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## **Tort law Questions with Correct Answers**

### **Rated A+**

**Bernstein of Leigh (Baron) v Skyviews & General Ltd [1978] QB 479 - ✓✓** D was a business which used aircraft to take aerial photographs of people's homes without their permission. D then offered to sell those photographs to the homeowners. Liable to the homeowners in the tort of trespass to land? Held: rights of an owner to the airspace above their property are restricted to such height as is necessary for the ordinary use and enjoyment of their land.

**Adams v Ursell [1913] 1 Ch 269 - ✓✓** A fish and chip shop was responsible for the smell of deep fried food in a residential street. Neighbour claimed the tort of nuisance to have it closed down. Held: the interests of ordinary residents trumped those of the owner of the business and its customers.

**Nettleship v Weston [1971] 2 QB 691 - ✓✓** A learner driver crashed into a lamp post injuring the only passenger, a family friend, who was teaching her to drive. The passenger had control of the gearstick and handbrake and the learner driver was steering the car. Passenger sued the learner driver in the tort of negligence. For reasons of consistence and clarity all road users must adhere to the same standard of care irrespective of driving experience, so learner driving found liable in the tort of negligence. Policy consideration: insurance is compulsory for all motorists, so compensation is available for the passenger.

**M'Alister (or Donoghue) v Stevenson [1932] AC 562 (HL) - ✓✓** the concept of a duty of care was expanded in a way which addressed the development of (then) modern packaging and distribution methods for consumer goods. Before that the courts had not recognised that a duty to take reasonable care in the manufacturing of products could extend beyond contractual relationships.

**slander - ✓✓** There is a need to prove damage; the protected interest is that of reputation; and the wrongdoing consists of spoken words or gestures which are defamatory (i.e. untrue and with the effect of lowering the reputation of the victim)

**Product liability under the Consumer Protection Act 1987 - ✓✓** This is a statutory tort; there is a need to prove damage; the protected interests are personal (death and personal injury) and property (damage to property); the liability is strict and the wrongdoing concerns a defective product.

# Tort Law Questions And Answers

**James Goudkamp**



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