

The Imputability is it Essential in Forensic Evidence?

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Abstract: *The victim of an accident is entitled to a compensation of undergone prejudice. the expert physician, in the mission who is entrusted to him is assigned to identify, describe and assess on forensic plan the magnitude of various injuries as well as their relation with the accident. the problem of forensic imputability is acute. one of the main roles of the expert is to establish this relation of the cause which has an effect before repairing. The authors of this work propose through a clinical vignette to set the issue of imputability when the traumatic event is like a somatic problem. Brandished by a victim as a damages resulting from accident and which claims its compensation*

Keywords: *expertise, imputability, relationship cause and effect,*

I. Introduction

The victim of an accident is entitled to a compensation of undergone prejudice. The expert physician in the mission who is entrusted to him is assigned to identify, describe and assess on forensic plan, the extent of different injuries as well as their relation with accident.

The problem of forensic imputability arises in any expertise arises in any expertise. One of the main role of the expert is to establish the cause and effect relationship before repairing.

The problem of the imputability arises with acuteness when the event is like a somatic problem, brandished by a victim as damages resulting of the accident and claims its compensation.

II. Clinic observation

Committed by judgment of the court of Bab El-Oued (Algiers) returned in July 2013 for the purpose:

- To examine the named Reda.Z after the study and analysis of his medical record.
- Evaluate the various injuries undergone during an accident by excluding all non-attributable damages to that traffic accident.

The history-taking about the facts tell us that the named Reda.Z, aged of 41 years old, was driving a motor vehicle in Algiers, when a lateral collision occurred with another vehicle.

Following this accident, the patient didn't present any physical trauma. In the seconds that followed the shock, he would have felt the chest pain left bar, associated with somatic complaints. He was evacuated to the Beni-Messous Hospital. The diagnostic of myocardial infarction was clear and treatment with thrombolysis was started. After stabilizing the patient's condition, an anamnestic survey by the medical team has identified the following elements:

- That the named Reda.Z showed no cardiovascular disease.
- That accident caused no injury to his corporeal.
- It seems that the traffic accident that resulted in the victim a post traumatic stress with a very important emotional discharge that caused a myocardial infarction.
- Biological check up and radiological assessment show severe stenosis of the anterior interventricular artery and a disturbed lipid profile.

III. Literature review

Required Scientific research in the field of imputability allows us to report 3 approaches:

- "imputability is the essential relationship of cause and effect, the causal relationship, the correlation that have to exist between the physical damage and trauma" [1].

To prove the imputability, seven criteria must be gathered:

- Nature of trauma.
- Nature of disorder.
- Concordance of the seat.
- Anatomico-clinical chain
- Condition of time (deadline of imputability).
- The novelty of appearance of lesions.

- The exclusion of cause unrelated to the accident.
 - Somehow the imputability is the node of the expertise because the relationship of cause and effect between trauma and injury is essential to establish [2].
 - The lesion which are imputable have a direct, definite and exclusive link with the fact triggering. In other words, it is not because it is quite possible that a given lesion is consecutive to a traumatic event, it will be taken as due to this fact in the context of expertise [3].

IV. Forensic discussion

Imputability is an essential concept in any forensic evidence. This notion precise rules that every expert must respect it to make his expertise. Imputability becomes more complex to establish when a previous unknown state intervenes in this relationship of cause and effect.

In some cases, such as the observations that we have presented, imputability is difficult to establish. In this case, it is an acute somatic problem which was declared some seconds after the collision. We find here that we are unable to gather the seven criteria of imputability which was published by Pr. SIMONIN

This is a pre-existing anterior pathological state, unknown which is only founded after an accident, which decompensates and make it passing of a latent state to a patent, it is there for an accident which reveals and aggravates a pre-existing anterior pathological state unknown causes a myocardial infarction.

The issue that arises in these circumstances is to determine what is the respective share of responsibility played by the previous state (coronary stenosis) and trauma (traffic accident), starting from the principle that only the part of the resultant incapacity of this trauma is entitled to compensation.

According to this fact, 03 questions arises to the expert in this rather complex context:

- 1) What would have been the consequences of the trauma if it had not had a pre-existing pathology?
- 2) What would have been the evolution of previous state without added trauma?
- 3) What was the result of the trauma in the presence of the previous state?

The only answer to the 03 question is formal, it is provided by the current state of the patient. The first two questions can not have a valid objective and scientific answer because this one will stop in hypothetical suppositions.

What Was The Answer To The Mission Entrusted?

In view of:

- 1) the existence of the previous state confirmed by radiological and biological chek-up that show the existence of an unknown atheromatous disease.
- 2) The nature of injury is a shill post traumatic stress following a traffic accident.
- 3) The deadline of the imputability is very short.
- 4) The ONSET American study which provides that 14 % of myocardial infarction occur within 02 hours following an emotional episode [4].
- 5) The appearance of the new myocardial infarction

It seems that the occurrence of this myocardial infarction is partly due to post-traumatic stress reaction to the accident.

V. Conclusion

The concept of the imputability is essential in any forensic evidence. This concept becomes more complex to establish when he intervenes to a pervious state and that harmful event is a somatic pathology.

Legal expert encounters many difficulties to understand and interpret the tasks assigned by the judges, but the greatest complexity comes from the fact of the maladjustment of these mission to the current, recent data of the medical sciences.

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