

The Accessory civil lawsuit as a Means of Compensation for Traffic Accidents – A Study in Light of Algerian Legislation

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Submitted : 01/02/2025, Accepted :12/04/2025, Published : 29.06.2025

Abstract

This study examines the accessory civil lawsuit as a legal mechanism for obtaining compensation in cases of traffic accidents, with a particular focus on the Algerian legislative framework. It highlights the legal nature of the accessory civil lawsuit, its procedural aspects, and its relationship with the criminal proceedings arising from traffic accidents. The research analyzes the conditions for initiating such lawsuits, the scope of compensation available to victims, and the extent to which Algerian law provides adequate protection and redress. Special attention is given to judicial practice and the challenges faced in balancing the rights of victims with the requirements of due process for defendants. The study concludes that while the accessory civil lawsuit remains an effective instrument for victims to claim damages, several procedural and substantive limitations reduce its efficiency, thereby necessitating legislative and judicial reforms to ensure fairer and more comprehensive compensation mechanisms

Keywords: Traffic accidents, victim, Jurisdiction, Accessory civil lawsuit

Introduction:

Social life has imposed customs, traditions, rules, and laws that everyone must respect in order to protect individuals' freedoms and interests, preserve balance, establish security, and instill a spirit of order and tranquility within society. Hence, the theory of liability and compensation for incurred damages emerged. Liability arises in all cases where a person is obliged to compensate for damage caused to another person.

It was logical for the legislator to limit the jurisdiction of criminal lawsuits to the criminal judge and civil lawsuits to the civil judge, considering that both lawsuits differ in subject and parties, even though they share a common source—namely, the crime. However, in the interest of justice and to expedite the adjudication of civil cases arising from crimes—such as compensation claims for bodily harm resulting from traffic accidents—and to avoid contradictory rulings between criminal and civil courts, exceptions were made.

Traffic accidents, especially given their increasing frequency, cause many damages, often leading to serious bodily and material harm, which in turn results in various legal actions. For example, if a case is brought before the criminal division, it may give rise to a Accessory civil lawsuit.

The question raised here is: **How can a person harmed by a traffic accident obtain compensation through a Accessory civil lawsuit?**

To answer this question, we will address the nature of the Accessory civil lawsuit in **Section One**, and the effects of the Accessory civil lawsuit in **Section Two**.

Section One: The Nature of the Accessory civil lawsuit

The Algerian legislator adopted the principle of separation between criminal and civil courts regarding jurisdiction as a general rule, making it a matter of public order. However, an exception was partially made for the Accessory civil lawsuit, granting the criminal judge authority to decide on such lawsuits seeking compensation for damages caused by criminal acts, without depriving civil courts of their general jurisdiction in civil matters (Douali Khaled, Ajali Bekhaled, 2024, p. 56).

Traffic accidents give rise to two lawsuits: a criminal lawsuit and a Accessory civil lawsuit. In this section, we will examine the **concept of the Accessory civil lawsuit** (First), and the **rules governing the Accessory civil lawsuit** (Second).

First: Concept of the Accessory civil lawsuit

the Accessory civil lawsuit before criminal courts is defined as "a lawsuit filed by someone who has suffered harm from a crime, accompanying the public prosecution, seeking compensation for the damage incurred" (Abd al-Rahman Khalfi, 2012, p. 149).

It is also defined as: the civil plaintiff or the person civilly liable claiming civil rights from the accused to redress the damage caused by the crime, before the criminal judiciary (Abdallah Ouhaybia, 2017, p. 189).

Article 02 of the Algerian Code of Criminal Procedure (Ordinance No. 66-155 of 1966) states: "The right to file a civil lawsuit to claim compensation for damage resulting from a felony, misdemeanor, or infraction belongs to all those who personally suffered direct damage caused by the crime."

This is affirmed by Article 124 of the Civil Code, which states:

"Any act whatsoever committed by a person through their fault that causes harm to another obliges the one at fault to compensate for the damage" (Ordinance No. 75-58 of 1975).

Waiving the civil lawsuit does not result in suspending or postponing the public lawsuit, except in the cases mentioned in paragraph (03) of Article (06).

The subject of the Accessory civil lawsuit is compensation, which may include restitution, payment in money, and legal costs. Compensation may also include, at the injured party's request, a judgment for publication in newspapers or public posting at the convicted party's expense—particularly in crimes affecting honor and reputation, such as slander and insult (Mohammed Sabihi, Hamed Najem, 1986, p. 28).

