

Exploring General Personal Tort Issues Between Spouses in China

—A Perspective on Motor Vehicle Traffic Accidents

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Abstract: With the increasing awareness of individual rights and independence, there is a growing popularity in the concept of citizens' personal independence. Consequently, general personal tort disputes between spouses are on the rise, with motor vehicle traffic accidents serving as a typical example. This article explores the general personal tort liability between husbands and wives in China from this perspective. Using the fundamental logic of "problem identification, analysis, and solution finding," it compiles general personal tort cases between spouses in motor vehicle traffic accidents from recent years, examines the current state of domestic and international research, and presents judicial controversies regarding the application of the law, the determination of tort liability, and the realization of damages in such cases. The primary research methods employed are case analysis, literature research, and comparative analysis. Based on the analysis, it is concluded that previous judgments, legal improvements, and traditional views have influenced the application of the law. The determination of tort liability has not yet established a unified standard, and the property system of husbands and wives poses an obstacle to the realization of damages, which is the primary reason for differing judgments in similar cases. Consequently, it is recommended that the application of the law follow the sequence of the Road Traffic Safety Law, Tort Liability section, Personality Rights section, and General Provisions section to determine whether it constitutes general personal tort liability between spouses in motor vehicle traffic accidents in China. Additionally, clarifying the existing legal norms of matrimonial property can eliminate certain obstacles to realizing damages. The objective of this article is to provide practical guidance for judicial practice, ensure that remedies for the rights of the tortfeasor are achievable, and enrich theoretical research outcomes.

Keywords: inter-spousal tort, tort liability, damage claims, motor vehicle traffic accidents

1. Introduction

The number of cases involving motor vehicle traffic accidents in judicial practice has been steadily increasing year by year, becoming an issue that cannot be ignored. Among these cases, accidents caused by one spouse driving a motor vehicle resulting in harm to the other spouse have led to general

personal injury disputes between spouses. Additionally, instances of divergent judgments in similar cases have emerged. In this study, using keywords such as "spousal infringement" and "spousal tort" on the Chinese Judgment Documents Online platform, motor vehicle traffic accident cases were manually screened to identify representative cases from 2015 to 2022. Through analysis, several distinctive characteristics have been observed in the judicial handling of general personal injury cases between spouses involved in motor vehicle traffic accidents:

From the perspective of legal application, the majority of courts believe that special laws governing marital relationships should be given priority. However, due to the lack of a specific legal framework in China for disputes involving general personal injury between spouses, a combination of common law principles and ethical standards is suggested. In terms of judicial outcomes, three different results can be observed: cases where spousal tortious conduct is not established and no compensation liability is required; cases where tortious conduct is established, leading to assessed compensation; cases where spousal tortious liability is established, resulting in the phenomenon of divergent judgments in similar cases. Overall, the courts tend to lean towards not attributing tortious liability to spouses. Analyzing key points of these judgments, most courts believe that when the accident occurs, both parties are still in the subsistence period of their marital relationship, constituting a special tortious relationship. Subjective fault is limited to intentional or gross negligence to impose tortious liability. The marital property regime also becomes a factor influencing the court's decision on whether to impose compensation liability. Some courts base their judgments on the lack of mutual dependence in personality rights between spouses, attributing compensation assessments to the injured party's own contributory negligence. Other courts base their judgments on factors such as the existence of clear violations, like driving without a license, or significant harm caused to other close relatives.

Considering the distinctive characteristics of the representative cases handled as mentioned above, it is evident that controversies surround the general personal injury liability between spouses in motor vehicle traffic accidents from the perspective of current judicial practice. Courts generally acknowledge the uniqueness of disputes involving general personal injury between spouses, but they tend to adopt a more conservative stance on whether such disputes constitute tortious liability [1]. Comparative analysis raises the following three questions:

1. Should legal norms primarily related to marriage and family law or general tort norms be given priority in handling disputes of this nature?
2. How should the general personal injury liability between spouses in motor vehicle traffic accidents be determined?
3. If the establishment of general personal injury liability between spouses in motor vehicle traffic accidents is confirmed, how should compensation for damages be realized?

Fundamentally, these questions all revolve around finding an appropriate balance between family ethics and individual rights, ultimately addressing the issue of which laws to apply and how to apply them.

