



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

**Faculty of Shariah and Law**  
**Semester I, 2020/2021 Academic Session**

**Special Examination**  
**Question Paper**

**Course Code : LB2301**  
**Course Name : Law of Tort I**  
**Course Level : Bachelor's Degree**  
**Time : 3 hours**

**Instructions:**

1. Answer any **four** of the following questions.
2. All answers, wherever relevant, must be supported by statutory provisions and case law.

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### **QUESTION 1 (15 Marks)**

Ben, Jerry, and Andy are old school friends. Every year they go camping together in Snowdonia National Park. After they arrive on the Friday night, they decide to go to the pub, where Ben and Jerry spend several hours reminiscing and by the time, they leave they are both over the legal driving limit. Andy has not been drinking. On their way back to the campsite they pass a farm and notice a tractor with its keys in the ignition. Jerry gets in and starts the engine. Ben and Andy quickly jump in beside him. None of them wear a seat belt. At first, Jerry drives slowly around the farmyard but when Ben says, 'is that the best you can do?' he decides to go 'off-road' and drives it into a field. Unfortunately, on the rough ground he loses control of the tractor and it overturns. Ben and Andy are thrown out onto the field. Ben is seriously injured.

- (a) Discuss the laws on general defence of *Volenti Non-Fit Injuria*; and
- (b) Explain whether that defence is applicable in this situation.

### **QUESTION 2 (15 Marks)**

Ani lives in a house in Muara. Her neighbour, Azmi, has just started to operate a painting and decorating company. He buys a large quantity of paint at a discount price from a supplier who claims that it is 'a bit out-of-date' which Azmi assumes refers to the popularity of the colours. Unfortunately, the supplier meant that the paint was old stock. This old stock was made of volatile ingredients that are no longer regarded as safe to use, because the tins tend to explode if exposed to extreme temperatures. Azmi is unaware of this and stores the paint in his shed, which is located at the end of his garden on the boundary with Ani's garden. Ani keeps a classic car which she has painstakingly renovated in a garage at the end of her garden. The wiring in the car is old and it catches fire. The fire spreads to Azmi's shed and damages it. The heat from the fire causes the chemicals in the paint to react and all the cans of paint explode, covering Ani's house and garden with paint which causes the plants in her garden to die and is very expensive to remove from her house.

Consider whether Azmi and Ani have a basis for a claim against each other under the rule in *Rylands v. Fletcher*.

**QUESTION 3 (15 Marks)**

In negligence, the test of causation not only requires that the defendant was the cause in fact, but also requires that the loss or damage sustained by the claimant was not too remote. Remoteness is a set of rules in tort which limits the amount of compensatory damages for a wrong.

Discuss on the principle of causation regarding remoteness of damages.

**QUESTION 4 (15 Marks)**

Examine and analyse the cases of *Anns v Merton London Borough Council* (1977), *Junior Books Ltd v Veitchi Co Ltd* (1983) and *Murphy v Brentwood District Council* (1991) in relation to the rules on 'economic loss and defective premises.

**QUESTION 5 (15 Marks)**

Nadia takes her daughter Dina (a two-year-old infant) to a local playground. Later on, Nadia starts talking with another young parent, Betty.

Meanwhile, Dina starts to wander over to the road. Betty notices a possible catastrophe and rushes out after Dina. Betty just manages to save Dina from being run over by Ahmad, who is driving a van within the speed limit and quite safely. However, Betty has too much forward momentum and collides with Ahmad's van. Betty is seriously injured. Ahmad skids off the road and crashes into some playground equipment. Luckily, no children are using the equipment.

Saleha, driving at speed behind Ahmad, sees the above-related events and puts her foot down hard on the brakes. Saleha's car skids on an oil slick and crashes into a tree. Some distance behind the tree was Patrick. Patrick thought that Saleha's car might hit him and he started running away screaming 'Oh Lord, don't take me now!' Patrick has an underlying personality disorder and develops a paranoid fear of going out into the street. As a result, he loses his job and his livelihood.

The accident involving Patrick is witnessed by Mariam, Dina's grandmother, who is also at the park. Mariam suffers from a brief fright but believes that she will be alright. However, she later develops post-traumatic stress disorder because of this event, combined with the news that Dina barely escaped a serious injury. She had

not seen the incident involving Dina herself, because she had been busy setting out the picnic lunch.

Identify any actions available in the tort of negligence and analyse the elements of the tort accordingly.

### **QUESTION 6 (15 Marks)**

The law does not impose a duty so to require one to guard against every conceivable consequence from his conduct: "*life would be almost impossible if [a reasonable man] were to attempt to take precautions against risks which are reasonably unlikely to happen. Many foreseeable risks are extremely unlikely to happen and cannot be guarded against except by almost complete isolation.*" – Bolton v Stone [1951], per Lord Oaksey.

Discuss.

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