



**Ken Oliphant (ed.)**

**Aggregation and Divisibility  
of Damage**



**Springer**Wien New York

# Aggregation And Divisibility Of Damage Tort And Insurance Law

**Ana Mafalda Castanheira Neves**  
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## **Aggregation And Divisibility Of Damage Tort And Insurance Law:**

**Aggregation and Divisibility of Damage** Ken Oliphant, 2009-12-17 Whether the harm for which compensation is sought in an action in tort is regarded as a single indivisible loss or a plurality of losses can have a number of important ramifications. If there are several losses it may be that more than one of the claimant's interests is affected and that only some of his losses are considered to be recoverable damage. Whether or not consequential loss is regarded as an independent harm to be addressed separately or as part of the whole damage also bears upon this question of recoverability as well as upon the application of statutes of limitation of action. Where there exist liability caps and minimum damage thresholds the question may arise whether these apply once only to the whole of the claim or to each of several different components of the overall claim. A plurality of losses may also be reflected in the application of the laws of contributory negligence. These problems relating to the divisibility of damage may be particularly pressing in cases where there are multiple claimants or multiple defendants. If two or more claimants have rights over the same damaged property e.g. as joint owners or as owner and licensee whether they are regarded as having suffered the same loss or independent losses may have implications for the claims they can bring.

*Aggregation and Divisibility of Damage* Ken Oliphant, 2012-03-14 Whether the harm for which compensation is sought in an action in tort is regarded as a single indivisible loss or a plurality of losses can have a number of important ramifications. If there are several losses it may be that more than one of the claimant's interests is affected and that only some of his losses are considered to be recoverable damage. Whether or not consequential loss is regarded as an independent harm to be addressed separately or as part of the whole damage also bears upon this question of recoverability as well as upon the application of statutes of limitation of action. Where there exist liability caps and minimum damage thresholds the question may arise whether these apply once only to the whole of the claim or to each of several different components of the overall claim. A plurality of losses may also be reflected in the application of the laws of contributory negligence. These problems relating to the divisibility of damage may be particularly pressing in cases where there are multiple claimants or multiple defendants. If two or more claimants have rights over the same damaged property e.g. as joint owners or as owner and licensee whether they are regarded as having suffered the same loss or independent losses may have implications for the claims they can bring.

*Causation in European Tort Law* Marta Infantino, Eleni Zervogianni, 2017-12-28 This book takes an original and comparative approach to issues of causation in tort law across many European legal systems.

**Aggregation and Divisibility of Damage in England and Wales** Richard Lewis, 2020 There is much uncertainty about both the law and practice in relation to insurance aspects of the divisibility of damage. The lack of empirical research of insurers' practices makes it difficult to assess how claims are assessed initially and how disputes are actually treated by insurers. Furthermore the diversity of insurance policies makes it difficult to formulate general statements about the law much depends upon the particular policy wording and the specific circumstances of the claim. It is clear that more disputes

are now reaching court There is an increasing sophistication in the analysis of causal factors relevant to loss Claims have been added and liability defined in more and more detail in an attempt to preclude certain possibilities In particular there has been concern to avoid liability for injuries which occur gradually over a period of time However in demanding that damage must result from specific events such as an accident or occurrence policies have proved to be unduly restrictive Market forces have then led to a relaxation in the wording of some policies In addition social and other factors favouring insurance coverage have encouraged courts especially in the USA to interpret policies in favour of claimants The overall picture is therefore a complex one Here it is suggested that European insurers have been slow to react to changes of wording to deal with multiple causation issues and as a result have become exposed to a wider time range within which liabilities may be established Insurers should pay close attention to aggregation and divisibility issues policies can and should be amended to ensure that the extent of the risk matches that which was intended when the premiums were first set Issues regarding aggregation and divisibility of damage will continue to grow in importance in insurance and tort law for some time to come This is because of the central importance of insurance to this area of civil litigation It is the driving force the lifeblood of the tort system Without it in many cases damages would not be paid and cases would simply not be litigated We would live in a very different legal world      Employers' Liability and Workers' Compensation Ken Oliphant, Gerhard Wagner, 2012-10-30

