

Tort (negligence)



Duty of care (caparo singular composite test)



- ☞ Three things to be proven
- ☞ Foreseeability
- ☞ Proximity
- ☞ Fair, just and reasonable

Other situation where u no need use caparo, straight to the point

Driver-nettleship v weston(new driver)

Breach of duty



- ❧ What is the standard of care required
- ❧ Has defendant fallen below standard

- ❧ Establishing standard
- ❧ 1. Reasonable man standard- blyth v birmingham waterworks (
- ❧ 2. Reasonable man- hall v brookland(man on clapham omnibus)

2. Whether defendant come up to standard?



- ⌘ State of knowledge- roe v minister of health
- ⌘ Magnitude of risk-
 - greater risk of harm- bolton v stone(baseball)
 - Risk of greater harm- paris v stepney(one eyed man)
- ⌘ Practicability of precaution- latimer v AEC (sprinkle sawdust)
- ⌘ Utility of conduct (watt v hertfordshire)

Professional man standard



- ❧ Bolam & Friern hospital Management- the test is the standard of ordinary skilled men exercising and professing to have the skill
- ❧ Bolitho v city and hackney HA- prove that professional opinion was not capable of withstanding logical analysis so doc will be liable

Proof of breach



- ❧ Res ipsa loquitor- fact speaks for itself
- ❧ Only can be used when
 - ❧ 1. cause must be unknown
 - ❧ 2. incident would not have happen had it not been for proper lack of care
 - ❧ 3. defendant in control of situation
- ❧ Used to help claimant in difficult situation to establish breach and duty

Causation



- ⌘ But for cause- defendants carelessness must have caused damage or breach
- ⌘ NAI – intervening act
- ⌘ Through criminal conduct-smith v littlewoods
- ⌘ Through careless conduct- knightly v johns
- ⌘ Intervening natural events- carslogie steamship v royal norwegian government

Remoteness of damage



- ⌘ Wagonmound – damage must not be too remote and must be foreseeable

Existing physical states (eggshell skull rule)



- ⌘ Defendant must take the claimant in the situation he is, even though owing to body sensitivity it would cause greater harm
- ⌘ Smith v leech brain- Defendants negligently burnt plaintiff lips causing cancer, was held liable.
- ⌘ Page v smith- accident cause MH to relapse, defendants liable