Tort Law 7th edition Horsey Test Bank

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Chapter 2: Introduction to the tort of negligence

Test Bank

Type: multiple choice question
Title: Chapter 02 Question 01
1) Which of the following is **not** a general principle of the tort of negligence?
a. To make people pay for the damage they cause when their conduct falls below an acceptable standard or level
Feedback: Incorrect. The general principle of tort of negligence is to ensure that people pay for the damage they cause when their conduct falls below an acceptable standard or level as well to protect certain interests from the consequences of unreasonable behaviour.
Section reference: 2.1
b. To protect certain interests from the consequences of unreasonable behaviour
Feedback: Incorrect. The general principle of tort of negligence is to protect certain interests from the consequences of unreasonable behaviour as well as to ensure that people pay for the damage they cause when their conduct falls below an acceptable standard or level
Section reference: 2.1
***c.** To punish a wrongdoer by making them pay compensation to an individual harmed by their carelessness.
Feedback: Correct. The purpose of the tort of negligence is not to punish the wrongdoer, rather it is to ensure that people pay for the damage they cause when their conduct falls below an acceptable standard or level as well to protect certain interests from the consequences of unreasonable behaviour.
Section reference: 2.1

Type: multiple choice question
Title: Chapter 02 Question 02
2) The tort of negligence was established in which landmark case?
a. *Anns v Merton London Borough Council*
Feedback: Incorrect. The tort of negligence was established in ***Donoghue v Stevenson***.
Section reference: 2.2
b. *Caparo Industries plc v Dickman*
Feedback: Incorrect. The tort of negligence was established in ***Donoghue v Stevenson***.
Section reference: 2.2
c. *Donoghue v Stevenson
Feedback: Correct. The tort of negligence was established in ***Donoghue v Stevenson***.
Section reference: 2.2
d. *Murphy v Brentwood District Council*
Feedback: Incorrect. The tort of negligence was established in ***Donoghue v Stevenson***.
Section reference: 2.2

Type: multiple choice question
Title: Chapter 02 Question 03
3) Was there a snail in Mrs Donoghue's bottle of ginger beer?
a. Yes
Feedback: Incorrect. The law lords in ***Donoghue v Stevenson*** only heard preliminary arguments on whether the alleged facts could give rise to a legal claim. This means they were not deciding whether Stevenson had in fact been negligent but rather whether in law Donoghue had an arguable case. Ultimately, the defendants settled the case out of court, one result of which is that in the absence of any findings of fact – which would only have happened at trial – it was never established whether there was in fact a snail in Mrs Donoghue's bottle of ginger beer. So the correct answer here is we don't know.
Section reference: 2.2
b. No
Feedback: Incorrect. The law lords in ***Donoghue v Stevenson*** only heard preliminary arguments on whether the alleged facts could give rise to a legal claim. This means they were not deciding whether Stevenson had in fact been negligent but rather whether in law Donoghue had an arguable case. Ultimately, the defendants settled the case out of court, one result of which is that in the absence of

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any findings of fact – which would only have happened at trial – it was never established whether there was in fact a snail in Mrs Donoghue's bottle of ginger beer. So the correct answer here is we don't know.
Section reference: 2.2
***c.** We don't know
Feedback: Correct. The law lords in ***Donoghue v Stevenson*** only heard preliminary arguments on whether the alleged facts could give rise to a legal claim. This means they were not deciding whether Stevenson had in fact been negligent but rather whether in law Donoghue had an arguable case. Ultimately, the defendants settled the case out of court, one result of which is that in the absence of any findings of fact – which would only have happened at trial – it was never established whether there was in fact a snail in Mrs Donoghue's bottle of ginger beer.
Section reference: 2.2

Type: multiple response question
Title: Chapter 02 Question 04
4) In which of the following scenarios is the primary claim likely to be in the tort of negligence? Please select all that apply.
Feedback: While the primary remedy for the cyclist and student who fails their GCSEs will be in the tort of negligence, the primary remedies for the actress upset about the unofficial photos and teenager prevented from leaving the shop will be in the torts of invasion of privacy and false imprisonment respectively.
Section reference: 2.1. See further Chapter 16 on privacy and section 15.4 on false imprisonment.
a. A famous soap opera actress is upset after unofficial photos are published in a glossy magazine of her wedding day.
***b.** A cyclist is knocked down and seriously injured by a speeding motorist.
***c.** A school fails to diagnose a student's dyslexia believing the student's poor performance to be simply down to laziness. The student fails their GSCEs.
d. A shopkeeper, who believes a teenager has stolen from them, waits by the door ready to stop them leaving before the police arrive.

