



UNIVERSITY OF CAMBRIDGE INTERNATIONAL EXAMINATIONS
General Certificate of Education
Advanced Level

LAW

9084/42

Paper 4 Law of Tort

May/June 2010

1 hour 30 minutes

Additional Materials: Answer Booklet/Paper

READ THESE INSTRUCTIONS FIRST

If you have been given an Answer Booklet, follow the instructions on the front cover of the Booklet.

Write your Centre number, candidate number and name on all the work you hand in.

Write in dark blue or black pen.

Do not use staples, paper clips, highlighters, glue or correction fluid.

Answer **one** question from **Section A**, **one** from **Section B** and **one other**, thus making a total of **three** responses required.

At the end of the examination, fasten all your work securely together.

The number of marks is given in brackets [] at the end of each question or part question.

This document consists of **3** printed pages and **1** blank page.



Candidates must attempt **one** question from **Section A**, **one** from **Section B** and **one other**, thus making a total of **three** responses required.

Section A

- 1 The tort of trespass to the person is no longer of any real legal significance because potential claims for compensation are now more than adequately provided for elsewhere within the law.

Discuss, using specific examples, the extent to which you consider this view justified. [25]

- 2 The distinction between primary and secondary victims was said by the Law Commission in its report on psychiatric illness to be 'more of a hindrance than a help' and it was said that there was 'confusing inconsistency'.

Analyse the rules relating to nervous shock and critically assess whether or not you agree with this view. [25]

- 3 Judges only award an injunction as a remedy when it is considered just and convenient to do so.

Using examples of cases from the Law of Torts, evaluate the circumstances under which injunctions have been awarded as remedies and assess why such an award was made in preference to an award of damages. [25]

Section B

- 4 Williams purchased a house adjacent to a local rugby football pitch in Cardiff. Rugby had been played on the pitch since 1910, but the house was built in 1969. The house was very near the pitch, so that rugby balls kicked from it frequently broke windows in the house and caused damage in the garden, despite the existence of a 5m high fence surrounding the rugby pitch. The rugby club that used the pitch, Cardiff Dragons, offered to pay for the damage caused when Williams complained, but Williams declined the offer and decided to sue in negligence and nuisance, seeking damages and an injunction.

Assess the likelihood of success of Williams' legal action. [25]

- 5 Jamel is an experienced motorcycle speedway rider and a member of Manchester Speedway Club. Wanting to take part in a series of races due to take place that afternoon, he visited his club at 09:30, signed up to take part in the races and then returned home for lunch. Whilst Jamel was at home, race officials put up all the signs and notices for the afternoon's events.

These notices were displayed at the entrance and at various places around the race track. They stated that motorcycle speedway racing is dangerous, that spectators should not leave the spectators' enclosure when a race is in progress and that Manchester Speedway Club would have no liability for accidents causing either damage or personal injury howsoever caused to spectators or ticket holders.

At 13:45 Jamel arrived at the club with his wife and a group of close friends. As a competitor, Jamel did not need to pay an entrance fee, but his wife and the others paid to enter as spectators.

Between races, Jamel was on his way to the spectators' enclosure when a motorcycle collided with safety fencing and hit Jamel. He later died from his injuries.

Consider Manchester Speedway Club's potential liability under the Occupier's Liability Act 1957 and Unfair Contract Terms Act 1977 for the death of Jamel. [25]

- 6 Kingston is the owner and driver of a passenger coach. He is driving along when the coach suddenly swerves across the road and collides with a lorry driven by Winston which is travelling in the opposite direction. As a consequence of the collision, Winston sustains severe abdominal and head injuries and is unable to work again. Winston commences proceedings in negligence against Kingston relying on the doctrine of *res ipsa loquitur* (the facts speak for themselves). Kingston responds by alleging that he had to swerve to avoid a vehicle that had overtaken his coach and cut in sharply in front of it.

Consider the circumstances of this case and (a) explain how the plea of *res ipsa loquitur* and the corresponding explanation might influence the proceedings in an action for negligence and (b) if found liable, analyse the measure of damages that might be awarded to Winston. [25]

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