This large scale comparative study analyses the two principal mechanisms employed in modern legal systems to deal with the social problem of occupational illness and injury namely employers liability and workers compensation It provides a detailed description of the systems in operation in twelve countries around the world investigating the complex legal structures and the interaction with other social institutions as well as their inter jurisdictional coordination through private international law Current international trends are identified and assessed and the fundamental political issues highlighted and explored The study's ultimate goals are not only descriptive but also to answer the question of how compensation and liability systems can best be adapted to meet society's needs in the 21st century The countries covered are Australia Mark Lunney Austria Ernst Karner Felix Kernbichler Denmark Vibe Ulfbeck England and Wales Richard Lewis France Florence G Sell Isabelle Veillard Germany Raimund Waltermann Italy Alessandro P Scarso Massimo Foglia Japan Keizo Yamamoto Tomohiro Yoshimasa the Netherlands Siewert D Lindenbergh Poland Domenika D rre Nowak Romania Christian Alunaru Lucian Bojin and the United States of America Michael D Green Daniel S Murdock The book is completed by three concluding essays that address general themes Thomas Thiede The European Coordination of Employers Liability and Workers Compensation Ken Oliphant The Changing Landscape of Work Injury Claims Challenges for Employers Liability and Workers Compensation Gerhard Wagner New Perspectives on Employers Liability Basic Policy Issues      *Modes of Regulation in the Intermediate Field Between Contract Law and Tort Law* Jiayong Zhang, 2023-02-17      *Comparative Tort Law* Mauro Bussani, 2021-02-26 This revised second edition of *Comparative Tort Law Global Perspectives* offers an updated and enriched framework for analysing and

understanding the current state of tort law around the world Using a critical comparative methodology it covers not only the common tort law issues but also many jurisdictions often overlooked in the mainstream literature Contributions explore illuminating case studies from tort systems in Europe the US Latin America Asia and sub Saharan Africa including new chapters specifically discussing tort law in Brazil India and Russia

**The Impact of the UK Human Rights Act on Private Law** David Hoffman,2011-10-13 The Human Rights Act 1998 has had a profound effect in numerous private law decisions and has been the subject of extensive academic debate in particular on the issue of the extent to which it has horizontal effect and its application in disputes between individuals With contributions from a variety of academics and practitioners this volume covers and contributes to the academic debate on horizontal effect and considers how theory matches up with case law the limits of the Act for private law and its impact on key areas including privacy defamation negligence nuisance property commercial law and employment Together the book provides a practical critique of the areas discussed which will be of academic interest to theorists and of practical benefit to lawyers and judges who wish to understand how the academic debates can be brought to bear in particular cases

**Tort Law in Poland** Ewa Bagińska,Magdalena Tulibacka,2022-08-20 Derived from the renowned multi volume International Encyclopaedia of Laws this book provides ready access to how the legal dimension of prevention against harm and loss allocation is treated in Poland This traditional branch of law not only tackles questions which concern every lawyer whatever his legal expertise but also concerns each person s most fundamental rights on a worldwide scale Following a general introduction that probes the distinction between tort and crime and the relationship between tort and contract the monograph describes how the concepts of fault and unlawfulness and of duty of care and negligence are dealt with in both the legislature and the courts The book then proceeds to cover specific cases of liability such as professional liability liability of public bodies abuse of rights injury to reputation and privacy vicarious liability liability of parents and teachers liability for handicapped persons product liability environmental liability and liability connected with road and traffic accidents Principles of causation grounds of justification limitations on recovery assessment of damages and compensation and the role of private insurance and social security are all closely considered Its succinct yet scholarly nature as well as the practical quality of the information it provides make this book a valuable resource for lawyers in Poland Academics and researchers will also welcome this very useful guide and will appreciate its value not only as a contribution to comparative law but also as a stimulus to harmonization of the rules on tort