The civil jurisdiction of criminal courts is strictly limited to adjudicating compensation arising from the crime; exceeding this limit renders proceedings null due to jurisdiction being a matter of public order.

The Accessory civil lawsuit follows the public lawsuit in terms of trial proceedings, rulings, and appeals, and is governed by the rules of criminal procedure—not civil procedure (Abd al-Rahman Khalfi, 2012, p. 149).

However, this dependency does not alter the civil nature of the lawsuit. For example, the legislator subjected limitation periods for civil claims to the rules of civil law, as provided in Article 10 of the Criminal Procedure Code:

" the Accessory civil lawsuit is subject to the provisions of civil law; however, it may not be filed before the criminal court after the expiration of the statute of limitations of the public lawsuit."

Article 10 bis states:

"After adjudication of the public lawsuit, the procedures of investigation ordered by the criminal judge regarding civil rights shall follow the rules of civil procedure."

Distinguishing the Accessory civil lawsuit from the InAccessory civil lawsuit

Although both seek compensation for damages, there are differences in terms of jurisdiction and procedures:

1. **Jurisdiction:** Civil courts have jurisdiction over inAccessory civil lawsuits, even if they stem from a crime. Criminal courts only hear Accessory civil lawsuits arising from crimes under their review. This jurisdiction is exceptional and limited solely to compensation claims.
2. **Procedures:** Accessory civil lawsuits follow the Criminal Procedure Code, whereas inAccessory civil lawsuits follow the Civil Procedure Code.

Consequences of this distinction:

- Criminal courts have no jurisdiction over facts not forming the basis of the criminal lawsuit.
- Criminal courts cannot examine contractual liability, even if linked to a criminal act.
- Criminal courts cannot confuse the defendant's fault in criminal liability with the civil liability of another party.
- Criminal courts must not conflate the criminal fault of the accused with their presumed civil liability (Nazeer Farag Mina, 1989, p. 42).

Second: Rules Governing the Accessory civil lawsuit

This includes the **parties involved**, **how the lawsuit proceeds**, and **how to file it before the criminal courts**.

1. Parties in the Accessory civil lawsuit

The parties are the **civil plaintiff (injured party)** and the **civilly liable defendant (insurer)**.

- The civil plaintiff is the person who suffered personal damage from the crime, whether a natural or legal person.
- The civilly liable defendant is typically the accused, and exceptionally may include a legally responsible party or heirs (Mohammed Hzit, 2013, p. 68).

a) The Civil Plaintiff (Injured Party):

To acquire civil plaintiff status, the lawsuit must be filed by a person directly harmed by the crime. That is, the harm must be personal. A person cannot claim compensation for damage suffered by someone else (Abd al-Ilah Hilali, 1987, p. 24).

The Supreme Court defined the civil plaintiff as someone who suffered personal harm from a crime as defined in Article 5 of the Penal Code, whether the harm is material, physical, or moral (Case No. 42308, Decision dated 08/07/1986, Judicial Journal No. 01, 1990, p. 254).

For example, if a car accident causes a permanent disability to someone, their (adult) father cannot claim compensation on their behalf—this is confirmed in Article 2 of the Criminal Procedure Code (Abd al-Rahman Khalfi, 2012, p. 152).

This article clarifies that the damage must be personal and direct. The state may also act as a civil plaintiff through its agencies. Whether natural or legal, the injured party must meet the same conditions required for civil lawsuits under civil procedure law: **standing and interest**.

b) The Civil Defendant (Insurer):

This is the second party in the lawsuit. To hold this status, two conditions must be met:

- The person must be the accused of committing the crime under criminal prosecution (principal perpetrator or accomplice).
- The accused must have full legal capacity. If not, the lawsuit must be filed against their legal representative, such as a guardian or trustee (Nazeer Farag Mina, 1989, p. 43).

2. Procedure of the Civil Lawsuit

The law allows any person claiming harm from a traffic accident to file a civil lawsuit before a criminal court, since the civil lawsuit stems from the same crime (Mohammed Hzeit, 2013, p. 70). This legal provision is intended to reduce litigation burdens and simplify the process for the injured party—ensuring the case is reviewed only once, both criminally and civilly.

Moreover, the rules of evidence before criminal courts are easier than in civil courts. Procedures are quicker and more flexible, as the investigating judge in criminal courts has coercive powers such as arresting the accused, preventing them from tampering with evidence, searching homes, seizing documents, and questioning witnesses efficiently—powers not available in civil courts. To file a Accessory civil lawsuit alongside a public lawsuit, a criminal act that qualifies under the Penal Code or its supplementary laws (felony, misdemeanor, or infraction) must have occurred (Barsh Suleiman, 2006, p. 99).

