



**Tutorial Pack:
Personal Injury and
Clinical Negligence**

Introduction

The activities contained within this document are designed to be worked on both independently and as part of tutorials.

All articles and cases referred to in this pack may be found towards the end of the pack or by following the links provided.

Week 1

Activity 1

Summarise the significance to road users of the common law principles set out in the case of *Donoghue v Stevenson* [1932].

Activity 2

Read the article "PI reforms in full – fixed whiplash damages to begin at £225, 1 October 2018 start date". Summarise the reforms.

Activity 3

- a) What is a Claims and Underwriting Exchange Personal Injury Search (CUE PI Search)?
- b) What is the purpose of conducting a Claims and Underwriting Exchange Personal Injury Search (CUE PI Search) in relation to a personal injury claim arising from a road traffic accident?

Activity 4

Summarise the effect of section 149 of the Road Traffic Act 1988.

Activity 5

State three reasons why a claim may exit the Pre-Action Protocol for Low Value Personal Injury Claims in Road Traffic Accidents (the RTA Protocol).

Activity 6

Read the following judgment and provide a summary of the case *Shahow Qader & others v Esure Services Limited* [2015] EWHC B18 (TCC).

Week 2

Activity 1

Identify the three elements of the employer's non-delegable common law duty of care.

Activity 2

Explain what happens at Stage One of the Pre-Action Protocol for Low Value Personal Injury (Employers' Liability and Public Liability) Claims.

Activity 3

Explain when there can be vicarious liability for the deliberate wrongdoing of an employee.

Activity 4

Explain the costs payable under the fixed-costs regime for cases which started under the Pre-Action Protocol for Low Value Personal Injury (Employers' Liability and Public Liability) Claims but did not continue under the Protocol.

Activity 5

Distinguish between express and implied permission in relation to lawful visitors to premises.

Activity 6

Distinguish between the type of damage which may be claimed under the Occupiers' Liability Act 1957 and that which may be claimed under the Occupiers' Liability Act 1984.

Week 3

Activity 1

Explain how you would approach the calculation of past loss.

Activity 2

Read "An ATE insurer's view on Clinical Negligence reforms" by Richard Whale and provide a summary of the content of that article. Do you agree with the views put forward?

Activity 3

Jacob is taken to the Uptown Hospital where Gareth, a doctor, negligently fails to diagnose that his ankle is broken. Because he is unaware that his ankle is broken he attempts to drive to a snowboarding competition the next day. Whilst driving to the competition he is involved in a road traffic accident caused by the negligence of Anne-Marie, and his left hip is broken. His broken ankle is then diagnosed. Experts agree that Jacob would have lost earnings as a result of missing one month of snowboarding events because of his broken ankle, but that he will have to miss events for three months because of his broken hip. Experts also agree that Jacob's ankle will always remain weak as a result of the break, and that consequently he is likely to earn far less by way of signing-on fees from snowboard teams during his career. The delay in diagnosing the ankle injury substantially reduced the likelihood that this permanent weakness could have been avoided.

Discuss the liability of the doctor.

Activity 4

Mary and David have spent the afternoon looking at wedding dresses. Before heading home they go to a new champagne bar to celebrate finding 'the one'. David offers Mary a lift home in his car, assuring Mary that he's all right to drive as she's probably only just over the 'drink-drive limit'. On the journey home David loses control of the car and crashes into a lamp post. Mary suffers minor cuts and bruises and is taken to hospital for a check up. At the hospital Mary contracts an infection in a cut to her right arm. The doctor on duty decides not to treat the infection with antibiotics immediately as he has recently read a report in a little known medical journal in which stated that it is better to allow the 'body time to heal' following a trauma. Mary's right arm is now partially paralysed.

Advise on the liability of the doctor.

ACL Training
Herringbone House
Lion Road
Palgrave, Diss,
Norfolk, IP22 1AL
Tel: 0203 1740 967
Email: enquiries@costslawyer.co.uk
Web: www.associationofcostslawyers.co.uk.co.uk
ALCD (Training) Limited trading as ACL Training.
Registered in England and Wales.