*Proportional Liability: Analytical and Comparative Perspectives* Israel Gilead,Michael D. Green,Bernhard A. Koch,2013-10-14 Causal uncertainty is a wide spread phenomenon Courts are often unable to determine whether a defendant s tortious conduct was a factual cause of a plaintiff s harm Yet sometimes courts can determine the probability that the defendant caused the plaintiff s harm although often there is considerable variance in the probability estimate based on the available evidence The conventional way to cope with this uncertainty has been to apply

the evidentiary rule of standard of proof The application of this all or nothing rule can lead to unfairness by absolving defendants who acted tortiously and may also create undesirable incentives that result in greater wrongful conduct and injustice to victims Some courts have decided that this no liability outcome is undesirable They have adopted rules of proportional liability that compensate plaintiffs according to the probability that their harm was caused by the defendant's tortious conduct In 2005 the Principles of European Tort Law PETL made a breakthrough in this regard by embracing rules of proportional liability This project building on PETL endeavours to make further inquiries into the desirable scope of proportional liability and to offer a more detailed view of its meaning implications and ramifications

**Do Nexo de Causalidade ao Nexo de Imputação - 2 volumes** Ana Mafalda Castanheira Neves Miranda Barbosa, 2013-10-01 Muitas são as pretensões indemnizatórias que decaem em virtude do não estabelecimento do nexos de causalidade Uma detida análise do pressuposto leva-nos a perceber que o mesmo tem sido concebido em moldes que contrariam a intencionalidade especificamente jurídica não garantindo o acerto das decisões proferidas pelos Tribunais Ao mesmo tempo torna-se evidente que o requisito chamado a cumprir diversas funções sem que se distingam os vários segmentos em que se desdobra Impõe-se por isso um novo olhar sobre a causalidade Longe do papel de mero instrumento apto a determinar o quantum indemnizatório ela opera também ao nível da fundamentação da responsabilidade transmutando-se a verdadeira imputação

**Landmark Cases in the Law of Tort** Charles Mitchell, Paul Mitchell, 2010-02-18 Landmark Cases in the Law of Tort contains thirteen original essays on leading tort cases ranging from the early nineteenth century to the present day It is the third volume in a series of collected essays on landmark cases the previous two volumes having dealt with restitution and contract The cases examined raise a broad range of important issues across the law of tort including such diverse areas as acts of state and public nuisance as well as central questions relating to the tort of negligence Several of the essays place cases in their historical context in ways that change our understanding of the cases' significance Sometimes the focus is on drawing out previously neglected aspects of cases which have been undeservedly assigned minor importance Other essays explore the judicial methodologies and techniques that worked to shape leading principles of tort law So much of tort law turns on cases and there are so many cases that all but the most recent decisions have a tendency to become reduced to terse propositions of law so as to keep the subject manageable This collection shows how important it is despite the constant temptation to compression not to lose sight of the contexts and nuances which qualify and illuminate so many leading authorities

**Mass Torts in Europe** Willem H. van Boom, Gerhard Wagner, 2014-10-14 In recent years there has been a growing interest in the legal aspects of mass torts in Europe Both academics legislatures courts and policymakers throughout the whole of Europe have been struggling with the challenges that such massification of private law relationships poses both in and outside of tort law The subject moves between the law of civil procedure substantive tort law access to justice debates and regulatory frameworks for mass disputes This volume offers both a kaleidoscopic review of real life key cases of mass tort and an in

depth reflection on the broader implications of mass tort in Europe Thus the challenges posed by mass torts are explored mapped and analysed