3. How to File a Civil Lawsuit Before Criminal Courts:

The Code of Criminal Procedure defines three methods for initiating a civil lawsuit under criminal law. These are: through civil action before the investigating judge in accordance with Articles 72 and 74 of the Code of Criminal Procedure; through intervention in a case already initiated by the Public Prosecutor and referred to trial either by filing a report with the clerk before or during the session—recorded by the clerk or expressed in written pleadings—in accordance with Articles 240, 241, and 242 of the Code of Criminal Procedure; or by direct summons to appear before the court, as stipulated in Article 337 bis of the Code of Criminal Procedure, in cases where the law allows it.

A – First Method: Civil Action Before the Investigating Judge

This is provided for in Article 72 of the Code of Criminal Procedure, as well as Article 74 of the same law. Civil action before the investigating judge may be initiated by the victim of a traffic accident as a party initiating the public lawsuit, by submitting a complaint accompanied by a civil claim to the investigating judge pursuant to Article 72, or after the public lawsuit has already been initiated by the Public Prosecutor or another civil claimant, according to Article 74 of the Code of Criminal Procedure (Mohamed Hzeit, 2013, p. 72).

B – Second Method: By Way of Intervention

When the Public Prosecutor initiates the public lawsuit, the victim of a traffic accident has the right to join the case with a civil lawsuit, by assuming the role of civil claimant before the investigating bodies (investigating judge or Indictment Chamber) or before the trial courts, pursuant to Article 240 of the Algerian Code of Criminal Procedure (Law No. 08-09, 2008).

A claim before the investigating judge is made in accordance with Article 72 of the Code of Criminal Procedure, either by oral or written complaint before the criminal court. It may be filed before the trial session or during the session. If the civil action is initiated before the session, it must be by a report submitted to the court clerk, in which the claimant must specify the criminal offense being prosecuted and choose a domicile within the jurisdiction of the court handling the case, unless they already reside there.

If the civil action is initiated during the session, it must be done via a report recorded by the clerk or expressed in written pleadings. It must occur before the Public Prosecutor presents its submissions; otherwise, it will not be accepted. This type of intervention must be made before the court of first instance; it cannot be made before a court of appeal as that would deprive the defendant of one degree of litigation, pursuant to Article 242 of the Code of Criminal Procedure (Mohamed Sebihi, Hamad Najem, 1986, p. 34).

The intervention may be by oral declaration recorded by the clerk in the register or by submitting written pleadings to the presiding judge, which the clerk will note in the session

minutes, in accordance with the requirements of Articles 241 and 242 of the Code of Criminal and Civil Procedure.

C – Third Method: Direct Summons to Appear

When the Public Prosecutor abstains from initiating the public lawsuit, the victim of a traffic accident may proceed by direct summons to appear, acting as a civil party. The defendant (vehicle owner) is summoned to appear directly before the court. If the offense committed is a misdemeanor or infraction not requiring investigation, the court will handle both the criminal and civil aspects of the case.

Alternatively, the victim may file a complaint and assume the role of civil claimant before the investigating judge in cases where the offense is a felony or misdemeanor requiring investigation—see Articles 72, 394, and 359 of the Algerian Code of Criminal Procedure (Mohamed Hzeit, 2013, p. 74).

The criminal court will adjudicate the civil claim as a consequence of the criminal case in a single decision, as stipulated in Article 5 of the Code of Criminal Procedure, which states that a civil claimant who has suffered damage caused by the accused and has filed their civil lawsuit before a civil court may not withdraw it. As an exception, the second paragraph allows the claimant to transfer their lawsuit from the civil court to the criminal court legally competent to hear it as a consequence (Abderrahman Khalfi, 2012, p. 208). For the criminal court (Assize Court), it rules on the civil lawsuit after issuing its judgment in the criminal case, without the participation of jurors (Article 316 of the Algerian Code of Criminal Procedure).

