

MULTIPLE CHOICE. Choose the one alternative that best completes the statement or answers the question.

- 1) A tort is conduct that is:
- A) civil and causes loss or injury.
 - B) criminal and causes loss or injury.
 - C) civil and causes a breach of contract.
 - D) intentional or malicious and causes loss or injury.

Answer: A

- 2) To prove negligence a plaintiff must be able to prove:
- A) the defendant breached a duty of care to the plaintiff.
 - B) the plaintiff suffered loss as a direct result of a breach of the duty of care.
 - C) the defendant owed the plaintiff a duty of care.
 - D) all of the above.

Answer: D

- 3) Which of the following is an essential element of a tort of negligence?
- A) Consideration.
 - B) Acceptance.
 - C) A duty of care.
 - D) An offer.
 - E) All of the above.

Answer: C

- 4) The main *ratio decidendi* (reason for the decision) in the *Snail in the bottle* case was:
- A) you must avoid loss or injury to your 'neighbour' who is anyone living within your local area.
 - B) you must take reasonable care to avoid acts or omissions that you could reasonably foresee could cause loss or injury.
 - C) manufacturers of soft drinks must take reasonable care to ensure that their products are supplied in clear glass.
 - D) All of the above.

Answer: B

- 5) In the *Donoghue v Stevenson* (the *Snail in the bottle* case) the House of Lords held that:
- A) your neighbour is a person so clearly and directly affected by what you do that you reasonably ought to have that person in mind when you commit the act or omission concerned.
 - B) the rule that "you must love your neighbour" becomes in law, "you must not injure your neighbour".
 - C) you must take reasonable care to avoid acts or omissions which you can reasonably foresee would be likely to injure your neighbour.
 - D) All of the above.

Answer: D

- 6) Denzil is blind. He was badly injured when he fell into a Telstra trench on the side of public footpath. Telstra workers had placed a rope barrier, neon lights and large warning sign around the trench. Denzil claims Telstra was negligent. Which of the following statements best sums up his legal rights?
- A) Telstra is probably liable because it controlled the section of the footpath and Denzil had a special vulnerability.
 - B) Telstra is probably not liable because it satisfied a reasonable standard of care.
 - C) Telstra is probably liable but Denzil is likely to lose up to 70% of the damages awarded because he failed to go walking with a guide dog or helper.
 - D) Telstra is probably liable because it has a duty of care to the Australian public and its shareholders.

Answer: A

- 7) To establish if the defendant has breached a duty of care, the court will apply:
- A) was the risk not insignificant?
 - B) would a reasonable person have taken precautions?
 - C) was the risk foreseeable?
 - D) All of the above.
 - E) a and b only

Answer: D

- 8) When Brittany was being taught to drive by her Aunt Hanna, she crashed the car into an electricity pole and badly injured Hanna. If Hanna sued Brittany for negligence a court would probably rule that:
- A) