



THE HONORABLE SOCIETY OF KINGS INNS

ENTRANCE EXAMINATION

AUGUST 2018

Examination: Law of Torts

Date: Monday 13 August 2018

Time: 10.00 a.m. – 1.00 p.m.

Internal Examiner: Mr Paul Ward, UCD

External Examiner: Mr Michael McGrath SC

INSTRUCTIONS:

Candidates **MUST** attempt Question 1 and any other TWO questions.

Question 1 carries 50 marks. All other questions carry 25 marks each.

This paper is 5 pages long including the cover sheet. You should check that you have all the pages and inform the invigilator immediately if any are missing.

QUESTION 1

During the late summer of 2016 Ballybeg City Council were carrying out road repairs near the city centre Tramway stops. Local government legislation authorises the Council to create a temporary nuisance when fulfilling its statutory obligation to maintain the public roads. The council completed some road repairs near a city center Tramway stop but failed to remove all of the debris from the road work site. Some of the debris was trapped in the Tramway tram tracks.

A, guest of Restaurant B, was having a meal in town in the late summer of 2016. She ordered a meal and a bottle of fizzy water served to her in an opaque green coloured bottle by the restaurant. Guest A drank some of the water. Upon pouring the remainder of the water into her glass, A observed a partly decomposed wasp floating therein. She became immediately violently ill and left the restaurant. A took a Tramway tram home to south Ballybeg. Upon boarding the tram, she vomited all over the floor of the tram. Shortly thereafter, the tram derailed owing to the debris that has been trapped in its tramlines, causing a major accident.

C, a Spanish foreign language student who was a passenger on the tram, was on a video call to her mother in Madrid at the time of the accident. C's mother heard and saw the accident unfolding as the tram careered along the road on its side. C was injured in consequence of the derailment. She suffered lacerations, bruising to her face and arms, underwent physiotherapy and could not attend school for six months. An x-ray of her lower back taken after the accident was inconclusive as to whether she had suffered an un-displaced fracture of her lower sacrum. Recently, a second x-ray has verified that C did have an undisplaced fracture of her lower sacrum.

Two other passengers, D and E, who are twins, were sitting next to each other at the time of the accident. Passenger D was hurtled through the window of the tram, suffering extensive lacerations and bleeding. When the tram halted, Passenger E escaped to see her twin sister in her bloodied state. Passenger E is undergoing psychiatric treatment from the exposure to the trauma.

F was also a passenger on the tram and he was thrown from the tram, receiving extensive injuries requiring immediate medical attention. F was immediately brought to hospital where the accident and emergency team had implemented their disaster plan. The consultant doctor on duty that day happened to be F's mother. F's mother, on seeing her son, immediately collapsed. F's mother is still undergoing psychiatric treatment as a result of her ordeal.

Tramway Driver G was also injured in the accident and died en route to the hospital. In addition to his salary from Tramway, Driver G worked part time as a bouncer in a night club at weekends, earning €300 every weekend. This part of his income was not

declared to Revenue. Driver G had a life insurance policy worth €250,000 which, following his death, was paid to his long term girlfriend, Joan. G is survived by his 4 year old son.

After years of noise from the operation of the Tramway, a group of residents whose terraced homes back on to the Tramway Green line have written letters of complaint to the operator asking for assurances that the Tramway would not run between midnight and 6am, but to no avail.

Last month Passenger I was running to catch the last night Tramway. The tram stop was unlit. Passenger I barely made it through the closing doors of the tram when he tripped on a loose door saddle. Passenger I did not have time to tag on with his Leap card, as if he had done so he would have missed the last tram home.

You have been retained to advise:

Ballybeg City Council and what cause or causes of action it may face;

A, the restaurant guest on what cause or causes of action she may have against restaurant B;

Passenger C and her mother on what cause or causes of action they may bring against the Tramway operator;

Passenger E on what cause or causes of action she may bring against the Tramway operator;

The mother of Passenger F on what cause of action she may bring against the Tramway operator;

The dependants of Tramway Driver G on what cause or causes of action they may bring and the value of any claim against the Tramway operator;

The residents of the terraced houses backing on to the Tramway line on what cause or causes of action they may bring against the Tramway operator;

Passenger I on what cause or causes of action he may bring against the Tramway operator.

[50 marks]

QUESTION 2

Critically assess the principal limitation periods as set out in the Statute of Limitations 1957, as amended by the Statute of Limitations (Amendment) Acts 1991 and 2000 and discuss the Superior Courts' interpretation of same.

[25 marks]

QUESTION 3

A and B have been good friends since primary school days. A has recently obtained a new job which requires her to drive to different locations around the country. A needed a car in this regard and mentioned this to B. B told A that he knew a bit about cars so A asked him to find her a good second-hand vehicle that was roadworthy, had not been in an accident and which would be suitable for the mileage which she would clock up in her new job.

B searched the internet and found a second-hand car for sale in a breakers' yard. As it had relatively low mileage, B encouraged A to buy the car, which she did at a cost of €3000.00. A drove the car home and en route it broke down. The car was towed to a repair garage where, upon inspection by a mechanic, A was informed that the car was not roadworthy and that it would cost €2000.00 to make it roadworthy. The repair garage replaced the steering column but failed to tighten the fastening screws when they did so. A collected the car from the repair garage and on the way home the steering failed, causing A to crash into Driver C, resulting in considerable damage to Driver C's car and injury to Driver C.

A seeks your advice on what cause or causes of action she may have against B and against the repair garage.

[25 marks]

QUESTION 4

A, B and C are adjoining farmers. A owns two Border collie sheep dogs, D and E. F is A's farm hand and was walking dog D last month when dog D bolted to chase a cat. F lost control of dog D who uncharacteristically would not come to heel when called. Dog D bounded down the footpath and collided with Child G, knocking Child G from her bike and injuring her.

Meanwhile, back on A's farm, B secretly entered A's farm to retrieve a football his son had kicked over the dividing fence between the farms. Dog E detected a stranger on the premises and launched at B, knocking him to the ground causing minor personal injuries to B.

In the meantime, some farm supplies intended for A were inadvertently left at C's gate. The supplies had on them A's name and address. The supplies included potato seeds, farm machinery and fertilizer. C took the potato seeds from the supplies and planted them in his field. The crop, when harvested next year, will yield a €10,000 profit from a €1,000 investment made by A in buying the seeds. C took the new farm machinery valued at €20,000 and sold them on eBay for €5,000. The remaining fertilizer he stored in his shed.

You are to advise A on what cause or causes of action he may face and what cause or causes of action he may bring in relation to the farm supplies.

[25 marks]

QUESTION 5

A and B are adjoining land owners in the south east of the country. A owns and operates "Waterfarm", a water park with a rural theme to it. The business has been very successful over the past five years, attracting large crowds in the summer owing to the fine weather the south east enjoys.

Last autumn, B decided to set up a similar operation and has called his operation "WetWaterfarm".

A's attendance numbers have dramatically fallen off this summer with an estimated loss of profits of €250,000.

Last month B's water supply to his water rides malfunctioned and vast quantities of water flooded A's property. A was forced to close his operation with a loss of €75,000 during the closure. The cost of the remedial works which are necessary to ensure compliance with safety standards is €50,000. A's child, C, was injured in the flooding and is recovering in hospital.

A and his child seek your advice on what cause or causes of action they may have against B.

[25 marks]