If the civil claimant files their lawsuit before the civil court to claim compensation for damage caused by the vehicle and the criminal court has already ruled on the public lawsuit, the decision of the criminal court—*res judicata*—binds the civil court. If the criminal case is still pending, the civil court must suspend proceedings in the civil case until the criminal matter is resolved. This is to prevent conflict between the criminal and civil judgments, as stated in Article 4 of the Code of Criminal Procedure. A civil lawsuit may be filed independently of the criminal lawsuit; however, the civil court must delay its ruling until the criminal case is definitively resolved if it has been initiated. For this to apply, both lawsuits must arise from the same act (e.g., a compensation claim from the same offense), and the public lawsuit must have been initiated by the Public Prosecutor according to legal procedure. The suspension by the civil court must continue until the criminal court has ruled definitively on the criminal case or all appeal avenues have been exhausted. Any action taken in the civil lawsuit during that period is null and void. This is to preserve the integrity of both civil and criminal rulings and avoid conflicting judgments, which is central to public order (Mohamed Sebihi, Hamad Najem, 1986, p. 35).

Article 337 of the Code of Criminal Procedure outlines the direct summons procedures, which the civil claimant must respect when summoning the defendant, and include:

- The civil claimant must deposit an amount determined by the Public Prosecutor at the court registry.
- The claimant must choose a domicile within the jurisdiction of the court to which the defendant is summoned; otherwise, failure to meet either condition results in nullity.

If the procedures for direct summons are followed, several effects arise, most importantly:

- The civil claimant becomes a party to the defendant in the civil lawsuit, gaining all the rights of parties in litigation, including the right to present requests and defenses as stipulated in Article 353 of the Code of Civil and Administrative Procedure (Law No. 08-09, 2008).

Second Section: Effects of the Ancillary Civil Lawsuit

The ancillary civil lawsuit arising from vehicle accidents has several important effects on both the victim and the offender (vehicle owner). We will address: (1) the adjudication of the ancillary civil lawsuit, and (2) the statute of limitations on the ancillary civil lawsuit.

First: Adjudication of the Ancillary Civil Lawsuit Arising from Vehicle Accidents

Adjudicating the ancillary civil lawsuit raises the issue of the victim's right to choose between the criminal and civil routes, and how the rule of dependency applies in vehicle accident cases.

1. The Extent of the Victim's Right to Choose Between Criminal and Civil Routes

The choice between the two paths presumes that the civil right is still valid. If it is extinguished (e.g., by payment, statute of limitations, or a final judgment), both criminal and civil avenues are closed. There are, however, restrictions on this choice, appearing in two forms (Nadhir Faraj Mina, 1989).

There are restrictions resulting from the rule of dependency: the civil lawsuit cannot proceed in three cases:

- a. If the criminal lawsuit was not properly initiated before the criminal court, such as failure to submit the legally required complaint.
- b. If the criminal lawsuit is extinguished for reasons specific to it, such as the death of the vehicle owner.
- c. If the criminal court lacks jurisdiction.

There are also restrictions based on the type of court competent to hear the criminal case. Legislation prohibits civil claims before exceptional jurisdictions such as state security courts, military courts, and disciplinary councils, on the basis that exceptions like dependency should not be expanded. In Egypt, civil claims are not permitted before juvenile courts, but Algerian law allows it under Article 475 of the Code of Criminal Procedure. This article provides that in dependency cases, civil claims may be made before the juvenile judge, the investigating judge for juvenile affairs, or the juvenile section. In direct action, however, it may only be brought before the juvenile section (Mohamed Hzeit, 2013, p. 75).

Article 476 of the same law states that if adult and juvenile defendants are involved and juvenile proceedings are separated, the civil claim is brought against all parties before the criminal court competent to try adults, without the presence of the juveniles, but in the presence of their legal representatives. The ruling in the civil case is postponed until a final judgment is issued in the juvenile case.

The rule of choosing one path over another is based on Roman law. In the 18th century, it was rooted in justice, humanity, and logic. In the 19th century, it became an application of the principle of res judicata. In France, a distinction is made: if the claimant first resorts to the civil court, they may not later abandon that case and refile in criminal court, as that would disadvantage the defendant by exposing them to both compensation and punishment. However, if the claimant first resorts to criminal court, they may abandon that path and refile before civil court. In France, it has also been ruled that the insurer of a theft victim may not file a civil lawsuit before a criminal court against the accused to recover compensation paid to the victim (Ahsan Bouskiaa, 2009, p. 9).

Within the framework of Algerian law, Article 05 of the Code of Criminal Procedure stipulates that a party who has initiated their case before the competent civil court may not bring it before the criminal court. However, this is permissible if the Public Prosecutor has initiated the public prosecution before the civil court has issued a ruling on the matter (Mohamed Hazit, 2013, p. 75).

This provision is general, and its broad wording may suggest that transferring the civil case from the civil court to the criminal court is allowed, whether the Public Prosecutor initiated the public prosecution before or after the civil lawsuit was filed.

