

## HOT NEWS – VEHICULAR HOMICIDE

### LIABILITY FOR VEHICULAR HOMICIDE

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In a situation where an individual drives recklessly at high speeds and subsequently causes the loss of multiple lives due to their negligence, can that driver be held criminally liable for this vehicular homicide? In this article, we will examine: 1. General Principles of Criminal Liability. 2. Causing Death Through Reckless Driving.

#### 1. GENERAL PRINCIPLES OF CRIMINAL LIABILITY

As a general principle, for an individual to be held criminally liable, the "Elements of an Offence" must be met. These include the **Legal Element** (the act is defined as an offense by law), the **Material Element** (the physical act that constitutes the offense), and the **Mental/Subjective Element** (the intent or will to commit the offense).

In the case mentioned above, the individual did not have the "intent" to kill, which might seem to suggest a lack of the **Mental Element** (the will to bring about the criminal result). This often leads to the misconception that the driver might be exempt from criminal liability (imprisonment and/or fines) due to the absence of specific intent. However, the Criminal Code of Cambodia 2009 ("**CCC**") and other special laws explicitly state that negligence while driving that results in death does not exempt one from criminal liability.

#### 2. CASUSING DEATH THROUGH RECKLESS DRIVING

**Article 4** of the **CCC** states: "*There shall be no offence in the absence of intent to commit it. However, where so provided by law, an offense may result from recklessness, carelessness, negligence or failure to fulfill a specific obligation*". This means that for certain acts resulting from our recklessness or negligence, if the law defines such acts as offenses, we cannot escape criminal liability.

Specifically, **Article 207** of the **CCC** also defines manslaughter:

*"Manslaughter" shall mean the act of causing the death of another person by:*

- 1. Negligence, recklessness, carelessness;*
- 2. A breach of the safety requirement or due diligence imposed by law.*

*Manslaughter shall be punishable by imprisonment for 1 (one) to 3 (three) years and a fine of 2,000,000 (two million) to 6,000,000 (six million) Riels.*

**Example:** Person "A" holds a heavy iron bar at the top building and drops it to the ground without regard for people below. The bar strikes Person "B," who is walking by, causing their death. In this case, Person "A" must be punished as mentioned above, even though "A" actions were unintentional.

Regarding the specific case of driving causing death, **Article 85** of the **2015 Law on Road Traffic** stipulates: "*Any person who drives without care and attention or do not comply with regulation as required by the road traffic law, causing others dead, must be subject to imprisonment for 1 (one) to 3 (three) years and a fine of 4,000,000 (Four million) to 15,000,000 (fifteen million) Riels...*"

Furthermore, the penalty increases to **2 (two) to 5 (five) years** of imprisonment and a fine of **10,000,000 (ten million) to 25,000,000 (twenty-five million) Riels** if the offense occurs under any of the following cases:

- A. Driving without a driving license or with a driving license inappropriate to the certain type of the vehicle;
- B. Driving under the influence alcohol level of 0.40 (zero point forty) milligram per liter of breath or 0.80 (zero point eighty) gram per liter of blood or upward;
- C. Resulting in death to numerous people; and
- D. Escaping from the accident scene to avoid the responsibilities.

Therefore, causing the death of multiple people is an aggravating circumstance that subjects the driver to a prison sentence of **2 (two) to 5 (five) years** and a fine of up to **25 million Riels**.

## CONCLUSION

In summary, causing the death of another through involuntary driving does not lead to an exemption from criminal liability. This act is clearly governed not only by the CCC but also by special legislation such as the Law on Road Traffic, ensuring justice for victims and the maintenance of social order.

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