2. Literature Review

As the concepts of marital freedom and rights awareness continue to strengthen, the conflicts arising from general personal injury between spouses are becoming more pronounced. Exploring this issue holds practical significance in terms of deterring wrongful acts, safeguarding individual autonomy, and fostering a civilized and harmonious marital relationship.

Research into general personal injury disputes between spouses from the perspective of motor vehicle traffic accidents is limited. Most domestic scholars have examined the relevant categories of general personal injury between spouses, often presenting their viewpoints based on legislative gaps and chaotic situations in judicial practice. The majority of scholars acknowledge the existence of general personal injury between spouses, and advocate for the establishment of a liability system for

such tortious conduct. This aligns with the trend of strengthening individual personality rights in contemporary times. Wang Weidong was among the first to explicitly propose that marital tortious conduct should incur civil liability [2]. Early scholars such as Liu Shuqiao and Jiang Hong believed that tortious conduct between spouses must violate the rights and obligations of the marital relationship, essentially denying the existence of general personal injury between spouses [3][4]. However, this viewpoint contradicts the trend of legal development and fails to address disputes like general personal injury between spouses in motor vehicle traffic accidents. Scholars like Du Jiangyong, Liu Yuxuan, and Wang Wei argue that marital tort should not be limited to the rights and obligations between spouses, but should also encompass the rights and obligations of general civil subjects [5][6][7].

Scholarly interest in the general personal injury liability between spouses has been steadily increasing, focusing primarily on the following aspects:

1. Legal Application: Scholars such as Wang Yiwen argue that general personal injury between spouses should adhere to the general principles of tort law [8]. Shen Chen suggests that spouses during the subsistence of marriage can seek corresponding compensation liability based on the provisions of tort liability [9]. While these scholars affirm the applicability of general tort principles to disputes of general personal injury between spouses, the exact position of liability for such cases remains unclear. Clarifying the liability for general personal injury between spouses, especially within the context of existing laws for negligence cases like motor vehicle traffic accidents, can offer a reference solution for addressing divergent judgments in similar cases.

2. Subjective Fault: Intentional conduct is the primary form of fault, with some scholars recognizing gross negligence. The theoretical field is mainly divided into two camps: one asserts that intentional conduct is required to constitute liability, as endorsed by scholars such as Chang Maohua, Liu Xiaodong, and Liu Ping; they contend that liability for spousal tort requires intentional subjective fault [10][11]. The second camp believes that both intentional and grossly negligent acts can constitute liability. Among them, Wang Jing argues that the requirement for subjective fault varies with the nature and category of conduct. For behaviors explicitly stipulated in marital laws, such as domestic violence and bigamy, intentional fault is necessary to establish liability [12]. For general tortious acts, such as infringement of the right to life and health, intentional or negligent actions suffice to establish liability. Xu Jun proposes that, due to the unique nature of marital relationships, liability for general negligence torts should be tolerated [13]. The determination of whether to reduce compensation liability should be based on whether the marriage is ongoing. Currently, the academic consensus leans towards intentional misconduct being the primary form of fault, with gross negligence gradually being considered, while general negligence is not recognized. Relying solely on intention as the subjective psychological state of the perpetrator would significantly restrict the scope of remedies available to the aggrieved party, particularly in cases involving negligence. This approach could notably reduce the chances of the aggrieved party actually receiving compensation for damages. Excessive moral regulation in cases of negligence-related spousal torts neglects both parties' independent and equal personality rights within the marital relationship and is detrimental to fairness. Therefore, in cases where one spouse's intentional or negligent actions cause harm to the other spouse in the context of a motor vehicle traffic accident, the determination of liability should be based on the actual circumstances.

3. Compensation Realization: Various scholars propose measures to improve the marital property regime and implement several remedies. The majority of scholars believe that the marital joint property system can impact the fulfillment of compensation. Simultaneously, scholars have put forth corresponding measures to address this issue. These include establishing anticipatable creditor's rights [14], applying suspension of the statute of limitations [15], implementing a deferred compensation system [16], temporary separation of spouses [17], mandatory termination of the marital joint

property system [18], dividing marital joint property and segregating the victim's personal property [19], defining spousal rights [20], and other remedial measures. The current marital property system in the Civil Code provides a significant potential for the liability assumption in cases of general personal injury between spouses in our country to a certain extent. The key issue now lies not in creating a system to safeguard the realization of compensation, but in how to effectively implement existing laws in judicial practice through rational interpretations. Additionally, Zhang Xiuling proposes that marital relationships should not hinder compensation claims, and establishing a civil remedy system for general personal torts between spouses does not affect marital relationships [21]. The exercise of the right to claim compensation should entirely adhere to the principle of voluntariness [22].

