

A Jurisprudential Analysis of Compensation for Mental Distress under the Civil Code

Tao Wang *

Southwest Petroleum University, Chengdu 610500, China

*Corresponding author: Tao Wang

Abstract

The system of compensation for mental distress established by the Civil Code substantially strengthens the protection of citizens' personality rights and interests. It constitutes an institutional innovation in the protection of non-pecuniary interests, responds to the diverse needs of social life, and provides an institutional foundation for remedies against mental harm. The system rests on abundant jurisprudential support: it protects personality rights, is guided by fundamental legal principles, and operates as a form of legal responsibility. It is therefore well suited to contemporary social development.

Keywords

Civil Code; system of compensation for mental distress; tortious conduct; jurisprudential analysis.

1. Introduction

With economic and social development, demand for civil-law protection has become increasingly evident, while the former legal framework has struggled to address the complexity of modern society. The enactment of the Civil Code was an important response to social needs and a major step in advancing the rule of law. By comprehensively setting out the rights and obligations of citizens, legal persons, and other organizations, the Code is easier for the public to understand and apply, helps disseminate the concept of the rule of law, and strengthens legal awareness.

The law makes clear that a person who causes another serious mental harm through an infringement must bear compensatory liability. This gives victims legal support and safeguards their lawful rights and interests. Compensable mental harm includes emotional suffering and psychological injury directly caused by wrongful conduct. Rather than imposing a fixed monetary ceiling, the law permits flexible assessment in light of the circumstances of each case. Articles 583, 996, and 1183 of the Civil Code demonstrate the state's concern for individual dignity and psychological well-being. Mental injury can profoundly affect a person's quality of life. Monetary relief may ease psychological trauma and assist a victim's return to ordinary life. Legal protection of non-pecuniary interests also performs preventive and warning functions as a matter of public policy: a clear compensation regime encourages potential wrongdoers to act with greater care, promotes the rule of law and ethical conduct, and supports harmonious interpersonal relations.

Recognition of mental harm and the development of standards for compensation provide courts with a basis for adjudication. Judges may consider pecuniary loss and mental distress together and thus provide more complete and equitable relief. This article summarizes the Civil Code's system of compensation for mental distress, analyzes its jurisprudential foundations and necessity, and offers proposals for its further development. The system is not only an

important component of the modern rule-of-law order; it also bears directly on individual psychological well-being, legal culture, ethical norms, and judicial fairness.

2. Theoretical Foundations of Compensation for Mental Distress

2.1. Definition of Mental Harm

Mental harm encompasses not only psychological suffering but also physical pain and, in some circumstances, consequential pecuniary loss. Impairment of a person's mental functioning lies at its core. In civil law, negative emotions such as anguish, anxiety, agitation, and depression are outward manifestations of different psychological responses. Their nature reflects the diversity of individual mental states [1].

Mental harm may adversely affect a victim's ordinary life in several ways. It may generate fear, sorrow, anxiety, and depression. It may also arise from violations of bodily integrity or health, with physical injury causing severe psychological suffering. The tranquillity of private-law subjects is a foundation of harmonious social order; when mental peace is disrupted, the social order may be affected at a fundamental level. Consistent with the private-law principle that rights must be protected and harm must be remedied, compensation for mental harm is justified. Such compensation operates primarily within tort liability and most commonly where personality rights are infringed.

2.2. Civil Code Provisions on Compensation for Mental Distress

The principal provisions are Articles 583, 996, and 1183. Although their functions, fields of application, and protective scope differ, together they establish a three-source system of compensation for mental distress under the Civil Code.

Article 583 in the Book on Contracts provides that, where one party fails to perform its contractual obligations or performs them inconsistently with the agreement, and the other party sustains additional loss after performance or remedial measures have been taken, the defaulting party shall compensate that loss. As a general rule on damages for breach, it may encompass non-pecuniary loss. This approach responds to contemporary and individualized emotional needs, embodies voluntariness and party autonomy, and protects personal non-pecuniary interests.

Article 996 in the Book on Personality Rights provides that, where a party's breach damages the other party's personality rights and causes serious mental harm, the injured party's election to pursue liability for breach does not preclude a claim for compensation for mental distress. Thus, breach that infringes personality rights may give rise both to contractual liability and to compensation for mental harm. Professor Hong Guosheng regards this provision as strengthening personality-right protection within contractual relations by broadening the range of liable actors [2].

Article 1183 in the Book on Tort Liability provides that a person who suffers serious mental harm through infringement of personal rights and interests may claim compensation. It further permits compensation where intentional conduct or gross negligence infringes a specific object of personal significance to a natural person and thereby causes serious mental harm. The provision offers a general minimum level of protection; where the parties are linked by contract, Articles 583 and 996 may provide the more appropriate route.

3. Practical Issues in Compensation for Mental Distress

3.1. Scope of Application

The Civil Code provisions support claims arising from infringements of personality rights and from certain contractual breaches that cause mental harm. In practice, disputes include injury

to personal-information rights, mental distress suffered by traffic-accident victims [3, 4], mental harm arising from tourism contracts [5, 6], mental harm resulting from rape [7], and injury suffered by third parties [8]. Related questions may also arise in criminal incidental civil proceedings [9].