However, this provision must be interpreted in light of the principle that choosing one of the two legal paths excludes the other. Thus, if the public prosecution has been initiated, but the plaintiff nonetheless chooses to bring their case before the civil court, they are not allowed to bring it again before the criminal court. In this case, the civil court may not rule on compensation until a final judgment is issued in the public prosecution case by the criminal court.

If the victim of a traffic accident has brought their case before the criminal court, they may abandon that path and refile their case before the civil court, whether the first claim before the criminal court was through direct accusation or as a civil party accompanying the public prosecution.

And while Article 247 of the Code of Criminal Procedure (noting that this article applies to misdemeanors and infractions) states that the civil plaintiff's withdrawal of their claim does not prevent initiating the civil case before the competent judicial body, this is conditional on not waiving the claimed right itself. The withdrawal before the criminal court pertains only to the procedure, not the substance. This article may also be applied to felonies, despite the lack of a similar provision governing them.

There must be no confusion between withdrawal of a complaint and withdrawal of the civil lawsuit, as already explained under the effects of direct accusation.

It should also be noted that if the Public Prosecutor does not initiate the criminal case after the victim has chosen the civil path, the latter may not bring the case before the criminal court through direct accusation, since this path was originally available but was abandoned in favor of the civil route.

4. Applications of the Principle of Dependency in Vehicle Accidents

These applications include:

a) The civil case is not admissible before the criminal court without the presence of a criminal case.

A prerequisite for bringing a civil claim before the criminal court is the existence of a causal link between the crime and the damage, proper initiation of the criminal proceedings, no prior dismissal of the criminal case for reasons specific to it before the civil claim is filed, and the jurisdiction of the criminal court.

b) The two cases must be decided in a single judgment.

Every criminal sentence must also rule on the requested compensations. This is stipulated in Article 316 for felonies and misdemeanors, and Article 357 for infractions. Therefore, the criminal court may not issue a verdict on the criminal case and postpone the civil case ruling. If it does, this does not invalidate the criminal ruling, but the court cannot later rule independently on the civil matter. The only recourse then is to transfer it to the civil court. This also applies to compensation claims for false accusations brought by acquitted defendants.

But can the criminal court separate the civil case from the criminal case and transfer it to the civil court for supplementary investigation, intending to later rule on both cases together? In Egypt, this is permissible under a specific provision (Article 309) when a special investigation is needed, which delays the criminal judgment. However, Algerian procedural law has no such equivalent for felonies, misdemeanors, or infractions. Allowing the civil court to conduct supplementary investigation does not conflict with the dependency principle as long as

a unified ruling is eventually issued, and this transfer remains at the discretion of the criminal court.

The criminal judge remains competent to rule on the civil case even if the defendant is acquitted in the criminal case. This jurisdiction is based on the damage caused by the traffic accident, and compensation is granted automatically under the no-fault liability principle, which allows the accused driver, who is also a victim, to benefit from insurance coverage (Issa Lahaq, 2012, p. 414).

c) The civil case before the criminal court is subject to the rules of criminal procedure. This pertains to court procedures, organization, attendance and absence rules, judgment drafting and signing deadlines, methods and scope of appeal—as long as these do not conflict with the Civil and Administrative Procedures Code. This also applies in exceptional cases where the civil case is handled alone before the criminal court. In terms of substantive rules, the civil case remains subject to civil law (Mohamed Hazit, 2013, p. 75).

5. Exceptions to the Dependency of the Civil Case on the Criminal Case in Vehicle Accident Lawsuits

There are exceptional circumstances in which the civil case may proceed independently before the criminal court, even if the criminal case is no longer active:

a) The criminal case expires after the civil case was filed independently. The key consideration under evolving law for accepting a civil claim is the time it was submitted to the court. Once accepted, it should not be affected by the subsequent expiration of the criminal case due to reasons not attributable to the civil plaintiff. This is a general principle grounded in logic and fairness, requiring no specific provision. Criminal cases ending due to payment, statute of limitations, general amnesty, a final ruling, or legalization of the act by new law preclude Accessory civil lawsuits. But if the criminal case ends after the civil case is filed, this has no impact on its course (Nazir Farag Mina, 1989, p. 47).

b) Acquittal with grounds for compensation.

An acquittal does not imply that the incident is not a harmful act. It may still warrant compensation. Compensation may still be awarded despite acquittal due to lack of liability, immunity from punishment, or expiration of the criminal case. However, compensation is not allowed if acquittal is due to the incident not occurring, incorrect attribution, or insufficient evidence.

c) Appealing the civil judgment but not the criminal one.