Internationally, the system of general personal tort liability between spouses has undergone a complex transformation from complete inapplicability to partial applicability, and eventually to full recognition. In 1983, the Colombian Law Reform Commission pointed out that there was no source of liability for tortious acts between spouses [23], and under the early Roman law of "marital power," there was no legal notion of tort liability between spouses [24]. With the infiltration of the concept of equal human rights, countries gradually recognized tortious acts between spouses. The first case involving compensation for general personal tort between spouses appeared in the United States in 1914 with the case of *Brown v. Brown*. Australia's 1975 enactment of the "Family Law Act" allowed spouses to sue each other for torts [25]. In contemporary Japan, it is argued that when a spouse, as an independent subject of rights and obligations, commits a tort against the other spouse, the injured party can claim compensation [26]. Although foreign attitudes towards spousal tort liability have undergone a lengthy transformation process, most contemporary countries recognize the application of tort liability in cases of general personal tort between spouses. The positive stance held by foreign countries in this regard can provide valuable insights and references for dealing with cases of general personal tort between spouses in China, using motor vehicle accidents as an example.

In conclusion, the application of general tort rules to cases of general personal tort between spouses is imperative, fully indicating the importance and feasibility of establishing a system of general personal tort liability between spouses. However, in recent years, the research enthusiasm of Chinese scholars regarding spousal tort liability has declined. On the one hand, this is due to the introduction of the Civil Code, which places the marriage and family section and the tort liability section at the same level, reducing conflicts in legal application and weakening the marital joint property system after marriage, thereby providing feasibility for the fulfillment of compensation. On the other hand, while spousal torts are common, they are relatively private, and related judicial cases are complex but not frequent. With the increasing likelihood of compensation claims by spouses for general personal torts, scenarios like motor vehicle accidents have become judicial challenges, making it necessary to establish a system of general personal tort liability between spouses in China. Therefore, exploring the system of general personal tort liability between spouses in China from the perspective of motor vehicle accidents is representative at the theoretical level, sparking renewed attention from the academic community, addressing relevant theoretical gaps, and offering valuable references for handling such cases in practice.

3. Problem Analysis

The primary reason for the differentiated handling of general personal injury disputes between spouses from the perspective of motor vehicle traffic accidents is the absence of dedicated laws specifically applicable to such cases in China. The fundamental reason lies in the conflict between ethical considerations and the protection of individual rights. Judges, while exercising their discretionary powers, weigh the degree of marital ethics differently, leading to varying possibilities of case outcomes and consequently undermining the legitimate rights of the aggrieved party.

3.1. Conflict Arising from Previous Judgments, Legal Refinement, and Traditional Notions

Judicial practice has demonstrated that the type and sequence of legal application impact trial outcomes. Analysis of existing cases reveals that if courts apply laws regulating marital relationships as the basis for judgment, invoking the ethical and moral values embedded therein, they may conclude that the tortfeasor did not commit a tort. Conversely, if courts apply the general principles of tort liability law, with the objective of safeguarding human rights, they may determine that the tortfeasor committed a tort and should bear corresponding liability. When applying the general principles of tort liability law while also considering marital ethics, courts may find the existence of a tort but exercise discretion in determining liability.

Previous judgments that have become legally effective significantly influence judicial practice. In ongoing cases of a similar nature, Chinese courts can refer to guiding cases to ensure uniform legal application and achieve consistent judgments. This practice, particularly significant in cases where a dedicated law for general personal injury between spouses does not yet exist, strongly affects judges' handling of cases. In motor vehicle traffic accident cases, judgments absolving one party from tort liability often cite reasons such as "both parties are in a marital relationship, and thus the general principles of tort law should not be applied directly. Moral standards must also be considered." Consequently, tort liability between spouses cannot be based on slight or ordinary negligence, but must instead require intention or gross negligence. The prevalence of judgments absolving tort liability in prior cases has led to the acceptance of such outcomes in subsequent cases. However, in recent years, judges' decisions have been leaning towards the view that the liability for general personal injury disputes between spouses should be primarily regulated by tort liability laws, with marital and family laws serving a secondary role.

