Comparison of Causality Responsibility Between Our Country and Other Countries in Medical Damage Compensation

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Abstract. Compensation responsibility of medical damage refers to the established legal causality in medical negligence and the fact that causality is detected between harmful consequences and medical malpractice. Under the premise of establishment of causality, the judge will judge whether the medical negligence is illegal according to the law, which will ultimately determine whether health providers shall be responsible for compensation. The methods of causality in law in our country include direct consequence rules, probability rules and reasons rules. The causality theory abroad has important guiding significance, which can help us understand and apply the theory of causal relationship to medical damage compensation cases fairly and reasonably.

Introduction

Causal relationship as an important element in medical tort liability is the basis and premise of medical tort imputation. Accordance with medical and legal requirements, fair and just to determine causality of medical tort is the key link in medical tort cases. Because our country is not yet unified, clearly defined standards and rule of law, in judicial practice, for medical negligence and whether there is a causal relationship between damage results that, by the judge will make no distinction causation and the legal causation, causality and concluded that there is a tendency of simplification, stylized, or overly dependent on medical technology, or completely distrust and adopts the expert conclusions [1]. Of causality in court, short or too vague, such as behavior and damage result has certain causal relationship, certain relevance and the indirect relationship and similar terms. These tendencies are not objective to identify and solve the problem of causality of medical damage compensation responsibility, is not conducive to a fair trial case, is not conducive to timely resolve the contradiction between the doctor-patient, this to our country judicial impartiality and authority has a greater negative influence.

The Causal Relationship Between the Civil Law and Tort

Continental law system, represented by Germany, France, Japan, the causal relationship between the law of tort is divided into part of responsibility established constitutive requirements established the "responsibility of causal relations" and part of legal effect of "causality" limitation of liability. Liability established causal relationship between the main solutions is the "qualitative" problem, i.e. responsibility will be set up. Scope of responsibility of causal relationship between the main problem is the responsibility of the "quantitative", i.e. responsible liable to what extent.

Causal Relationship and Responsibility

A causal relationship between damage and harm behavior, if the damage is caused harm behavior, to solve the issues of the objective level. Methods should be taken by the natural, mechanical, and no value preference of seeing things happen process rely on natural science an objective process verified.
Responsibility of causality namely "are the judge whether damage occurred as result of harm behavior objective causality or natural causality, it does not contain any value judgment method, only the understanding of the process of pure fact. Blame the causal relationship between behavior and damage liability is the premise of the offender liable for damages. On the establishment of liability causality, we carry on the quest [2]. A reverse traces the reasons from the results of resistance, therefore this kind of causal relationships tend to be intuitive, practical and even a priority.

Represented by German civil law countries civil compensation principle of full compensation, a damage in composite of causality is caused by a variety of common infringement behavior, then it is necessary to clear every behavior is liable for damage scope. Scope of responsibility, therefore, the determination of causality is one of the important steps to determine the behavior person bear tort liability. The responsibility scope of causality, the purpose is to define the offender liable for the reasonable, and has nothing to do with the duty of the offender, often involving the legal value judgment, the problem is relatively more complex, and it is also considered causality theory significance embodied in the civil law.

Therefore, the responsibility of causality formed the basis of limitation of liability of causality. Scope of responsibility of causality is sure, causality can be meaningful, if responsibility established causal relationship does not exist, would not have happened problem of causality. Established responsibility scope of causality and causal relationship of cut-off point lies in the imputation of illegal behavior lead to the occurrence of harmful consequences for the first time. After this, belong to the responsibility scope of the causal relationship between layers [3].

The Common Law of Tort Causality Theory

Distinguish between "causal relationships in fact" and "law of causality" is the basic analysis model of tort law causality. Specifically, in that the causation on the law of tort, first of all to determine harm behavior and whether there is in fact a causal relationship between damage results, if the answer is no, the tort liability to pay compensation cannot be set up. If the answer is yes, then to further investigate whether legal causality between them, only harm behavior become legal reasons, harm people assume liability to pay compensation for the damage [4].

The Current Causal Relationship

Its central idea is to confirm that the infringement facts and objective relation between damage consequences, from the fact that whether infringement is the harmful consequences. In fact causality and the causation in philosophy, of course, in the same way, it is with the opposite sex. When in fact causality can't simply copy the philosophical causality as the principle of the causation in philosophy copied completely judgment method applied to fact causality judgement is absurd. Fact that there are two main types of the cognizance of causality theory: one is the necessary condition theory. Damage will not occur, then the behavior is the cause of the damage occurred; on the other hand, will still occur without damage to the defendant's behavior, is the defendant's act is not the cause of the damage occurred.

