

## **Liability of Electricity Companies for Damages Resulting from Electrocutation under Jordanian Legislation**

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### **Abstract**

Protecting life from harm is a basic right granted to every individual. This study aims to determine the civil liability of electricity companies resulting from electrocution cases. For civil liability to arise, the harm can be direct or consequential. If it is direct, it must unconditionally be made good, and if it is consequential, three conditions must be met: a wrongful act, deliberate element, and the act led to the damage. The study examined the nature of the electricity company's liability for damage in light of the law specifying the types of liability related to this aspect, such as tort liability, which results from a person's wrongful act. The injured person can file a compensation lawsuit for the damage under the Civil Procedure Code. If the defendant complies willingly to pay an appropriate amount of compensation, there is no longer any need for litigation. The results of this paper suggest the need to add special by-laws addressing civil liability for damages resulting from things or machines under the General Electricity Law. In addition to issuing statutes addressing the criminal liability under the same law.

**Keywords:** Tort, damage, electricity companies, civil liability, compensation.

### **Introduction**

Electricity is one of the main sources of energy for modern and civilized nations to provide for their citizens' basic needs and well-being. However, electric power can sometimes endanger the lives of some individuals in this industry, increasing the likelihood of death, life-long injury, or material loss. Assessing the civil liability of electricity companies arising from electrocution cases requires that the interests of companies providing vital and essential services be taken into account as part of the national economy and the individual's right to protection of life. In general, everyone is liable for any damage to the objects or equipment under his control.

Section 44/2 (c) of the General Electricity Act states: "Electrical safety clearance is the minimum permissible distance between electrical conductors

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carrying an electric current and any adjacent construction where the electric current will have no negative impact on this construction." Article 257 of the Jordanian Civil Code of 1976 requires these conditions for civil liability: if the damage is consequential, there must be an unlawful or intentional element, the act must have resulted in the damage, if the damage is direct and must be remedied unconditionally.

It is understood that there is no compensation without damage. Compensation is the principal element affecting compensation, which is linked existently and numerically. The right to compensation shall not be determined and shall not arise unless the damage is realized. Such compensation is due to liability, which means that the perpetrator must be held accountable when it results in harm to others as provided in the article. (256) of the Jordanian Civil Code, which stipulates that: "Any injury to a third party is necessary to do so, even if it is not characterized by the guarantee of damage."

Compensation shall be determined by the circumstances of the damage, including those relating to the victim and those relating to the event of or responsible for the damage. The close interrelationship between these two branches of science makes it possible for one to influence the other (Flemming, 1987). Since companies acquire moral personality under Jordanian laws, the article stipulates: (50) Of the Jordanian Civil Code "The State, municipalities, religious bodies and communities recognized by the State as governing personality, moratorium, commercial and civil corporations, associations and institutions established under the provisions of the law, and any group of persons or funds to which the judgmental personality is recognized by the State under the law", the text of the article can be applied. (256) Electricity companies, which in turn are obliged to make reparation for damage caused to individuals as a result of their failure to comply with safety standards, and any damage to them, for which they are liable in the event of a violation of article (44/2), paragraph (c), of the General Electricity Act.

Hence, the compensation provided by the company as a legal person is monetary. This is what article (269) of the Jordanian Civil Code stipulates: "..., and the guarantee is assessed in cash, provided that the court may (the Court of Cassation in its legal capacity, 2007), depending on the circumstances and at the request of the injured person, order the situation to be restored." Compensation is mostly based on contractual obligations, whereby the default is required to compensate in kind if no compensation in kind is possible, the compensation shall be awarded in return, i.e. monetary compensation. compensation in kind does not occur in many cases for which the company is liable based on the law and the judiciary.

Through the foregoing, the researcher has divided the subjects of this research to suit the legal cases that occur when damage is caused by the electricity company, where the first research stated the normal liability of the electricity company for damage's legal personality and the nature of the liability of electricity companies, The second petitioner spoke of the claim for damages. The first claim was for damage allowance, and the second claim was for damage. s findings and recommendations in its conclusion.