The ongoing refinement of laws has exerted a certain level of influence. An analysis of cases spanning different time periods, particularly during a pivotal phase of refining marital and family laws along with tort liability laws, reveals legal changes. Prior to the promulgation of the Civil Code, Article 46 of the Marriage Law stipulated the right to claim compensation for divorce damages. However, the criteria for application were stringent, only allowing claims from the innocent party. This provision clearly could not cover all types of tortious conduct between spouses. Courts generally consider motor vehicle traffic accidents to be negligence cases, making them unsuitable for applying the stipulations of the Marriage Law. Article 49 of the Marriage Law refers to other legal provisions. The Tort Liability Law designates motor vehicle traffic accidents as cases of special tort liability, regulated by the Road Traffic Safety Law. The Civil Code inherits provisions from the Tort Liability Law, with Article 1001 explicitly stating that liability can be based on the general principles of the code and other laws outside of it. The continuously evolving legal norms have led to varying outcomes in recent judgments involving this type of case.

Traditional notions that "marital disputes can heal themselves" continue to exert an influence. As the foundation of society, families play a crucial role, with marital relationships being a key component involving family and social dynamics. Traditional Chinese beliefs hold that marital disputes can be resolved through "soft power" like criticism [27], and there is a prevailing belief in not involving the law in family matters. This belief was particularly evident in general personal injury disputes between spouses involving motor vehicle traffic accidents from 2015 to 2018. Courts primarily adjusted these cases using marital law, and since motor vehicle traffic accidents are often characterized as negligence cases, both parties are expected to tolerate each other to a certain extent. The strong ethical implications within marital and family matters have heightened the difficulty for judges in handling these cases, often leading to judgments absolving tort liability. While contemporary moral norms are decreasingly relied upon to regulate marital and family relationships, it's undeniable that the unique nature of marital relationships will continue to influence the application

of the law in these disputes, regardless of the rapid evolution of society.

3.2. Lack of Unified Criteria for Identifying General Personal Injury Between Spouses

Neither judicial practice nor theoretical discussions have yielded a consensus on the criteria for identifying general personal injury between spouses. The prevailing view is that due to the special nature of marital relationships, the criteria for identification should be stringent. In judicial practice, general personal injury between spouses is categorized as a specific type of tort, and the general criteria for constituting tort liability cannot be directly applied. In theoretical discussions, the criteria for identifying general personal injury between spouses are mainly elucidated through four elements.

Currently, there are no explicit legal systems that can be directly applied. Instead, they often borrow from other legal provisions or refer to prior judgments. Analyzing existing legal norms from the perspective of motor vehicle traffic accidents, there is no directly applicable law; relevant provisions are scattered across various areas. Article 1091 of the Civil Code inherits Article 46 of the Marriage Law, adding "other significant fault behaviors" as a fallback provision to expand its scope. Judicial interpretations related to marital and family law also contain relevant regulations. Article 1001 explicitly states that other legal provisions can be adjusted, with a lack of legal provisions permitting reference to tort liability provisions protecting personality rights. While motor vehicle traffic accidents are designated as cases of special tort liability by the Civil Code, and specific rules for their legal application are established, and the personality rights provisions outline remedies for general civil subject personality rights violations, these do not fully apply to general personal injury disputes between spouses due to the special relationship. In the absence of directly applicable legal norms, judicial practice often borrows from other legal provisions and references previously effective judgments to render decisions. There is no unified standard for determining this type of dispute in China concerning general personal injury between spouses.