If neither the prosecution nor the accused appeal the criminal verdict, the civil case alone is brought before the appellate court, which rules independently of the criminal case. The Egyptian Court of Cassation has ruled that a civil plaintiff and the liable party may appeal the civil ruling, even if the criminal judgment has become final and binding.

When the civil case is presented alone before the appellate court, it may examine elements of the crime, its legal components, and evidence—but only to the extent necessary for ruling on the civil case, since only it is under review.

6. Binding Force of the Criminal Judgment Over the Civil Case

This principle means that the criminal judgment binds the civil judge, but not vice versa. That is, the civil court is obligated to respect the criminal ruling and may not contradict its conclusions. Though not stated explicitly in the Algerian Code of Criminal Procedure, unlike the Egyptian code, it is a general principle that Algerian courts may apply without a specific provision.

To clarify further, the criminal judgment binds civil courts regardless of whether it results in conviction or acquittal. This applies to civil cases that have not yet been definitively resolved,

especially concerning the occurrence of the crime, its attribution, and its legal description. The judgment has this force whether based on lack of guilt or insufficient evidence—but not if the judgment is based on an act that is not punishable by law (Nazir Farag Mina, 1989, p. 48).

Rationale behind this rule:

- Criminal cases usually involve comprehensive investigation.
- Criminal inquiry results are more accurate due to the broad powers of criminal judges.
- Prevents contradictory judgments from different courts.
- Allowing civil courts to reexamine criminal rulings weakens the integrity of criminal judgments.
- Criminal lawsuits are public actions, thus the ruling should be binding on all, including the accused or victim.

a) Binding Effect of the Criminal Judgment on the Civil Case

If a traffic accident causes damage and the civil case is brought before the civil court after the criminal court has issued a final ruling—either of conviction or acquittal—then this ruling has res judicata effect and must be respected by the civil judge, who must draw conclusions based on it (Mohamed Hazit, 2013, p. 76).

The civil case, like all other civil claims, is subject to rules of claim extinction such as payment, release from debt, litigation, prescription, and general termination through settlement, waiver, or withdrawal—whether by a final ruling of acquittal, conviction, or exemption from punishment.

The civil claim before the civil court is considered an independent original claim—not a subordinate claim to a principal one.

7. Conditions for a Criminal Judgment to Bind the Civil Judge:

They are the same as those for the civil judgment to terminate the criminal case: the judgment must be final, definitive, issued by a competent court, and must address the incident in its ruling or essential reasoning.

- It is not necessary for both cases to involve the same subject matter, parties, and grounds, since criminal and civil claims differ in these aspects. The binding effect of a final criminal judgment before the civil court is an exception to the general rule and applies only to the criminal act (Nazir Farag Mina, 1989, p. 48).

8. Scope of This Binding Force:

This effect is limited to establishing the occurrence of the act, its attribution to the accused, and all that leads to possible civil liability for compensation—or lack thereof. This includes proving the physical act, establishing causality, and confirming the harm to the victim, which may sometimes constitute a standalone criminal element but is essential in civil claims for compensation (Nazir Farag Mina, 1989, p. 50).

The "legal description" refers, for example, to a criminal court ruling that defines the act as breach of trust rather than theft. In that case, the victim cannot claim before the civil court that the act was theft in order to bring a recovery action or avoid documentary proof of a trust agreement required by civil law.

If the criminal court deems the act assault and rules out causality between the assault and death, the civil court cannot later consider it as fatal assault or intentional killing by asserting that causality or intent existed.

What falls outside the scope of this authority?

Considering that this authority is restricted and not absolute, the following fall outside its scope:

a) Incidental facts mentioned in the criminal judgment and the various incidental circumstances referred to, which are not related to the occurrence of the crime, its attribution to the perpetrator, or its legal description, even if they require mitigation or aggravation.

b) If the acquittal is based on non-punishability of the act, as the act may be harmful. However, an acquittal based on the termination of the charge or insufficiency of evidence holds authority before the civil judiciary.

c) Fundamental reasons considered as embellishments, such as a judgment of acquittal stating that the act does not constitute a crime while simultaneously stating that the incident is unproven. The latter statement does not prevent the civil judge from affirming the incident.

Finally, the rule of the authority of the criminal judgment here is of public order, so the one it is established for cannot waive it, and the court may adhere to its rules on its own without waiting for a request or objection from the concerned party.