### **Liability of the Electricity Company for Damage**

Civil liability is a moral, ethical, or natural obligation, including commitment to a financial interest, performing an act, or abstaining from an act. It may result in an obligation to pay compensation for harm inflicted on a person by a legal person, the actions of his subordinates, the things under his custody, or his failure to implement a contractual obligation (Al-Ashqar, 2020).

Tort liability is the liability resulting from committing wrongful acts by a natural or legal person that cause harm to others, which falls under the concept of wrongful acts. We may call this error a civil crime (Abu Sorour , 2006). Damage is a wrongful or deliberate action that leads to damage. When it is acted directly, it must unconditionally be made good (Jamil, 2021).

Compensation is a legal effect resulting from the wrongful act aiming to remove the damage and compensate the injured person financially. A judicial person or "legal person" is any grouping of persons or property having a juridical personality under the provisions of the law. They have rights and bear obligations (Saleh F. , 2018).

### **Liability of the Electricity Company for Damage**

Civil Liability is one of the core pillars of the legal system. An individual's primary duty is to admit the consequences of his actions and refrain from causing harm to others. He is accountable for rectifying any damages incurred and compensating the aggrieved person for his damages. A civil obligation is a moral, ethical, natural, or legal duty to act or refrain from doing something mandated by the law, an agreement, a pledge, interpersonal relationships, civility, kindness, or morality. It may also be an official contract promising to give money or perform services for another party. When an obligation relates to compensation for damage caused by a person to others by his actions, by the actions of his subordinates, or by the things under his control, or by his failure to implement a contractual obligation, this obligation is described as a civil liability (Jamil, 2021).

Various types of liability fall under this obligation, including tort liability, which results from one party's direct actions or negligence that causes damage to others, and it falls under the concept of wrongful acts. These acts can be referred to as civil crimes, and their liability is established by the law based on their perpetrators (Al-Awji, 2007).

Companies are recognized under Jordanian law as Juridical persons. Article (50) of the Civil Law stipulates that: 'Juridical persons shall consist of the State, the Municipalities and religious bodies and sects, recognized by the State as having a juridical personality, waqfs; civil and trading companies, private societies and establishments established in accordance with the law; and any grouping of persons or property having a juridical personality under the provisions of the law.'

Thus, both natural and juridical persons bear legal liability equally, whether resulting from contractual obligations or a harmful act. Thus, liability is defined as the status of the individual who conducted the action for which they should be held accountable, whether moral or legal, requiring a punishment (Markus, 2019). Liability is the quality or state of being questioned about something for which one is accountable (Academy, 1985). Without reference to its origin, civil liability refers to the wrongful acts that obligate compensation and the subsequent legal consequence of that act through the restoration of the harm.

### **Juridical persons**

A legal person, or a juridical person, is legally permitted to be a party to a contract, has a physical existence, and has the right to acquire rights and assume obligations. As for the natural person, he acquires the personality of a human being as soon as he is born alive, even if certain rights are established for him while he is a fetus in utero (Al-Amrousi, 2003).

Jurisprudence has attributed various designations to the legal entity, encompassing legal, juridical, and moral persons (Sultan, 2005). In the context of Jordanian Civil Law, however, a notable absence of a precise definition exists for the juridical person. Article (5) serves as a reference (Law, 1976). This provision explicitly states that every company formed and registered under this Law shall be considered a Jordanian corporate entity' juridical person,' with its Headquarters situated in the Kingdom as stipulated by the Jordanian Companies Law (Law t. J., 1997). Two types of legal people arise inside legal frameworks. Religious bodies and sects fall within the first category of private juridical persons. The second category of public juridical persons includes the state, local governments, public institutions, and universities (Mansour, 1998)

### **Liability of Electricity Companies**

Liability mainly includes every type of duty, debt, obligation, and hazard arising by way of contract or tort. Liability arises as a result of a breach of a contractual obligation when damage results due to non-compliance with the terms of the contract and harm is caused to one of the parties to the contract. For the legal person to be held accountable for the harm they inflicted upon the other contractor, several requirements must be satisfied.