The influence of marital ethics on the elements of tort liability varies due to judges' discretionary powers. As previously mentioned, China currently lacks a system for general personal injury liability between spouses, granting judges significant discretion. Marital relationships possess durability and stability, necessitating a clear definition of the elements of tort liability based on common law principles and marital ethics. Thus, in cases of general personal injury disputes between spouses, judges integrate common law principles and marital ethics, advocating for stricter criteria to establish tort liability. The elements of tort liability for general personal injury between spouses are the same as those for general tort liability. Among these, it is widely accepted that actions by one spouse driving a motor vehicle that cause injury or death to the other spouse constitute a violation of the law, and tangible harm is not a prerequisite. Regarding the factual element, objective harm can be directly observed, but a cautious stance is taken regarding mental harm. In terms of causation, it is generally recognized that the actions of one spouse driving a motor vehicle can lead to harm to the other spouse, establishing a causal relationship. The impact of marital ethics on the element of fault is significant, with differing attitudes among different courts. Specifically considering motor vehicle traffic accidents, the issue of whether clear violations such as driving without a license or driving under the influence by one spouse can constitute gross negligence varies between courts. Taking driving without a license as an example, three different verdicts exist: absolving tort liability, discretionary tort liability, and imposing tort liability. Judges' personal values and individual factors can influence the judgment process, leading to deviations in the process of establishing facts and aligning them with the law.

The criteria for establishing contributory negligence or exemption from liability for the aggrieved party's own fault are also inconsistent. Even if one party's actions in driving a motor vehicle in a motor vehicle traffic accident constitute a tort, requiring them to bear corresponding liability, most courts have higher standards for the aggrieved party's behavior when considering contributory

negligence or exemption from liability. When the aggrieved party was not wearing a safety helmet or was aware of the vehicle's defects, judges may rule that the tortfeasor does not need to bear liability or impose discretionary liability. Due to the special nature of marital relationships, these factors can result in inconsistent judgments for similar cases. The ethical aspects of marital and family relationships lead to differing criteria for establishing contributory negligence or exemption from liability, ultimately resulting in a lack of unified criteria for identifying general personal injury between spouses in China.

3.3. Marital Property Regime as the Primary Obstacle for Bearing Tort Liability

Judicial practice demonstrates that the existing marital property regime in China could lead to a situation where both spouses lack individual property, thereby losing the material basis for bearing tort liability. There are instances in which courts consider the joint property regime between spouses to render the imposition of general personal injury liability between spouses practically meaningless. The theoretical domain has also proactively proposed various measures for enhancing the marital property regime. It is evident that the regime of jointly acquired property between spouses becomes a material obstacle for the aggrieved party to obtain compensation for personal injury.

In China, the most widely applicable marital property regime, post-marital jointly acquired property, may result in an appearance of constituting liability for damages that only scratches the surface. Traditional conceptions of marital unity still influence the thinking of a considerable portion of the population, and the idea of independent property in the marital context is rare. Usually, the individual property of either spouse is only determined when the marital relationship is dissolved. Prior to the enactment of the Civil Code, China's marital property regime included three concurrent patterns: joint ownership of all property, individual ownership of property, and agreed ownership of property. However, the majority of post-marital income remains jointly owned by spouses in real life. The commingling of property is a common impediment in handling family disputes, and this inadvertently hinders the realization of compensation for general personal injury between spouses [14]. After the Civil Code was enacted, the scope of individual property for each spouse expanded, raising awareness of responsibility on both sides. Despite continuous improvement in marriage legislation, determining rights and evaluating and distinguishing property remains a practical challenge. Even couples that have adopted agreed property regimes face challenges. Due to the intimate nature of marital relationships, evaluating the agreed property of both parties shouldn't solely be measured against civil action standards, but also consider the true intentions of both parties [29], further complicating the pursuit of compensation for general personal injury between spouses.

The injured party, as a beneficiary, may lead to the establishment of joint spousal debt due to the tort, resulting in the situation where the spouses bear the tort liability and compensate themselves. When both spouses share a journey, the injured party also benefits. Article 1064 of the Civil Code clearly stipulates that debts incurred by a spouse in their individual capacity for the daily needs of the family constitute joint spousal debts. According to this provision, the compensation liability arising from a traffic accident caused by the other party's driving of a motor vehicle for daily needs in the context of a motor vehicle accident may be deemed a joint spousal debt. In this case, the joint marital property would bear the tort liability. When the injured party is also one of the spouses, if the tortfeasor lacks personal property but uses the joint marital property to fulfill the liability, it is equivalent to the injured party compensating themselves with their own property, creating a paradox of "self-compensation." This is one of the bases for some court judgments that absolve the tortfeasor from tort liability.