Colóquio de Direito Civil de Santo Tirso - O Código Civil 50 anos depois: Balanço e Perspectivas  
 Nuno Manuel Pinto Oliveira, Agostinho Cardoso Guedes, 2023-06-29 O Código Civil 50 anos depois Forma o do contrato no Código Civil de 1966 Aspectos do instituto da interdição Civil usulas contratuais gerais A exceção do não cumprimento balanço e perspectivas de futuro Da indemnização do interesse negativo em caso de resolução do contrato por incumprimento indemnização de despesas inutilizadas na responsabilidade contratual Contrato promessa um instrumento jurídico em desassossego em 50 anos de vigência do Código Civil 1966 2016 Pacto de preferência e direitos legais de preferência Balanço dos 50 anos do Código Civil Civil usulas de exclusão e de limitação da responsabilidade contratual Civil usulas penais Os 50 anos do Código Civil e o arrendamento urbano uma história interminável de leis extravagantes e reformas falhadas A aplicação do artigo 980º do Código Civil e as sociedades comerciais sobre a remanescente utilidade da definição de contrato de sociedade para a estabilização da categoria da sociedade comercial Da conformidade no contrato de compra e venda Danos puramente patrimoniais a propósito do caso ACP v Casa da Música Porto 2001 S.A. Das funções reconstitutiva e punitiva da responsabilidade civil extracontratual Responsabilidade civil de terceiros na formação do contrato um apontamento nos 50 anos do Código Civil Em tema de causalidade alternativa

**Organization Descriptions and Cross-references** Union of International Associations Staff, 2010-08-13 Yearbook of International Organizations is the most comprehensive reference resource and provides current details of international non governmental NGO and intergovernmental organizations IGO Collected and documented by the Union of International Associations UIA detailed information on international organizations worldwide can be found here Besides historical and organizational information details on activities events or publications contact details biographies of the leading individuals as well as the presentation of networks of organizations are included

**Climate Change Remedies**  
 Jaap Spier, Ulrich Magnus, 2014-07-01 Climate change poses very serious risks to mankind Adaptation and damages are emphasised more and more Although adaptation is important priority should be given to prevention mitigation The contributions in this volume emanate from an international research project that deals with a legal kaleidoscope of legal issues and focuses primarily on preventive remedies The contributions of Spier and Magnus tackle injunctive relief and discuss the myriad of legal questions courts have to answer if they are willing to grant injunctive relief This part of the book addresses procedural private international and substantive law Kemp's contribution discusses the role criminal law could play to come to grips with the threats of climate change So far the greater part of the debate is about the United States Europe and increasingly Asia Ruppel fills this gap by painting an African perspective

*Responsabilidad civil* Guido Alpa, Massimo Franzoni, Francesca Benatti, Carlos Castronovo, Massimo Paradiso, Marta Infantino, Alessio Zaccaria, 2023-11-01 Consumada la primera década del nuevo siglo el rea de la responsabilidad civil continúa expandiéndose modificando rpidamente su geometría a la cual varía a causa de impulsos externos al sistema vinculados a las exigencias económicas y

