

Decomposition of Accident Loss and Efficiency of Liability Rules*

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Abstract

The main purpose of this paper is to show that the conflict between the considerations involving economic efficiency and those of distributive justice, in the context of assigning liability, is not as sharp as is generally believed to be the case. The condition of negligence liability which characterizes efficiency in the context of liability rules has an all-or-none character. Negligence liability requires that if one party is negligent and the other is not then the liability for the entire accident loss must fall on the negligent party. Thus within the framework of standard liability rules efficiency requirements preclude any non-efficiency considerations in cases where one party is negligent and the other is not. In this paper it is shown that a part of accident loss plays no part in providing appropriate incentives to the parties for taking due care and can therefore be apportioned on non-efficiency considerations. For a systematic analysis of efficiency requirements, a notion more general than that of a liability rule, namely, that of a decomposed liability rule is introduced. A complete characterization of efficient decomposed liability rules is provided in the paper. One important implication of the characterization theorems of this paper is that by decomposing accident loss in two parts, the scope for distributive considerations can be significantly broadened without sacrificing economic efficiency.

Key Words: Tort Law, Liability Rules, Decomposed liability Rules, Efficient Rules, Nash Equilibria, Negligence Liability, Distributive Justice

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