

Le dommage.

Préjudice (Philippe Brun) : toutes lésions d'un intérêt d'ordre patrimonial ou extrapatrimonial subi par une personne et pouvant consister en une perte ou un gain manqué.

Dans le code civil de 1804 le leg utilise que dommage et pas préjudice, aujourd'hui on utilise les deux.

La doctrine se demande s'il y a une diff entre les deux termes. : certains pensent qu'il y a une distinction d'autre non.

- Pour ceux qui pensent qu'il y a une distinction considère que le dommage serait l'atteinte porter à l'intégrité d'une personne ou d'une chose. Ce serait une notion matérielle et objective. Le préjudice serait quant à lui les csq patrimonial ou extrapatrimonial de cette atteinte (= notion juridique subjective). Le préjudice découlerait du dommage.

41 :07 (14/03)

Préjudice d'angoisse réparer par la Cour de cassation uniquement pour les salariés exposer à la miente+ une loi prévoyait une liste. La cour de cass a progressivement étendue le champs, dans un revirement **d'assemblée plénière du 5 avril 2019**, grâce à l'obligation de sécurité de l'employeur tous les salariés même pas prévu par la liste peuvent se prévaloir de ce risque.

2^{ème} extension -> **cham social 11 septembre 2019** permet à tous salarié exposer à une nuisance toxique ou nocive

3^{ème} extension -> **1^{er} cham civil 18 octobre 2023** « il résulte de l'article 1240 que constitue un préjudice indemnisable l'angoisse résultant à l'exposition d'un risque de dommage ».

- ➔ Dès lors que l'on démontre que l'on est exposé à un risque de dommage on peut obtenir réparation du préjudice d'angoisse.

P3 : les préjudices extrapatrimoniaux de la victime inconsciente

Quand victime inconsciente est ce que ses représentants vos pouvoir demander réparation d'un préjudice extrapatrimoniaux ?

1 partie de la doctrine considéraient que non car elle n'a pas conscience de son propre état car préjudice trop incertain, l'autre partie considérait qu'il fallait réparer ce préjudice car serait injuste de réparer le préjudice d'une personne qui a seulement une égratignure mais pas le préjudice d'une personne inconsciente.

La Jp -> la cham crim à fini par accepté la réparation des préjudices extrapatrimoniaux arrêt du **11 octobre 1988** : la CA avait limité la réparation accordé à la personne au coût d'une chambre indiv dans cham médical et au coût des soins. La cham crim casse l'arrêt au motif que la CA aurait dû réparer les autres préjudices dont celui extrapatrimoniaux.

Le Dommage Eacuteecologique

SA Dillow



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