As for the civil judgment, it does not bind the criminal judge. It has been ruled in Egypt that a civil court's ruling for compensating a traffic accident victim does not prevent the criminal court from ruling not to impose a penalty. The criminal judge may be convinced by the evidence and reasons of the civil judgment, but what is legally prohibited is for him to be influenced by this conviction or to forego the investigation of the criminal case or proving the charge against the accused. Some legislations exempt personal status matters, allowing the criminal court to suspend the case if resolving the criminal case depends on them.

4: The Rule of Criminal Suspending Civil:

This is considered an application of the principle that the criminal judgment restricts the civil judgment. The legal basis of the rule that "criminal suspends civil" is based on the second paragraph of Article 4 of the Code of Criminal Procedure, which obligates the civil court where the civil lawsuit is presented to defer its decision until a final judgment is issued in the public case, if it had already been brought before the criminal court (Order No. 66-155, 1966).

The Supreme Court ruled in this regard as follows: "Judicial bodies considering civil lawsuits must postpone ruling on them unless the public lawsuit has been definitively settled, in accordance with the principle that the criminal suspends the civil." A civil judge is not obligated to suspend ruling on the civil lawsuit unless legally bound to adhere to the content of the prior final and unappealable criminal judgment, in line with Article 339 of the Civil Code, which states that the civil judge is only bound by the criminal judgment in facts it ruled on and were necessary to its decision.

Accordingly, a criminal judgment convicting the driver in a traffic accident does not prevent the civil judge from apportioning liability if it appears that the victim committed some fault.

The wisdom behind this suspension is to avoid the influence a civil judgment may have in persuading the criminal judge and in his general assessment of the facts, and also to avoid the risk of conflicting rulings. Moreover, a default judgment by the criminal court does not justify an indefinite suspension of the civil case because it is considered a warning judgment that lapses with the arrest or appearance of the accused; thus, civil proceedings may not be indefinitely suspended as the time of arrest or surrender is unknown.

Naturally, the defendant's insanity does not prevent ruling in the civil case, and there is no need for a legal provision in this regard because suspending the case and indefinitely delaying the civil plaintiff's right is unjustified, whether the case is brought before the criminal or civil court. Likewise, a final dismissal order for lack of grounds for prosecution does not suspend the civil lawsuit because it is not permissible to suspend it indefinitely based solely on the possibility of reversing the decision later. This order holds no authority before the civil court even if it becomes final, as it is not a final criminal judgment.

Another recognized rule is that the civil does not suspend the criminal except as an exception, and this exception lies in some legislations granting the criminal court the right to suspend the case and set a deadline for the concerned party to raise their personal status issue, which is necessary for resolving the criminal case.

The rule that the criminal suspends the civil is of public order, so the parties may invoke the suspension at any stage of the case, and the court may order it on its own even if the concerned party does not raise it.

Some conditions must be met for the rule that the criminal suspends the civil to apply: the public prosecution must have initiated procedures regarding the criminal case before or during the presentation of the civil case to the court; the civil case must not have been previously raised or ruled upon with a final judgment before the public prosecutor initiated the criminal case; and the civil judge must be obligated to postpone ruling on the civil case presented to him. Both the criminal and civil claims must stem from the same criminal incident. It must also be verified in advance that the criminal court handling the public case is competent to hear the dependent civil case and not prohibited from addressing it (Hania Amiroche, 2021, p. 307), such as exceptional or special courts like the military court, which is not allowed to rule on the dependent civil case, as per Article 24 of the Military Justice Code. The criminal court rules on the civil case without involving jurors, whether it issues a conviction or acquittal, and it may not rule lack of jurisdiction per Article 316 of the Code of Criminal Procedure (Abdelhafid Ben Abida, 2002, p. 27).

5. Content of the Judicial Ruling on Compensation in the Accessory civil lawsuit Related to a Traffic Accident:

The purpose of car insurance is to provide safety and assurance to individuals against unforeseeable risks, whose severity and resulting damages are unknown. Therefore, the legislator adopted compensation as an effective means to remedy damages resulting from traffic accidents. Compensation may be legally determined when specified explicitly by the legislator, which distinguishes the legal texts framing the Algerian Traffic Law. Alternatively, it may be left to individual agreements, or the legislator may grant judges the discretion to estimate compensation. In Algerian law, compensation is defined by legal text, and judges are bound to abide by it.

