



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

**Faculty of Shariah and Law**  
**Semester II, 2022/2023 Academic Session**

**Final Examination Question Paper**

**Course Code : LB2302**  
**Course Name : Law of Tort II**  
**Course Level : Bachelor of Laws (LL.B) & Bachelor of  
Shariah Law (BSL)**  
**Time : 3 hours**

**Notes:**

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

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

**QUESTION 1 (15 Marks)**

Lim, a 40 year old building engineer, was injured in a car accident which was caused by the negligent driving of Lau. Prior to the accident, his annual income was B\$60,000.00. He used to get a bonus of B\$2500.00 annually. He spent B\$500.00 on food and B\$150.00 on petrol every month. As Lim was a healthy person, he used to play golf every weekend and was a member of the Jerudong Golf and Country Club. Due to the accident, he suffered severe head injuries with concussion of the brain and fracture of the skull resulting in complete paralysis. He was hospitalised for five months in a private hospital. He cannot work again. His wife, Celia finds it difficult to provide the round the clock care that Lim requires and so a nurse is hired at a cost of B\$10,000.00 per annum.

Advise Lim in respect of damages he may recover.

**QUESTION 2 (15 Marks)**

Rahman and Rahim are neighbours at Kampung Kiarong. As neighbours, they have never had a peaceful relationship for the last fifteen years. One fine day in the month of Ramadhan (fasting month), while Rahman was watering his plants, Rahim also came out of his house to water his plants. Suddenly an argument broke out between the two neighbours as a result of Rahim accusing Rahman of mistreating his children in the neighbourhood. Out of anger, Rahman showed his fist to Rahim uttering the words: "shut-up your big mouth and if it was not because of the fasting month, I would have hit you on the head". Rahim could not tolerate the language used by Rahman and so he took a stick in his hand and tried to hit Rahman. Fortunately, Rahim was stopped by another neighbour named Razaq.

Advise Rahman and Rahim in relation to the tort of trespass to person.

**QUESTION 3 (15 Marks)**

Brian was holding a birthday party for his Mikhael at their house in Bandar. Brian has invited some guests among others his friends Rahimah, Ramlan and Romzi. During the birthday party:

1. Rahimah fell due to a defect on the staircase inside the apartment.
2. Ramlan stole Brian's Rolex watch which was inside a room in the house.

3. Romzi had an argument with Brian. He said to Brian, "Enough is enough!", whilst there is a knife on the dining table nearby.

Discuss whether the parties affected above could sue in any claims in tort.

**QUESTION 4 (15 Marks)**

a. Discuss **THREE (3)** elements required in law on the part of the plaintiff in order to successfully file a suit against the defendant for trespass to land. Support your answer with relevant case law.

(7.5 Marks)

b. Explain **THREE (3)** defences to the tort of trespass to land. Support your answer with relevant case law.

(7.5 Marks)

**QUESTION 5 (15 Marks)**

Bumi Jaya is a successful private limited company based in Bandar Seri Begawan. Pursuant to an agreement, Bumi Jaya was authorised to manufacture and develop an anti-theft car safety device, called Stopcard. Bumi Jaya launched a Stopcard on March 28, 2018. Four days later, on April 1, 2018, Borneo Creative also a private limited company based in Bandar Seri Begawan launched a similar device, called Stopcar. As a result of Borneo Creative launching a similar device, Bumi Jaya's business witnessed a tremendous decline in terms of sale. According to Bumi Jaya, since the launching of Stopcar by Borneo Creative, business has never been the same.

Advise Bumi Jaya.

**QUESTION 6 (15 Marks)**

"The doctrine of vicarious liability has not grown from any very clear, logical or legal principle but from social convenience and rough justice. The master having (presumably for his own benefit) employed the servant, and being (presumably) better able to make good any damages which may occasionally result from the arrangement, is answerable to the world at large for all the torts committed by his servant within the scope of it. The doctrine maintains that liability even in respect of acts which the employers had expressly prohibited and even when the employers are guilty of no fault themselves. It follows that they are liable for the

torts of one servant against another". (As per Lord Pearce in in *Imperial Chemical Industries Ltd v Shatwell* [1965] AC 656 at p.685)

In the light of the above statement, discuss the operation of the tort of vicarious liability.

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