Anglo-American law system theory, namely when harm behavior is an important factor of harmful consequences occur or substantive elements, can be concluded that the causal relationship between behavior and harmful consequences. In general, the reason is, in fact all of the results with the fact that the cause can be called the results in fact. But, in fact just reflects the behavior and causality between the results of the in fact, does not directly affect the tort liability [5]. Person responsible for the behavior results, besides must have causal relationship in fact, still must have legal reasons.

It is based on the purpose and legal reasons or proximate cause infiltration in the process of creating a lot of value factors and policy factors, such as fairness, justice, public policy, even under the specific time and space of living habit, culture, environment and society. Ethics had a profound effect.
Identified the main legal causality theory has a direct causal relationship, can see theory, risk theory, etc.

**Tort Causality Theory**

According to learn from each other, each other, however, the trend of development of contemporary law, characterized by the integration of two important legal systems in the field of causality is becoming more and more importance to absorb advantages, make up for its shortcomings, in the coordination of law a methodical and stability requirement and try to adapt to the changing reality of life do the beneficial attempt. Long as culture mutual infiltration of the two big law system, Anglo-American law system through "dichotomy" and the continental law system through said quite a causal relationship between said there is a great many.

First, the causal relationship is between the two judgments of many steps or way of thinking. A causal relationship between the causal relationship of distinguish (conditional relationship and a two steps, although and causation in fact and legal cause and effect relationship is different, but both can be said to be the same, from two aspects of legal facts and legal policy to the classification of causation, both have the same effect [6].

Second, a causal relationship between the cognizance of "a", is also on the basis of a rational human cognition. The former directly uses the foreseeable theory, while the latter indirectly reflects the theory of predictability.

Third, causality is a kind of policy considerations and the judgment is not based on logic, but based on considerations of practical policy and social value. Quite a causal relationship between the "a", is also a kind of value judgment, has the function of the law imputation aimed at reasonable transfer or scattered because of the infringement and damage.

Fourth, a causality theory as the basis of possibility proposed by professor Chris theories, namely increases the possibility of damage to damage behavior as the basis of causation cognizance, besides should full condition relationship between behavior and damage, but also meet the "pretty", the so-called "pretty" is whether behavior in most cases all have the possibility of damage occurred. "Dichotomy" in judging legal causation is mainly adopts the foreseeable theory, while the content of the reasonable cause is a rational person can foresee its behavior has lead to the damage occurred in the very great degree "possibility" [7].

The "dichotomy introduces the feasibility in the field of medical tort. Applied the Anglo-American law system "dichotomy" causality theory, namely, from the fact that causality and legal causality causal relationship of the two Angle analysis of medical tort is distinct, accord with cognitive law, conform to the particularity of medical treatment activity, more feasible in practice.

**The Justice and Health Care Are Not the Same Two Questions.**

Litigation law fact as the core, the problem of medical problem in epistemology as the core, the lawsuit can't understanding of complicated medical problems are infinite, the long-term medical observation research. Litigation problems are solved by legal judgement and value judgement, rather than medical judgment, although medical judgment for legal judgment has very big effect. Medical judgment is basically judging factual, descriptive, not usually with a value judgment or legal policy. At the same time, some problems in the medical science overall understand degree of uncertainty and litigation cases in the process of the fact that the necessary certainty must coordinate. Medical phenomenon and results in q (inevitability) and the correlation of causality (probable) must be coordinated in litigation, namely the causality in medical judgement and lawsuit legal causation judgment must be clearly identify and coordination [8].

In fact causality in tort cause of fact and the objective relationship between the damage as the theoretical basis, its connotation is closer to the law of causation and the general law of causation, so it is of more "causality", closer to the civil action of high probability prove standards required by the truth. The so-called rational expectation of judgment and significantly with the judge's discretion on
the evaluation of the evidence consistent use, legal causation, infiltration in the process of creating a
great deal of value factors and policy factors, it is a kind of policy considerations. Dichotomy is to
adapt to the pursuit of objective truth gradually to the pursuit of real law.

Summary

To sum up, the causal relationship between identified using "dichotomy", the handling of medical
tort disputes have great applicable value; it provides an effective analysis framework to a judge, with
the aid of this framework, can make the judge to the problem of causality has a more sober
understanding, namely the causal relationship between different level, different levels of causal
relationships have different functional areas, causality in different areas have different value. In the
first place, causality is a base and starting point of medical tort liability; it can avoid the prescriptions
of infinite expansion of civil legal liability, give prescriptions medical autonomy, promote health
providers to explore a better method for disease control and prevention. Dichotomy makes the judge
in maintaining patients' legitimate rights and interests and promote the development of medical career
would seek to balance, more easily between comprehensive consideration the legislative purpose,
balance the interests of both sides, and other public policy needs, make the results more in line with
the modern civil law concept of substantial justice and the value orientation of social justice.

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