution leaders.lack of technical aspects of the production process and maintenance and sale of the goods due to its special characteristics of damage sometimes irreparable for consumers that would return.

Medicines and the dangers caused by its use and damages which may be consuming a defective medication suffered about responsibility for producing the producers and Distributors before it takes. In the first step the actions of unconventional basis responsibility based on inability fault, but major speech that this basis, difficulty prove fault of the producer that was in most cases, the consumer failed. The principles of the responsibility as soon as the last human achievement to a large extent has been able to the problems in a way that high tendency today to this criterion in most countries human rights clearly visible. Civil responsibility guarantee for enforcement of violations of the law and the commitment that is the agent responsible for loss. But in the majority of cases to civil responsibility meaning are in which the person for entry to harm another without him and had suffered the contracted be responsible for. This type of responsibility that in civil law Iran some of the general principles of the requirements under the title out of the contract between in compulsory guarantee also are not to be.

Despite necessity of this important production and medicine based on what the seller basis is responsible for implementing the legal rules to compensate? this deficiency to this issue as much as it has not been necessary. Concern for consumers medicine and how can damages inflicted by his drugs that sometimes costs a lot and due to the state of emergency preparation, necessity research in this field to justify.

The internal and external research conducted recently that some of them refer

Raofi and Sheikholeslami article consumer protection law and jurisprudence Shafyan its territory and this has raised Imamiye, However, due to the widespread use of the term in modern times, the term is not mentioned in the law However, jurisprudence on consumer rights and how to protect it, as well as the government's responsibility and necessary measures to protect its content Criteria in the fields of trade due to trade and Special powers of the two parties or one of them to confirm or cancel the order is given, as well as the prohibition of usury prohibition of hoarding...In trading, the only examples to support consumer rights in Islamic law and jurisprudence to be aware of such support should not be limited to the fields of trade, because the support is not limited to the contract between buyer and seller, but consumers and other community members, etc.

Bozorgmehr research in civil responsibility the producers of goods such as that responsibility for producers of goods as a branch of the civil responsibility of the therein basis numerous stages that had spent the responsibility based on a contract and start responsibility as soon as the basis leading to. A major problems around each of the principles of the agreement and responsibility unconventional based on fault and there was also economic necessities at last field instrument; enterprise; Europe European Union in the year 1985 to which the rules an example a was presented in his criterion based on the responsibility was a pure and the countries of the European Union to observe it criterion in new laws. Fortunately this criterion in the Bill of Rights Protection laws consumers other advanced countries, in concordance with the laws other advanced countries have been made. Another important development in the field civil responsibility the producers of goods presented different definition of the concept of traditional fault and goods are defective. Based on such a change in the diagnosis of defect and defective goods other importance that both sides in this regard and what viewpoints or buyer, wise

men what expectations has had, but enough that goods lacked "safety" would not be a legally it mi power expected, goods are defective.

Mahin in his dissertation under the responsibility of producers of goods and in this paper we have tried that the legal opinion implicit guarantee of goods, especially pure and responsibilities Legal rules, a way to further protect the rights of consumers affected by the goods found.

Methodology

This research is a descriptive analysis of the type. First in order to access to the principles of the theory and definitions and concepts with the use of a method to study library and receipt books of the Treatise and the research and related to the new interview to the scholars and professors and lawyers and therapy of them.

Data collection:

Materials Library

Information to be gathered in the fields of the principles of the theory and research literature and its background with the use of the strap of the book, The End letters articles, and bases for the information, information in order to complete the framework of measurement theory research has been used.

Results

Liability based on fault is able to provide consumer rights

*Liability based on fault

Matter is a civil law responsible for Iran has: anyone who without legal permission, intentionally or precautions in the result of the life or health. . .

individuals responsible for damage to compensate for damages caused by the. If

we want to take responsibility for producers and Distributors to medicine with fault justify it we should prove that they take care of the necessary in the production, distribution and sale of drugs have done nothing. For example the producer, of any medications necessary standards for drug production does not observe this as contrary to provision 1 Article 19 the law related to the regulations of the medicine and drugs and materials food and drinking water act of 1334 that has: in some cases for white and gray coloration for food and medicine used to should be the kind of pure and without Smith and he Some of the color that have pure and the consumer by using the medicine suffered some damage will be so due to committing crime responsible for damages inflicted irreparable. A kind of violation of fault is a duty therefore producing. And the distribution of a drug are bound to that universals are caution, care, standards and regulations related to the preparation and production and distribution of a drug to use in a way that the healthy consumer and suffered damage return Based on responsibility for the fault, if what factor required to compensate for the damage loss, but lost should also fault in the court of the producer or the producer of the distribution.

