



جامعة السلطان الشريف علي الإسلامية  
UNIVERSITI ISLAM SULTAN SHARIF ALI  
SULTAN SHARIF ALI ISLAMIC UNIVERSITY

**Faculty of Shariah and Law  
Semester I, 2014/2015 Academic Session**

**Examination Question Paper**

**Course Code : LB 2301**

**Course Name : Law of Tort I**

**Course Level : Bachelor of Laws (LL.B) & Bachelor of  
Shariah Law (BSL)**

**Time : 3 hours**

**References allowed**

**Notes:**

- (1) Answer **four** questions only: **Question 1 in Part A is compulsory** and **any three Questions from Part B.**
- (2) Illustrate your answer with statutory provisions, if any, and relevant case law authorities.

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**Part A**  
**(Compulsory Question)**

**Question 1 (15 marks)**

Razak was estranged from his wealthy parents after they sent him to a boarding school from a tender age of 12 years old. He became an unhappy and anti-social young man. He failed in his school exams and soon turned to drugs for comfort. He was later dismissed from the boarding school due to truancy, disciplinary problems and bad school progress report.

One morning he was found unconscious in his room by his mother, Leha, possibly from drug overdose. Leha called the ambulance service from the XYZ Hospital and was told that they would be sending an ambulance immediately. The ambulance did not arrive after ten minutes wait. Leha again called the hospital again and she was assured that the ambulance would be at her home in another eight minutes. Fifteen minutes passed and there was still no sign of it. The ambulance finally arrived thirty minutes after the original call.

As Razak was turning blue, and fearing for Razak's life, the driver of the ambulance drove so fast that he ignored the red traffic-lights. The ambulance collided with a motorcyclist, Abu, who was crossing a junction as the light there was green. The impact had caused Abu to fling over and fall on the road. He suffered from severe head and bodily injuries. Razak suffered from a cardiac arrest in the ambulance.

Advise the parties for possible negligence claims on issues of duty of care and breach of duty.

**Part B**

(Answer any **three (3)** questions only from this Part)

**Question 2 (15 marks)**

- (a) Where there are two successive acts of negligence by two different parties, the question arises whether the second act of negligence breaks the causal connection between the first act of negligence and the plaintiff's injury.

Discuss briefly the above statement with reference to decided cases.

(6 marks)

- (b) Awang's family had gone back to their hometown in Temburong over the weekend. While taking a stroll around the village with his son, Abu, Awang was hit by a speeding car driven by Samat down the road. Awang was thrown a few feet away onto the ground. He suffered from serious injuries. Abu fell to the side of the road and his head hit a tree stump.

Awang was treated for his injuries at the hospital, but due to his diabetes, his injuries deteriorated. His left leg had to be amputated. Meanwhile, Abu received treatment for his bruises. He complained to the doctor that he was feeling 'dizzy' but this was dismissed by the doctor who told him to go home. During the night, Abu suffered from brain hemorrhage.

Advise Samat as regards to his liability for the injuries suffered by Awang and Abu.

(9 marks)

**Question 3 (15 marks)**

- (a) Explain the requirement of "non-natural use of land" in the rule of *Rylands v Fletcher* in the light of recent case law.

(6 marks)

- (b) After a heated argument with his wife, Ali took his car and drove away. Blinded by anger, he accidentally ran down Mak Som, an elderly pedestrian. Farid who saw the accident called the ambulance, though he did not personally render any assistance. He was so affected by the experience that he developed some trauma and suffered from frequent nightmares.

Budin who was standing just a few meters away from Mak Som could have been hit if Ali had not swerved his car in time. He was so traumatized by the experience that he suffered from a post-traumatic stress disorder.

Mak Som's daughter, Siti, was informed of the accident and came to the hospital immediately. She saw the fatal injuries sustained by her mother and witnessed her death. She subsequently developed psychiatric illness.

Budin's wife, Dayang, had to give up her job to look after Budin on a full-time basis. The strain of looking after her husband was too much for her which later developed into psychiatric illness.

Advise the parties on their claims against Ali.

(9 marks)

#### **Question 4 (15 marks)**

- (a) Economic loss claims which are consequent upon a physical damage to the person or property have long been accepted by the courts to be recoverable in tort. Nevertheless the courts are reluctant to allow claims for 'pure' economic loss unless the claimant can bring himself within the scope of the decision of the House of Lords in *Hedley Byrne & Co. Ltd. v Heller & Partners Ltd.* [1964] AC 465.

Discuss.

(9 marks)

(b) Decide on the following:

(i) Ah Chai was on a train travelling to his hometown. He was awoken by the shrieking sound of a woman's scream. There was a commotion just a few seats away from him. A couple was seen arguing where a man held a knife at the woman's throat. Fearing his life might be in danger, Ah Chai jumped out of the moving train. He broke his leg and sustained other bodily injuries.

(3 marks)

(ii) While pushing her trolley in TT Supermarket, Dayang slipped and fell on some oil spill on the floor. There was no evidence as to how it had been there. Dayang suffered from serious back injuries.

(3 marks)

**Question 5 (15 marks)**

(a) Boo and Muthu were childhood friends with a passion for vintage cars. Although both have not obtained a driving license, Boo drove his father's Bugatti T40 around the neighbourhood with Muthu on the passenger seat. Boo assured Muthu that the car was in good condition. After driving for a while, Boo noticed some steam coming out of the bonnet of the car. He panicked and stepped on the accelerator then the brake pedal, causing the car to spin before it crashed into a tree. Muthu, who was not wearing the seatbelt, suffered from serious head injuries.

Sabu, a motorcyclist who saw the accident, immediately called for an ambulance. He suffered from bruises when he rendered some assistance before the ambulance came. At the hospital, Dr. Wang performed an emergency surgery on Muthu without prior consent. Unfortunately, Muthu did not regain consciousness and died due to blood loss.

Advise Boo and Dr. Wang of possible defenses against a claim of negligence.

(9 marks)

- (b) A reasonable man is not usually expected to take precautions against something where there is only a small risk of it occurring.

Do you agree with the statement? Support your answer with decided cases.

(6 marks)

**Question 6 (15 marks)**

- (a) As a general rule, in judging whether or not a brain surgeon's performance was up to the required standard, the courts would allow themselves to be guided by the opinions of professionals in the field.

In the light of recent case law, do you agree with the above statement?

(7 marks)

- (b) Decide on the following:

- (i) Awang who was working at a nearby industrial factory, had brought home with him boxes of chemicals and combustible materials. He kept them in the storeroom of his house. A fire broke out on Awang's premises due to an electrical circuit failure. There was a big explosion from the storeroom and the sudden burst of fire had caused extensive damage to the neighbouring houses.

(4 marks)

- (ii) Mrs. A had gone to see her gynecologist on the possibility of a sterilization operation, as she does not wish to become pregnant again. A year after her sterilization operation, she became pregnant and her child was born handicapped. The child wishes to bring an action for 'wrongful life'.

(4 marks)