Type: multiple choice question
Title: Chapter 02 Question 05
5) In which year was ***Donoghue v Stevenson*** decided?
a. 1832
Feedback: Incorrect. ***Donoghue v Stevenson*** isn't as old as you might think. Unlike the trespass torts, the tort of negligence is a relatively modern tort. The general principle of negligence as liability for conduct falling below a particular standard of care was only fully articulated in 1932.
Section reference: 2.2
b. 1882
Feedback: Incorrect. ***Donoghue v Stevenson*** isn't as old as you might think. Unlike the trespass torts, the tort of negligence is a relatively modern tort. The general principle of negligence as liability for conduct falling below a particular standard of care was only fully articulated in 1932.
Section reference: 2.2
***c.** 1932
Feedback: Correct! ***Donoghue v Stevenson*** was decided in 1932. The tort of negligence is a relatively modern tort. Unlike trespass to land or assault and battery which have been in existence for centuries, the general principle of negligence as liability for conduct falling below a particular standard of care was only fully articulated in the early 20th century
Section reference: 2.2
d. 1982
Feedback: Although the tort of negligence is a relatively modern tort, ***Donoghue v Stevenson*** was decided by the House of Lords in 1932.
Section reference: 2.2

Type: multiple choice question
Title: Chapter 02 Question 06
6) The 'neighbour principle' was set down by which law lord?
a. Lord Macmillan

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Feedback: Incorrect. Although both Lord Macmillan and Lord Buckmaster were among the law lords who heard ***Donoghue v Stevenson***, the neighbour principle was set down by Lord Atkin.
Section reference: 2.2
***b.** Lord Atkin
Feedback: Correct. Lord Atkin set down the neighbour principle in ***Donoghue v Stevenson*** **[1932]**.
Section reference: 2.2
c. Lord Donoghue
Feedback: Incorrect. Lord Atkin set down the neighbour principle in ***Donoghue v Stevenson*** **[1932]**.
Section reference: 2.2
d. Lord Buckmaster
Feedback: Incorrect. Although both Lord Macmillan and Lord Buckmaster were among the law lords who heard ***Donoghue v Stevenson***, the neighbour principle was set down by Lord Atkin.
Section reference: 2.2

Type: multiple response question
Title: Chapter 02 Question 07
7) In which of the following scenarios is the primary claim likely to be in the tort of negligence? Please select all that apply.
Feedback: The primary claim will be in the tort of negligence in all of the scenarios. All the responses are correct. Negligence liability may arise in relation to a range of diverse types of harm or injury – personal injury (physical and psychiatric), property damage, financial loss – and covers a wide range of activities – driving a car, giving financial advice, running a hospital operating theatre, playing football and so on.
Section reference: 2.1
***a.** A professional footballer is seriously injured by a high tackle and is unable to play football again.
***b.** A junior doctor mistakenly injects their patient with the wrong antibiotic causing permanent paralysis.
***c.** An elderly woman breaks her hip after tripping over a raised paving slab on the pavement outside her local shop.
***d.** A first-time buyer buys a house on the basis of an inaccurate survey. As a result the property is worth significantly less than they paid for it.

Type: true-false
Title: Chapter 02 Question 08
8) A successful claim in the tort of negligence arises when the defendant causes foreseeable damage to the claimant's person, property, or interests and fails to take reasonable care not to injure the claimant.
a. True
Feedback: Incorrect. In order to establish a successful claim in the tort of negligence, there also needs to be a legal duty owed by the defendant to the claimant to take care. There will only be a successful claim in the tort of negligence, if the defendant is in breach of this duty, that is they have fallen below the acceptable standard of care and this breach has caused damage to the claimant – usually their person or property – which is not considered by the courts to be too remote.
Section reference: 2.5
***b.** False
Feedback: Correct. In order to establish a successful claim in the tort of negligence, there also needs to be a legal duty owed by the defendant to the claimant to take care. There will only be a successful claim in the tort of negligence, if the defendant is in breach of this duty, that is they have fallen below the acceptable standard of care and this breach has caused damage to the claimant – usually their person or property – which is not considered by the courts to be too remote.
Section reference: 2.5

Type: multiple choice question
Title: Chapter 02 Question 09
9) A claimant will be jointly and severally liable when…
a. the negligent actions of two or more parties acting independently causes the same damage.
Feedback: Incorrect. This is a description of several concurrent liability. A claimant will be jointly and severally liable when two or more parties act together in pursuit of a common design or plan and cause the same damage.

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Section reference: 2.5
***b.** two or more parties act together in pursuit of a common design or plan and cause the same damage.
Feedback: Correct. A claimant will be jointly and severally liable when two or more parties act together in pursuit of a common design or plan and cause the same damage.
Section reference: 2.5
c. when the negligent action of a single claimant causes damage to two or more people.
Feedback: Incorrect. A claimant will be jointly and severally liable when two or more parties act together in pursuit of a common design or plan and cause the same damage.
Section reference: 2.5

Type: fill-in-blank
Title: Chapter 02 Question 10
10) Duty + breach + (causation – remoteness) - _____ = the tort of negligence.
Feedback: Duty + breach + (causation – remoteness) – defences = the tort of negligence. This is the basic formula for all claims in the tort of negligence.
Section reference: 2.5
a. defences
b. defenses

Type: matching question
Title: Chapter 02 Question 11
11) Complete the case name for each of the following cases.
Feedback: These key negligence cases were decided by the UK Supreme Court in 2015. You will come across them at a number of points in the introductory chapters as well as in later chapters which consider particular aspects of the tort of negligence in more detail.
Section reference: 10.4.3; 8.3.2.1; 6.3.1
a. *Jackson v = Murray*
b. *Montgomery* v = ***Lanarkshire Health Board***
c. *Michael v = Chief Constable of South Wales Police*

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