The spousal inheritance relationship becomes a crucial consideration in determining whether the tortfeasor bears tort liability. In cases of general personal tort between spouses, the death of one party or the death of both parties will inevitably give rise to inheritance issues. The complexity of

inheritance issues mainly lies in: Firstly, the dual identity of the parties – the surviving spouse, as both the relative of the injured party and the subject of legal compensation liability, possesses the right to claim compensation for tortious harm, while also being the tortfeasor. Secondly, the complexity of estate distribution – due to the spousal relationship, the tortfeasor could inherit a certain amount of property from the injured party, turning it into personal property, and the compensation obtained by the injured party from the tortfeasor could, in turn, be distributed as part of the estate, leading to an infinite loop. Even in cases where the tortfeasor is ordered to assume liability for compensation, in practice, it is often difficult for the tortfeasor to perform due to the lack of personal property or the compensation being derived from jointly owned property, rendering it practically meaningless. The spousal property ownership system poses challenges and focal points when adjudicating cases involving spousal torts.

The involvement of the marital relationship complicates judicial cases involving general personal tort between spouses in scenarios like motor vehicle accidents in China. Upon analyzing similar cases, the main issue isn't the lack of direct applicability of specific laws, but rather the introduction of spousal relationships leading to a series of challenges. In judicial practice, the consideration of moral or marital and familial ethical relationships has resulted in varying approaches to determining liability in such tort cases, thus creating obstacles to safeguarding the interests of both spouses.

4. Practical Recommendations

Through the analysis of the aforementioned judicial controversies, the current judicial challenges in the practice of handling general personal injury disputes between spouses, viewed through the lens of motor vehicle traffic accidents in China, mainly revolve around legal application, establishment of liability, and the marital property regime. Here, in conjunction with certain academic viewpoints and the author's limited understanding, practical recommendations are provided to address the issues related to general personal injury liability in such cases.

4.1. Legal Application for General Personal Injury Disputes Between Spouses in Motor Vehicle Traffic Accidents

The legal application for general personal injury disputes between spouses in motor vehicle traffic accidents in China should follow the sequence of steps outlined by the Road Traffic Safety Law - Tort Liability Chapter - Personality Rights Chapter - General Principles Chapter. These disputes should be categorized as motor vehicle traffic accident disputes, with a priority on applying provisions from the Road Traffic Safety Law. Subsequently, relevant provisions from the Civil Code, particularly those concerning personality rights and the general principles of tort liability, should be used to determine compensation liability. When necessary, the general principles chapter can also be referenced to define liability. Moreover, the Family Chapter of the Civil Code only contains provisions related to the divorce compensation system and lacks other articles concerning tort liability between spouses, rendering it inadequate as a direct legal basis for application. The Civil Code has reduced corresponding conflicts in legal application.

4.2. Determination of General Personal Injury Liability Between Spouses in Motor Vehicle Traffic Accidents in China

The determination of general personal injury liability between spouses in motor vehicle traffic accidents in China adheres to the current legal standards for tort liability. Following the aforementioned sequence of legal application, the Road Traffic Safety Law should take precedence in establishing compensation liability. Only Article 76, paragraph 2, explicitly states that “If the intentional collision of a non-motor vehicle driver or a pedestrian with a motor vehicle causes harm,

the motor vehicle party shall not assume liability for compensation.” This exemption from tort liability for motor vehicle drivers is limited to cases of intentional collision by non-motor vehicle drivers or pedestrians, excluding considerations related to marital relationships in the determination of liability. Consequently, whether applying the general principles of tort liability from the Civil Code or the provisions of the general principles chapter, non-motor vehicle drivers possess the right to claim compensation liability from the motor vehicle driver.

The form of subjective fault on the part of the tortfeasor should not restrict the determination of personal injury liability in motor vehicle traffic accidents. Whether under the Road Traffic Safety Law or the Civil Code, liability is borne by motor vehicle drivers regardless of whether the subjective fault is intentional or negligent. In traffic accidents, it can be considered that motor vehicle drivers' awareness of defects in the vehicle, driving without a license, and other obvious violations constitute gross negligence, while behaviors like speeding or overloading, apart from evident violations, constitute ordinary negligence. However, a comprehensive judgment of the tortfeasor's subjective intent should be made. Marital and family ethics still have an impact on judicial practice. In the author's opinion, minor negligence may not result in liability, ordinary negligence can be mitigated based on full respect for the parties, while intentional acts and gross negligence must entail liability.