One application of legally estimated compensation is found in Order No. 74/15, amended and supplemented by Law No. 88/31, which established the basis for calculating compensation granted to victims of bodily injuries in traffic accidents or their rightful claimants (Miloud Dhabih, 2013, p. 125). Compensation is calculated based on the guaranteed minimum wage or income in cases of temporary, permanent, or total work disability, or death, as follows:

a) **Compensation for temporary work disability:** It is based on 100% of the national wage or the victim's professional income, provided it does not exceed eight times the guaranteed national minimum wage. To calculate the victim's annual income, multiply the monthly salary or professional income by 12. A person temporarily unable to work is one who, due to the accident, is unable to perform their activity during a defined treatment period. The goal of compensation may be to cover part of the victim's income lost due to work interruption, and they are entitled to compensation, calculated at 80% of the injured's salary or professional income. If the injured is unemployed, compensation is calculated at the same rate based on the guaranteed national minimum wage for the duration of the temporary disability (Sofiane Zerqat, 2004, p. 36) under Order 74/15. Under Law No. 88/31, it is calculated at 100% of the position wage or the victim's professional income.

Based on the medical certificate or expert report, the victim is compensated based on the position wage or professional income.

b) **Compensation for permanent partial or total disability:** In this case, the capital sum is calculated by multiplying the monthly income by 12 to get the annual income. This income corresponds to a legally specified index point, which is then multiplied by the percentage of disability to determine the victim's due compensation.

c) **Compensation for medical and pharmaceutical expenses:** Full compensation is provided, covering hospital stay costs, physicians and surgeons' fees, medical devices and replacements, ambulance services, guarding expenses, transportation to the doctor, and other medical expenses.

d) **Compensation for pain, aesthetic, and moral damage:** This is done by compensating for moderate pain with twice the guaranteed national minimum wage, four times this wage for significant pain at the time of the accident, and up to three times this wage as moral compensation for the deceased victim's rightful heirs, as stipulated by Order 74/15 amended by Law 88/31.

Second – Prescription of the Accessory civil lawsuit:

The prescription period for the victim against the insurer begins from the date of the accident that resulted in the insurer's liability, as the victim derives their direct right by law (Mohamed Hussein Mansour, 2005, p. 399). According to Article 7 of the Code of Criminal Procedure, the public lawsuit is prescribed as follows:

“The public lawsuit in felony cases is prescribed after 10 full years from the date the crime was committed, provided no investigation or prosecution actions were taken during that period. If actions were taken, the prescription runs ten years from the last action.”

Article 8 states: “The public lawsuit in misdemeanors is prescribed after three full years, following the prescription rules outlined in Article 7.”

Article 9 states: “The public lawsuit in contraventions is prescribed after two full years, following the rules outlined in Article 7.”

The same rules do not apply to the Accessory civil lawsuit. Article 10 states: “The civil lawsuit is prescribed according to the rules of the Civil Code; however, it may not be filed before the criminal court after the statute of limitations for the public lawsuit has expired.”

Article 10 bis states: “After the ruling in the public lawsuit, civil rights investigations ordered by the criminal judge are subject to civil procedure rules.”

Conclusion:

The Algerian legislator, in order to protect victims of bodily harm resulting from traffic accidents and to ensure they benefit from financial compensation, allowed them to initiate a Accessory civil lawsuit alongside the public lawsuit. This requires the criminal judge to rule on the civil claim, known as the Accessory civil lawsuit. In this case, the criminal judge's jurisdiction over such lawsuits is an exception to the general rule that assigns jurisdiction to the civil judiciary. The criminal judge's jurisdiction stems from the rule of the civil lawsuit's dependence on the public lawsuit. Thus, the Accessory civil lawsuit is linked to the criminal lawsuit if it arises from it, in Algerian legislation or other legal systems. It follows that a Accessory civil lawsuit cannot be filed unless a criminal lawsuit exists for the same crime.

The primary goal of the Accessory civil lawsuit is to provide the bodily traffic accident victim with financial compensation for the damages sustained, whether material or moral, as a result of the crime. All damages from bodily traffic accidents may be claimed before the criminal court. One of the distinguishing features of the Accessory civil lawsuit is the expedited handling of civil claims arising from crimes under criminal jurisdiction, and the avoidance of conflicting

or divergent rulings between civil and criminal courts. This enables the competent criminal judge to rule on the associated civil lawsuit.

The Accessory civil lawsuit is terminated by the same causes known to terminate public lawsuits, such as prescription, case withdrawal, death of the accused, or a final judicial ruling with the force of *res judicata*.

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