Summer Examinations 2015

LAW200915N

Module Title: Law of Tort
Level: Five
Time Allowed: Two hours

Instructions to students:

- Enter your student number not your name on all answer books.
- Answer three out of eight questions.
- All questions are equally weighted.

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Answer three out of eight questions.

1. Alisha, a prison officer from Wessex Prison, was driving prisoners to court in a prison van one cold January morning. She was speeding, lost control of the van and crashed into a tree. The back doors of the prison van burst open. Bill, one of the prisoners, was thrown out of the back doors of the prison van and broke his leg. Bill suffered from brittle bone disease and a normal person would merely have suffered bruising. The petrol tank was also damaged and petrol leaked out.

Cyd, another prisoner, jumped out of the back of the prison van and ran off. He reached Don’s house which was 200 metres from the accident. He smashed a window of the house, climbed in and stole a jar of money which Don kept in the kitchen cupboard.

Emma, a 15 year old school girl, was walking past the scene of the accident on her way to school. She was smoking a cigarette and threw the cigarette end away. This caused the leaking petrol to explode and Fred another prisoner in the prison van was badly burned.

A fire engine from Wessex Fire Brigade arrived at the accident. Gail, a fire officer, was pulling Fred from the prison van but she dropped him and Fred broke his arm.

Advise Bill, Don, and Fred of the claims they may make, if any, in negligence.

2. Explain the requirements to establish a duty of care in negligence and discuss how they are used to control the scope of the duty.
3. Gina is a teacher at a village school and she walks to school each day. As she approached the school one morning a lorry drove passed her. Gina noticed that Haroon, the driver, was using his mobile phone and as a result he lost control of the lorry, which mounted the pavement and crashed into the school. Gina was so frightened that she suffered post traumatic stress disorder.

Ivy, a teacher at the school, was in the front classroom when the lorry crashed into the school. Ivy was struck by bricks falling from the classroom wall and was badly injured. A month after the accident as a result of her experience, Ivy suffered depression and had to give up her job.

An ambulance arrived at the school. Jake, one of the paramedics, was Ivy’s brother. He took her to hospital in the ambulance. Jake visited Ivy in hospital every day for a week. He then suffered nervous shock.

A BBC camera crew were filming in the village at the time of the accident and a film of the accident was shown on the BBC 24 hour news channel on television. Kim, whose daughter Lil is a pupil at the school, saw the accident on the television news. Kim feared for her daughter and since seeing the accident she has suffered headaches and has been unable to sleep. In fact all the children were in the playground at the back of the school and none of them were injured.

Advise Gina, Ivy, Jake and Kim of any claims they may make in negligence.

4. Explain the defence of contributory negligence and consider whether the courts use it fairly in balancing the rights of the claimant and the defendant.
5. Fundays Ltd provide trips down a disused coalmine. Visitors pay a fee at the entrance to the premises and are given a ticket. The price includes tea and cake in the café after their trip down the mine.

Mia works in the café. Nic, a visitor to the mine, was arguing with Mia over the size of his piece of cake. Nic leaned over the counter and shook his fist at Mia shouting, ‘If you were a man I would thump you’. Mia was frightened by Nic’s conduct.

Omar, Penny and Queenie work in the administration office. Omar liked Penny. He found out when her birthday was and on that day he went up to her, gave her a box of chocolates and kissed her on the cheek. Later the same day Omar decided to play a trick on Penny. As Penny and Queenie were walking along the office corridor, he crept up behind them and threw a bucket of iced water at Penny. Omar missed Penny but the water went over Queenie, who screamed, turned round and slapped Omar in the face.

Rita visited the coalmine, paid her entrance fee and was given a ticket. The conditions on the ticket provided that all trips down the mine lasted for 30 minutes. Rita read the conditions and went into the lift. When Rita stepped out of the lift into one of the mine’s tunnels she didn’t like the smell and the coal dust. She asked to be taken back to the surface immediately. Syed, the lift operator, refused to do so until the 30 minutes had passed.

Advise Mia, Penny, Queenie, Omar and Rita of any claims they may make in tort in respect of the above incidents.
6. Tom owns a small farm on the slope of a hill which is on the edge of a village. Tom grows organic crops using horse manure. He dug a number of ponds on the farm and filled them with water so that he could breed ducks. Two years ago Tom obtained planning permission for a wind turbine on the farm and he subsequently built one 15 metres high. He employed a number of villagers to build and to maintain the wind turbine.

Vic owns a large house in the village near to the farm. He runs a meditation centre from the house. Some of his customers complained that they could not meditate because of the noise from the wind turbine and stopped attending. Consequently Vic has lost income. The wind turbine also affects Vic’s television reception. Vic complained to Tom about these matters.

Vic’s girlfriend, Wendy, moved into the house to live with Vic. Tom was annoyed about Vic’s complaints and shortly after Wendy moved in Tom spread extra manure on his fields. Wendy is unable to sleep at night because of the strong smell of the manure.

Yvette rents a house in the village. One night there was a heavy rain storm, the ponds overflowed and water ran downhill into the village. The water flooded into Yvette’s house damaging the wooden floors and her furniture.

Advise Vic, Wendy and Yvette of any claims they may make in tort arising from the above incidents.

7. A visitor who suffers harm and wishes to claim under the Occupiers’ Liability Act 1957 faces many hurdles.

Discuss.
8. Alan is head teacher of Premier Secondary School. Earlier in the year Ben, a teacher at the school, applied for a promotion but the job was given to an outside candidate.

Ben had a photograph of Alan at the school sports day which showed Alan lying on top of a female sixth form pupil on the sports field. In fact Alan had tripped over when competing in the egg and spoon race and landed on top of the pupil. Ben sent an email to Cliff, a reporter on The Bugle, a local newspaper, stating that Alan was having a sexual relationship with a female pupil. Ben also attached the photograph.

Cliff wrote an article which appeared in the newspaper along with the photograph, under the headline, ‘Headmaster Alan sexually abuses school girls’.

Dan, the local Member of Parliament, made a statement in the House of Commons that the police must thoroughly investigate the activities of ‘Alan, a local headmaster and paedophile’.

Eli is a secretary at the school. She telephoned Faria, the local police inspector, and told her that Alan was a thief because she had seen him taking money from a cash box in the school office. Last year Alan had been convicted of travelling on a train without a ticket.

Advise Alan of any claims he may make in defamation.