

Year 13 Summer Independent Learning

Tort Law

Tort law is a civil wrong that results in some form of injury, loss or damage.

The main objectives are

- Decide whether the defendant is liable or not liable
- To assess whether it is necessary to award any damages (compensation)

In order to establish whether a defendant is liable for negligence the claimant must prove a three part test

- 1. Does the defendant owe a duty of care to the claimant?**
- 2. Did he breach that duty of care?**
- 3. Did the breach of duty of care cause damage or injury**

The task requires you to

- **Research the area of Tort law and the relevant case law**
- **Apply your knowledge to the given scenario**

1. Duty of care

In order to establish a duty of care the court must look at three things.

Caparo v Dickman 1990

1. Could a reasonable person see that some damage or harm is reasonably foreseeable?

Donoghue v Stevenson 1932

2. Is there sufficient proximity between claimant and defendant?

Bourhill v Young 1943

3. Is it fair, just and reasonable to impose a duty of care?

Hill v Chief Constable of West Yorkshire 1988

2. Breach of duty

Once a duty of care is established then it must be proven that the defendant breached that duty of care.

- Reasonable man

Blyth v Birmingham Waterworks

- Special standards of care

Nettleship v Weston 1971

- Special characteristics of the claimant

Paris v Stepney Borough Council 1952

3. Cause damage or injury

Lastly it must be proven that the defendant caused the damage/injury

- Causation

Barnet v Kensington Hospital Management 1968

- Intervening acts

Smith v Littlewoods 1987

- Remoteness of damage

Wagon Mound 1961

You must now apply you knowledge to the given scenario below

Ashia is waiting to cross the road. Boris is speeding and drives past so close to her that she is startled and falls over. Ashia hits her head, causing a small cut. A passer-by calls an ambulance and Ashia is taken to hospital. The hospital is so busy and short-staffed that's she waits for two hours to have her head X-rayed. An hour later Dr Crane reads the x-ray and then tells Ashia that she can go home. Dr Crane rushes off to deal with an emergency.

The next day Ashia returns to hospital with a bad headache and blurred vision. A second x-ray reveals a skull fracture resulting in a blood clot pressing on her brain. Ashia has an emergency operation but dies without regaining consciousness. Medical evidence suggests that the initial injury was so serious that Ashia was almost certain to die even if Dr Crane had spotted it on the first x-ray.

Discuss the potential liability for negligence for Boris and Dr Crane for Ashia's death.