Concerning subscription contracts, it is regrettable that there is a lack of legal provisions defining companies' obligations regarding care and electric shock injuries, prerequisites for contractual liability. Likewise, utilizing fully insulated electrical cables to supply electricity to subscribers leads us to anticipate a negligible likelihood of electrocution incidents. The scope of responsibility for electricity companies ceases upon installing the electricity meter, absolving the company of any liability for damages within the confines of subscribers' homes. Furthermore, since an electric shock cannot occur, no rulings in the instance of electric shock and its contractual obligation were identified in the Jordanian Court of Cassation (Qazmar, 2019).

Tort liability resulting from a violation of a legal duty, whether committed by a natural or legal person, requires the existence of certain fundamental elements. These elements include three pillars: the commission of a wrongful act (harm), the damage, and causation. It is important to emphasize that damage is fundamental to establishing civil liability based on the principle 'No lawsuit without a legitimate interest or harm suffered.' Damage is a basic pillar of a civil liability claim, as well as a basis for the amount of compensation for the injured person, and there must be a causal relationship linking the wrongful act and the damage (Filali, 2007).

Jurisprudence defines liability as "The condition of someone who is questioned for a matter for which they are held responsible (Anis, 1974). " Ethically, it is an individual's commitment to what he says or promises (Muhammad Kamal al-Din, 1991). In an idiomatic sense, liability is defined as "a person's capacity to have their actions ascribed to them and to be held answerable for them" (Al-Tayeh, 1999). Additionally, "It is the liability that results from a statement or action issued by the official and bears consequences " (Al-Dabo, 1983). Another trend said it is "the condition of a person who commits something for which he deserves to be held accountable."

### **Tort Claim**

A tort claim is the judicial means through which a lawsuit is filed to claim compensation for a person's injuries. Nevertheless, there is no longer a need to bring a lawsuit if the party responsible for the damage agrees and indicates his

willingness to pay damages. If not, the judge will decide what constitutes fair compensation (Al-Kassar, 2012).

The parties to the lawsuit in tort liability are mainly the plaintiff who initiates the lawsuit seeking compensation for the direct or indirect damage he suffered and the defendant who caused the harm or injury and is required to pay compensation. During the litigation, the plaintiff must have the legal capacity to sue; otherwise, a guardian, custodian, or legal representative will undertake the legal proceedings. The Jordanian Civil Law, Article (366) authorizes the creditors of the injured person to file a tort claim (Markus, 2019) for the material damage caused to the debtor.

Regarding the moral damage in tort liability, which is a personal right of the injured person, it can be transferred to a third party through the rules of subrogation, as is the case in the insurance company's recourse after paying compensation to the person who caused the damage. The third party can be a general or special successor in a tort claim. In a lawsuit for compensation, the right to litigation does not transfer to a third party unless authorized by a decision or agreement from a court (Khater, 2021).

The defendant in a tort claim is the one who should compensate the injured party and must have the capacity to prosecute. If he lacks capacity, the lawsuit shall be filed against his guardian, custodian, or the general or special legal successor, such as the heirs. This rule is based on Sharia law, which states, "No inheritance unless debts are paid" (Markus, 2019). The defendant can be a public entity, a business, or a judicial person who is held accountable for the actions committed by its personnel. In filing a lawsuit, the defendant must specify the name of the legal entity as per the commercial registry and include details such as the type of entity and the name of its legal representative (Al-Mashaqba, 2009).

When multiple persons affiliated with the legal person are jointly liable for the damage, the lawsuit shall be filed against all or any of them. He has to compensate fully and shall have the right to recourse against the remaining sureties for his share. Nonetheless, a lawsuit will be brought against each partner for the harm they have caused if there is no solidarity among those accountable for the damage and each partner makes a separate harm. Article (265) of the Jordanian Civil Law specifies that "If several persons are responsible for a harmful act, each of them shall be liable in proportion to his share in it, and the judge may make an order against them in equal shares or by way of joint or several liability."

The reason for the claim for compensation resulting from tort liability lies in the defendant's failure to perform the plaintiff's rights; thus, two components must be available: an assumed unlawful act and the proof, provided that the right has been violated (Al-Kassar, 2012).