On the other hand when a third by the use in medicine has been can blame against case but should prove two praise: 1-fault medicine 2-distribution of the fault or the producer in the production and distribution of drugs. But to prove that the two is difficult therefore responsibility based on fault can support the consumers compatible.

Strict liability

Strict liability as soon as pure responsibility without fault and is lost is not obliged to, carelessness and fault of the producer or the distribution of medicine to prove. But that same person to supply goods to be sure health or damage caused by it to take. So what is a contract of supply and loss must have seen and what is not and

what lost guilty or not does. The law in Iran, tendency to this kind of responsibility is that Article 2 of the protection of consumers is at its nadir this is. If consumers had suffered wants to based on this theory of the production or distribution of the producer of the this medicine, seeking damages must prove 1-production or distribution of drugs by producing and distribution of the producer of the disabled has been,

2-from the defect in medicine there harm he has come. It is necessary that those who incidental damage medication production can see based on this kind of responsibility against the producer of and distribution of the case.human rights in Iran, comment 4 Article 14 law regulations related to medical affairs and medical materials and food and drink in 23April 1367 Judicial commission by the parliament to the This article has been added and the clause "H" Article 18 the law civil responsibility to producers and medicine health materials has, With the difference that the verdict of the footnote 4 Article 14 the supervisor to distributor and producer are defective drugs and these two and other involved in the distribution of losses of the defective medication consumption responsible knows them and damages for any loss should be compensated when we resurrected and this responsibility is allocated to buyer any medications is disabled. In addition to this in this article is the responsibility for distribution of and the producer of medicine provided to awareness of his fault not unique medicine and medication that has proved to be presented to the patients or their relatives, disabled or has been at a price more than official prices have been sold, is responsible for recognizing him in it is enough and no need to prove the fault has been penalized unjustly, While Article 18 producers and charge the seller (distributor) have been defined and each can be subject to an order and also have the responsibility in this matter enumerated in Article 3 of the directionality Protection Law has been reflected consumers.

Rights Protection Law survive consumption goods act of 23/7/1388 dichotomy Article 2 ((all suppliers goods and services and individually or jointly responsible for health goods and services presentation has been in accordance with criteria and conditions mentioned in the laws. . . .)) speech in which this Law despite the fact that the mind toward responsible for Tablet as soon as he said . . . but with a little scrutiny in this article where he says according to conditions mentioned in the laws. . . , with regard to the fact that legislation referred to criterion for the action in Iran, human rights including Civil Law responsible for weakness of this law which is.

Although it seems that the note 4 article 13 the law related to the regulations of the medicine and drugs and materials food and drink act of 23April 1367 take responsibility for pharmacists and Distributors alike drugs and the responsibility as soon as near by, in line with support from consumers has been.

With a little attention to the rights of Iran and even new laws passed in support for the extensive patronage-consumers it seems that human rights Iran still in the same primitive based on accepted responsibility on producers civil. Civil responsibility based on fault due to criterion of high based on a suitable relationship with the support of the rights of the consumers and move toward responsible for civil responsibility based on pure in this regard the Decoder. And this is while that a country like America andMajorEuropean Union countries this .impasse for years old based on cross

Resources

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Directive 88/314/EEC concerning the indication of prices of non-food products, OJ L 142, 9.6. 1988, p.19. Directive as last amended by Directive 95/58/EC(OJ L 299,12.12.1995,P.11);

DIRECTIVE 1999/44/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL OF 25 May 1999 on certain aspects of the sale of consumer goods and associated guarantees (Official Journal L141 of 04.06.1999)

Hence courts should impose the risks of product accidents so as best to serve the law's safety and insurance functions: in Saul Levmore, op., cit., page 323.

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