4.3. Implementation of General Personal Injury Compensation Liability Between Spouses in Motor Vehicle Traffic Accidents in China

The legal provisions regarding marital property in the Civil Code can provide a systemic safeguard for the realization of compensation liability in cases of general personal tort between spouses arising from motor vehicle accidents in China. Currently, the Civil Code stipulates that the ownership of marital property should be determined primarily by agreed-upon common ownership, and in the absence of specific agreements, the legal regime of common ownership after marriage applies [5]. The author believes that a deferred joint ownership system could also be implemented within the framework of common ownership, whereby spouses would share only the increase in value of post-marital property. Although Article 1064 of the Civil Code establishes the concept of joint spousal debt, the debts arising from general personal tort between spouses in motor vehicle accidents are often based on negligence rather than being deemed as arising from daily life needs [30]. These debts extend beyond the associated risks of vehicle operation and should not be classified as joint spousal debts. Compensation received by one spouse due to personal tort in a motor vehicle accident is considered personal property. While some of this compensation might flow to the injured party during estate distribution, this should not negate the necessity of establishing a system for general personal tort liability between spouses. In judicial practice, estate distribution can also be adjusted or omitted based on the subjective fault of the tortfeasor. Practical implementation should involve various rational methods of interpretation to enhance the actual feasibility of enforcing tort liability, ensuring the genuine realization of remedies for the injured party.

5. Conclusion

This paper explores the general personal tort liability between spouses in China from the perspective of motor vehicle accidents. Beginning with an analysis of judicial practice, it presents judicial disputes concerning legal application, tort liability determination, and compensation realization. By reviewing the current state of domestic research and combining it with practical judicial scenarios, the study identifies conflicting interpretations stemming from prior rulings, legal imperfections, and traditional perspectives. It underscores the lack of a unified standard and highlights the impediments posed by the marital property system as the key reasons behind inconsistent judgments in cases of general personal tort between spouses arising from motor vehicle accidents. The paper concludes that

the application of the law should adhere to the sequential steps of road traffic safety law, Tort Liability Chapter, Personality Rights Chapter, General Principles Chapter to determine whether general personal tort liability between spouses exists in cases of motor vehicle accidents in China. It emphasizes that the existing legal norms concerning marital property can provide a framework for ensuring compensation liability. Against the backdrop of diverse socio-economic development and the increasing awareness of individual rights, disputes involving general personal tort between spouses are likely to rise. Establishing and refining the framework for general personal tort liability between spouses while striking a balance between protecting individual rights and maintaining marital and family ethics is an imperative legal consideration in the current stage. Looking ahead, the establishment of a distinctive Chinese system for general personal tort liability between spouses would not only provide practical civil remedies for the parties involved but also contribute to the effective safeguarding of harmonious and stable family relationships.