In a tort lawsuit, the burden lies on the plaintiff to prove the act, damage, result, and causal relationship employing all means of proof, whether writing, testimony, circumstantial evidence, or experience (Al-Danasouri & Al-Shawarbi, 1997).

### **Compensation**

Compensation is to guarantee something or offer compensation for damage (Manzur, 1975). Idiomatically, it is described as a payment or remuneration for harm suffered (Saleh, 2002). The defendant is obligated to fairly compensate the injured party for the damage upon proving the wrongful acts, the result, and the causal relationship between them (Taha, 2010). Compensation serves the purpose of rectifying the harm suffered by the injured party and returning them to the state they were in before the damage occurred. It is primarily financial and seeks only to compensate for the harm that has been suffered financially and not to have a punitive effect. Compensation can be in kind or in installments, which comes in two forms: real material compensation and monetary compensation.

#### **First: Material compensation**

Material compensation means removing damage by material means and practical financial compensation, which is the most effective method of mitigating damage. For instance, a court may issue a directive compelling the defendant to remove a structure constructed illegally to redress the harm caused to the plaintiff, such as obstructing the passage of light and air Article (1025) (Law J. C., 1976).

Article (269) of the Jordanian Civil Law stipulates: "The compensation shall be assessed in money, but provided that the judge may, according to the circumstances and upon the application of the victim, order that the plaintiff be restored to his former position, and he may also order that a specific act connected with the harmful act be performed by way of making good."

The decisions of the Jordanian Court of Cassation regarding the provisions of the articles of the Civil Code that regulated the assessed compensation (Article 256: 261: 266) that the court may, depending on the circumstances and upon the request of the injured party, order resorting the plaintiff to his former position following Article 269/2 (the Court of Cassation in its legal capacity, 2007).

#### **Second: Financial Compensation**

When in-kind or material compensation is irresolvable, monetary compensation is provided to restore the former situation before the damage. In-kind compensation is limited to material damages. It cannot be judged for moral or

physical damages, or alternative measures may be considered if the in-kind compensation is deemed inequivalent to the amount of the damage (Awad, 2009). Article (269/2) of the Jordanian Civil Law requires monetary compensation, stating: "The compensation shall be assessed in money..."

In most tort liability claims, monetary compensation is sought, especially if the damage is moral. In addition to monetary compensation, the court has the right to award compensation in the form of a monthly salary for a specific period or payment for life (Al-Kassar, 2012).

### **Results**

The Jordanian legislator establishes liability based on the resulting damage, not the wrongful act. Three basic elements are required for liability to arise and compensation to be imposed: the harmful act, the damage, and the causal relationship between them. The damage may be either direct or indirect, that is, by causation. Two types of judicial persons are recognized: public judicial persons and private judicial persons. Both the judicial and the natural persons (custodians) are subject to legal accountability. It has been noted that Jordanian Civil Law lacks comprehensive regulations specifying the tort liability resulting from damages caused by the misuse of things and machines, which requires precise regulations to prevent damage.

### **Conclusion**

This study focused on the civil liability of electricity companies resulting from electrocution cases in Jordanian civil law. The Jordanian Civil Law No. 43 of 1976 allocated several legal texts regulating liability provisions in articles (256 - 272), which regulate the liability for personal actions. Article (291) is devoted to issues related to tort liability regarding things and machines. This research also presented the most prominent relevant judicial applications to determine the judiciary's position for tort liability.

### **Recommendations**

Since Jordanian law lacks inclusive texts addressing civil liability for things, especially in the General Electricity Law, we suggest adding articles that address criminal liability under the same law. We also suggest amending the statement, "or the act must have led to the damage" in the second paragraph of Article (257), using the conjunction "and" as follows: "If the harm is direct, it must unconditionally be made good, and if it is consequential, there must be a wrongful or deliberate element, and the act must have led to the damage." because this Article deals with civil liability resulting from causation. We advocate for the



Jordanian legislator to specify a special standard to distinguish between liability resulting from personal actions and things that demand special provisions.

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