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جامعة القدس
عمادة الدراسات العليا
قسم القانون الخاص

إجازة الرسالة

التكييف القانوني للجوادث الناتجة عن المركبات متعددة الأغراض
دراسة مقارنة

اسم الطالب: إبراهيم علي عبد الله حمودة
الرقم الجامعي: 20411469


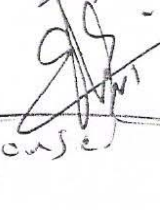

المشرف: الأستاذ الدكتور عثمان التكروري

نوقشت هذه الرسالة وأجيزت بتاريخ: 2009/4/18 من لجنة المناقشة المدرجة
أسماءهم وتواقيعهم:

- 1- رئيس لجنة المناقشة: الأستاذ الدكتور عثمان التكروري
- 2- ممتحنا داخليا: الدكتور رفيق أبو عياش
- 3- ممتحنا خارجيا: الدكتور يوسف شندي

القدس - فلسطين

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الإهداء

إلى رمز العطاء وإكنونة الصفاء باعثة الطمأنينة والأمل أسطورة الوفاء... والدتي.

إلى من جعل معنى للحياة في نفوسنا وغرس فينا حب الوطن والإنسان.... والدي.

إلى نبع الحنان والتشجيع.... أخواتي.

إلى مصدر القوة والتشجيع.... إخواني.

إلى أصدقائي وزملائي الذين كان لهم اليد الطولى والعون في إنجاز رسالتي .

إلى كل قطرة دم نزفت على أرض فلسطين الطاهرة.

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Abstract

This study addresses the multi-purpose vehicle in terms of research on the legal adaptation of accidents resulting from them, through the identification of the legal bases applied on them, and the statement of the legal attribution of accidents resulting from such vehicles and the implications resulted from legal status.

The importance of this study through dealing with a subject which is too controversial, and few research that dealt with it if not, where most of the legislations did not take a clear position to solve problems resulting from the use of multi-purpose vehicle. In this study, I followed the descriptive comparative analysis with the laws in Israel, Jordan and Egypt because of the overlapping of such legislation within what has been applied in the Palestinian territories, and comparative jurisprudence that deals with road accidents and insurance, by identifying the nature of the current responsibility.

During the course of study, it has been showed the legal descriptions applicable to them, which are work-related injury and road accident, although both may meet together in the same incident, and we have explained the legal nature of each description, so that they meet both the basis of the text of the law and not the general rules of liability.

It has been found through research that there are three criteria that could be invoked to determine the legal characterization:

First: Personal standard-based to the person injured by the accident, his status and his relation to the accident.

The second: the objective criterion based on the nature of the accident and the circumstances surrounding it in terms of place, the multipurpose use of the vehicle and to what extent it has a role in the incident, the purpose of the use of the vehicle, and the latter: the hybrid standard which combines the former

two criteria. Through applying them, we get the standard which covers all cases and accidents that could occur due to multi-purpose vehicles.

It has appeared that the responsibility for compensation of multi-purpose vehicle accidents is determined through the attitude and direction of the insurance company and the driver of the accident on the roads and the right of employer for work-related injury. The mechanism of due compensation, amount and manner of receiving it and the elements covered and included either in road accident or work injury.

Below are the following most important recommendations that we propose to be introduced by the Palestinian legislator, namely:

- 1 - The legislature defines clearly and explicitly the multi-purpose vehicles, and provide special rules under the Insurance within the extent of insurance act that shows extent of insurance coverage and the accidents resulting from them. So, we suggest this text (multi-purpose vehicle: is the vehicle in which you perform more than one purpose, regardless of form or type, and accidents resulting from are subject to the Insurance Act when used to transportation target).
- 2- To work on the legal texts that show the nature of the responsibility for road accidents to the worker which is similar to the amendment that was added to the Civil Service Law related to the public employee.
- 3- To amend the texts of the Labor Law; to be the compensation due to the injured subject to the same principles and provisions governing the road accident, so that employee compensation for the moral damage caused the as the injured resulted from road accident.
- 4- I propose to amend legal provisions in the insurance and legal work with respect to compensation for temporary disability provided that it is not specified within a time frame, and work to find a balance between the patient and the authority responsible for compensation, we suggest that this text regarding the injured person: (if the injury prevented the injured

to conduct his work ,he deserves 75% of the daily wage at the time of injury for temporary disability and incapacity for 180 days, and if the period of temporary disability increased , he deserves a compensation averaging 50% of the daily wage for the duration of his disability).

- 5- I suggest that the legislature shows the authority to present an appeal concerning the estimation and the proportion of disability concerning work injury in which he expressly states to appeal against this report to the central medical committee.

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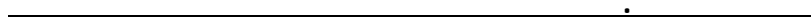
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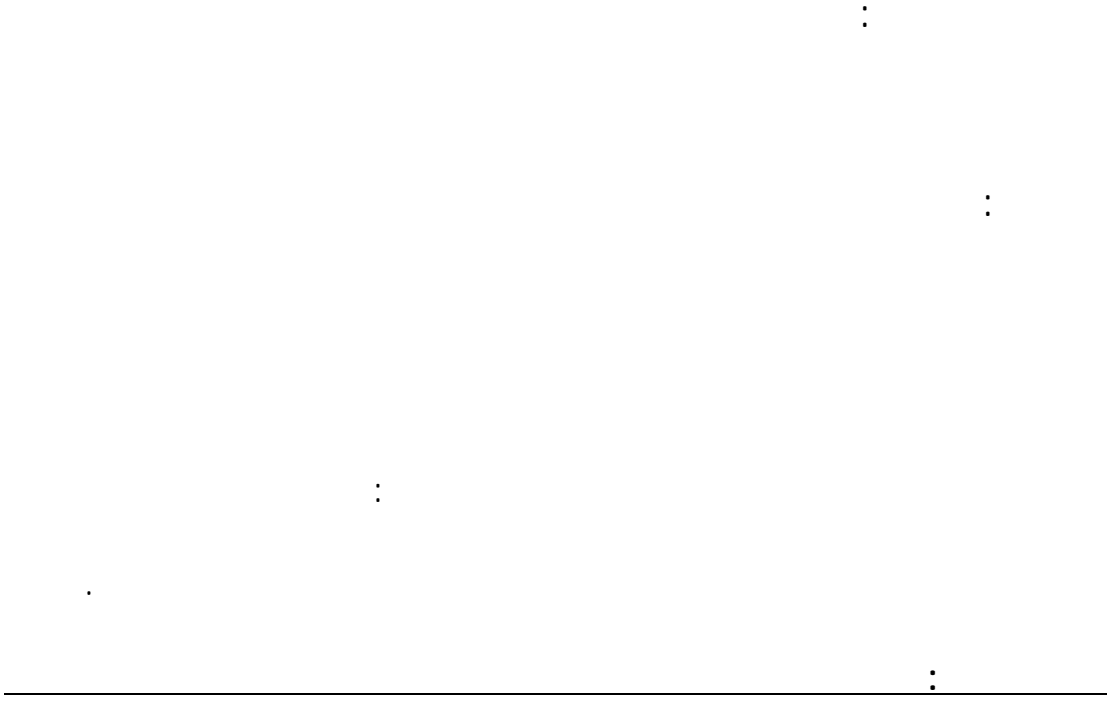
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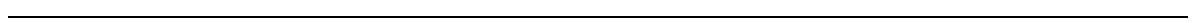
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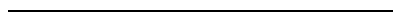
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الفصل الثاني :

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المبحث الأول: تحديد المسؤولية عن التعويض على الحادث الناتج عن المركبات متعددة

76 الأغراض

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