sociales expresadas por la sociedad civil al desarrollo de los mercados a la difusión de las tecnologías y a las nuevas sensibilidades ticas y ambientales pero también a causa de impulsos internos al sistema sistema que cada vez con mayor frecuencia se encuentra sometido a las revisiones de la doctrina y jurisprudencia así como a las influencias de la comparación jurídica y de la unificación del derecho Sin embargo no se trata sólo de un movimiento expansivo es un sector que algunas veces pierde terreno a causa de la intervención del legislador un legislador cada vez más invasivo y voraz como el Leviatán de Hobbes y a causa de la reelaboración conceptual realizada por la doctrina La tela se teje y se vuelve a tejer sin dar nada por descontado Precisamente cuando pareciera que no existieran más dudas sobre las hipótesis de responsabilidad objetiva se hicieron manifiestos los problemas de la reforma del régimen jurídico de la responsabilidad del productor de bienes de consumo en donde se ha propuesto atenuar la strict liability a favor de un sistema mixto Y justo cuando pareciera que todos los baluartes erigidos para proteger a la administración pública los mismos que le aseguraban un tratamiento privilegiado habían sido conquistados la exigencia de conservarle un reas de favor ha regresado al campo de batalla incluso en el nuevo sector de la lesión de los intereses legítimos un sector que fue conquistado con dificultad La propia terminología empleada los conceptos utilizados el sistema dogmático que se había estado elaborando en el curso del tiempo están sujetos todos a revisión la noción de daño de daño injusto de relación de causalidad etc Esto es un signo de que el sector requiere una adaptación continua de terminología y conceptos a las nuevas exigencias ello con el fin de hacer al sistema elástico y funcional a una sociedad en permanente evolución De allí el gran interés de esta obra en la cual se reúnen estudios de ilustres estudiosos los mismos que documentan cómo a causa de su flexibilidad el reas de la responsabilidad civil ha superado los confines que la delimitaban respecto al reas del contrato y cómo es que algunos problemas se pueden resolver con los remedios del ilícito en lugar que con los del contrato De la Introducción

**Tort & insurance law journal** ,1995 Compulsory Liability Insurance from a European Perspective Attila Fenyves,Christa Kissling,Stefan Perner,Daniel Rubin,2016-09-26 Statutory obligations to take out liability insurance are in practice the most important means to ensure compensability of damage arising from dangerous activities However in contrast to the significant practical impact academic research on the topic has not been extensive so far This study therefore undertakes a comprehensive survey of compulsory liability insurance from nine national perspectives Austria Belgium the Czech Republic Finland Germany Hungary Italy Switzerland and the United Kingdom and takes constitutional and European law four freedoms European Convention on Human Rights as well as the Principles of European Insurance Contract Law PEICL into account It also contains an extensive economic analysis of compulsory liability insurance and discusses aspects of insurability A Comparative Report Conclusions and an Annex containing a compilation of rules on compulsory liability insurance in the nine national legal systems complete the study It considers in particular the aims of provisions stating an obligation to take out liability insurance the mandatory content of insurance cover the protection mechanisms linked to compulsory liability insurance the control mechanisms and the



sanctions imposed structural deficiencies of existing compulsory liability insurance systems      Policyholder's Guide to the Law of Insurance Coverage Peter J. Kalis, Thomas M. Reiter, James R. Segerdahl, 1997-01-01 Annotation The first comprehensive guide to insurance law written from the corporate policyholder's perspective Policyholder's Guide to the Law of Insurance Coverage provides expert guidance through the labyrinth of legal issues surrounding insuring instruments and underlying claims plus practical strategies and legal arguments to help you secure coverage for contested claims Policyholder's Guide addresses virtually every insurance related legal issue you are likely to encounter in the regular course of business as well as those issues unique to specialized industries or unusual situations including Liability policies Special liability policies First party policies Specialty first party property policies Environmental Marine and aviation Toxic tort Copyright claims issues Litigation in insurance coverage disputes Policyholder's Guide gives you in depth analysis of the latest court decisions plus current policy language and cutting edge legal arguments that you may use to advance your case You also get hundreds of case citations footnotes cross references checklists and other useful aids to make legal research easy

## Unveiling the Magic of Words: A Review of "**Aggregation And Divisibility Of Damage Tort And Insurance Law**"

In a global defined by information and interconnectivity, the enchanting power of words has acquired unparalleled significance. Their capability to kindle emotions, provoke contemplation, and ignite transformative change is actually awe-inspiring. Enter the realm of "**Aggregation And Divisibility Of Damage Tort And Insurance Law**," a mesmerizing literary masterpiece penned with a distinguished author, guiding readers on a profound journey to unravel the secrets and potential hidden within every word. In this critique, we shall delve in to the book is central themes, examine its distinctive writing style, and assess its profound affect the souls of its readers.

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