References

- [1] Xu, J. (2019). *A Study on the Allocation of Fault Tort Liability between Spouses: A Perspective on Motor Vehicle Traffic Accident Disputes*. *Journal of Zhenjiang Vocational College*, 32(3), 67-72.
- [2] Wang, W. (1994). *Civil Liability for Tortious Acts between Spouses*. *Administrative and Legal Sciences (Journal of Jilin Provincial Administrative College)*, (3), 18-19.
- [3] Liu, S. (2003). *Exploring Compensation for Tortious Damages during the Continuation of Spousal Relationships*. *Journal of Guangdong Polytechnic Normal University*, (5), 57-60.
- [4] Jiang, H. (2003). *A Microscopic Exploration of Spousal Tort Liability*. *Political and Legal Forum*, (1), 74-79.
- [5] Du, J. (2005). *Research on Issues Related to Intra-Marital Torts*. *Journal of Southwest University for Nationalities (Humanities and Social Sciences Edition)*, (5), 108-113.
- [6] Liu, Y. (2008). *Analysis of Issues Related to Intra-Marital Torts*. *China Business Review (Second Half-Monthly)*, (4), 168.
- [7] Wang, W. (2010). *Reflections on Establishing a Civil Remedies System for Spousal Torts in China*. *Tianjin Law Review*, 26(1), 61-65.
- [8] Wang, Y. (2018). *Exploration of Spousal Intra-Marital Tort Liability*. *Modern Commerce and Trade Industry*, 39(25), 132-133.
- [9] Shen, C. (2022). *Articulation and Interpretation of the Connection between the Marriage and Family Code and its Subsections*. *Jingchu Law Review*, (4), 36-48.
- [10] Chang, M., & Liu, X. (2003). *On the Establishment of the Spousal Tort Liability System*. *Journal of Shandong University of Technology (Social Sciences Edition)*, (5), 52-54.
- [11] Liu, P. (2006). *Discussion on Several Issues Regarding the Construction of a Spousal Tort Civil Liability System*. *Journal of Guangxi Political and Legal Management Cadre Institute*, (5), 66-69.
- [12] Wang, J. (2009). *A Microscopic Exploration of the Elements of Spousal Tort Liability*. *Social Sciences Horizon*, 24(2), 91-93.
- [13] Xu, J. (2019). *A Study on the Allocation of Fault Tort Liability between Spouses: A Perspective on Motor Vehicle Traffic Accident Disputes*. *Journal of Zhenjiang Vocational College*, 32(3), 67-72.
- [14] Liu, P. (2006). *Discussion on Several Issues Regarding the Construction of a Spousal Tort Civil Liability System*. *Journal of Guangxi Political and Legal Management Cadre Institute*, (5), 66-69.
- [15] Su, M. (2006). *On Intra-Marital Spousal Tortious Acts and their Civil Liability*. *Journal of Zhengzhou Institute of Aeronautical Industry Management (Social Sciences Edition)*, (3), 99-100.
- [16] Fang, J., & Cai, R. (2007). *Necessity and Feasibility of Establishing a Spousal Tort Liability System*. *Journal of Suzhou Institute of Education*, (3), 81-84.
- [17] Liu, Y. (2008). *Analysis of Issues Related to Intra-Marital Torts*. *China Business Review (Second Half-Monthly)*, (4), 168.
- [18] Wei, L. (2009). *Analysis of Spousal Torts and Civil Liability*. *Journal of Guangxi Political and Legal Management Cadre Institute*, 24(6), 82-85+114.
- [19] Tang, S. (2011). *Trial and Application of Discretionary Power in Spousal Tort Cases*. *Qiusuo*, (11), 149-151.
- [20] Hao, C. (2016). *Legal Regulation of Spousal Tort Liability*. *Legal System and Juridical Exposition*, (6), 229.
- [21] Zhang, X. (2013). *Compensation for Spousal Tortious Damages: An Evaluation of Article 46 of the Marriage Law*. *Journal of Lanzhou University (Social Sciences Edition)*, 41(1), 138-144.
- [22] Du, J. (2005). *Research on Issues Related to Intra-Marital Torts*. *Journal of Southwest University for Nationalities (Humanities and Social Sciences Edition)*, (5), 108-113.

- [23] Law Reform Commission of British Columbia. (1983). *Report on Interspousal Immunity in Tort. Chapter 1.*
- [24] Zeng, E., & Zhang, Z. (1995). *On Patriarchal Power in Ancient Chinese and Roman Law. Political and Legal Forum*, (2), 79-85.
- [25] Xia, Y., & Luo, M. (2012). *A Comparison of Intra-Marital Tortious Acts between China and the United States. Comparative Law Research*, (121)(3), 54-62.
- [26] Zhang, X. (2008). *A Comparative Study of Applying Tort Law to Intra-Marital Relationships. Frontiers of Social Sciences*, (158)(8), 165-168.
- [27] Zhang, X. (2013). *Compensation for Spousal Tortious Damages: An Evaluation of Article 46 of the Marriage Law. Journal of Lanzhou University (Social Sciences Edition)*, 41(1), 138-144.
- [28] Su, X., & Yin, N. (2010). *Legal Accounting in the Mechanism of Divorce Property Disputes Resolution in the United States and Its Implications. Qiusuo*, (12), 152-154.
- [29] Xiao, L. (2014). *Application of China's Property Law and Marriage Law in Adjusting Marital Property Relations. Legal Science Journal*, 35(8), 70-78.
- [30] Li, T. (2022). *Analysis of Trial and Handling Approaches in Cases of Tortious Acts in Motor Vehicle Accidents by One Spouse. Dynamics of Social Sciences*, (72)(12), 81-87.