3.2. Constituent Elements

A claim for compensation ordinarily depends first on the establishment of tort liability. Four elements may be used to determine whether conduct constitutes a tort causing mental harm.

First, there must be wrongful conduct. Different torts take different forms, but they generally involve injury to the victim or to an object of special emotional significance and may plunge the victim into severe distress. Common examples include defamation, bodily injury, unlawful detention, traffic accidents, and medical accidents. Special cases also arise from tourism or custody contracts. In a tourism contract, a guide may insult or threaten tourists who refuse to shop; an operator may arrange an unreasonable itinerary requiring exhausting travel in poor conditions; or an agency may abandon a tour group. The resulting fear and fatigue may damage tourists' emotional interests.

Tourism is undertaken to satisfy emotional and recreational needs, yet breach of a tourism contract may cause mental harm. Under Article 583, the 'additional loss' remaining after performance or remedial measures may include non-pecuniary loss. Clear standards for compensation in tourism contracts would protect tourists' lawful rights and promote the healthy development of the industry. The broader doctrinal debate concerning mental-distress damages for breach supports this approach [10].

Second, actual harm must be shown. The wrongful act must have caused significant mental injury and impaired the victim's personality interests. In practice, this may appear as intense anguish, persistent distress, sadness, or depression. It may also produce physiological consequences, causing further impairment of health and subjecting the victim to both psychological and physical suffering.

Third, causation must connect the wrongful act with the harm. Although direct and indirect causal relationships may both be considered in theory, compensation should generally focus on direct causation; otherwise, the scope of liability would become excessively broad and potentially unfair. Causation is often relatively straightforward where personal rights are directly infringed. In contractual relations, however, it is especially important to establish a direct link between the breach and the victim's mental harm.

Fourth, fault is required in the ordinary case. Fault describes the actor's mental attitude toward the harmful result and may take the form of intention or negligence. Because compensation for mental distress ordinarily concerns general tortious conduct, the actor should possess a legally relevant degree of fault. Intentional conduct that causes severe mental harm should result in liability for compensation.

4. Jurisprudential Foundations of Compensation for Mental Distress

The jurisprudential basis of compensation for mental distress is extensive. Non-pecuniary interests are among the fundamental interests expressly protected by the Civil Code, and Article 996 establishes a central rule for mental-distress compensation. Emotional interests form part of personality rights and belong to every citizen. Personality interests may be divided into spiritual and material dimensions. When spiritual interests are infringed, the victim may seek compensation; when material personality interests such as life or health are injured, the victim's emotional interests may likewise be harmed. Compensation for mental distress is therefore an important expression of comprehensive protection for personality rights.

Although mental harm is non-pecuniary, monetary compensation remains practicable. Its principal characteristics are compensatory and consolatory, while its educational and deterrent effects should not be ignored. As part of civil liability, it compensates harm through a material award. This is particularly important in contractual settings directed toward emotional enjoyment. Tourism, for example, is an aesthetic and recreational experience aimed at psychological pleasure. Limiting relief to only the most serious infringements of personality rights would leave some victims without an adequate remedy and frustrate the very purpose for which they contracted. A right to compensation can offer a measure of consolation and more complete protection.

Fairness and justice are fundamental principles of law and are embodied in the mental-distress compensation system. Articles 583, 996, and 1183 together support protection across contractual and tortious settings. When conduct infringes personality interests and causes serious mental harm, requiring compensation realizes basic fairness. If a tourism operator breaches a contract, the tourist may spend money yet be deprived of the expected enjoyment. Allowing appropriate relief helps restore the fairness that the failed performance destroyed.

The system's core significance also lies in legal responsibility. Legal responsibility is the state's negative evaluation of unlawful conduct; it seeks to repair infringed rights and rebuild damaged social relations and order. Once wrongdoing and harm have occurred, law can condemn and remedy them as far as possible, but it cannot erase the event. Monetary compensation for psychological trauma is therefore often an imperfect but necessary choice. It cannot undo the injury, yet it demonstrates the law's respect for and protection of the victim's rights.

5. Future Development of Compensation for Mental Distress

5.1. Improvement of the Legal Framework

Standards for assessing mental-distress compensation remain vague, producing substantial differences in awards and limited predictability. Future development should move toward greater standardization. More detailed criteria, informed where appropriate by international experience, could reduce uncertainty associated with broad judicial discretion. Such criteria may include differentiated guidance for categories of mental harm and more objective methods for assessing severity.

The collection and evaluation of evidence also remain difficult. Evidentiary rules should accept a broader range of proof, including expert testimony and psychological assessment reports, and should reduce unreasonable burdens on claimants while preserving reliability.

5.2. Recommendations

The law should clarify which conduct may constitute compensable mental harm and how severity and the amount of compensation should be assessed. Different types of mental harm should be classified and linked to corresponding criteria. The Supreme People's Court or other competent authorities should issue judicial interpretations addressing recurring disputes, guide adjudication of controversial conduct, and promote consistency. For malicious infringements of emotional interests, a carefully limited punitive-damages mechanism may also be considered to strengthen deterrence.

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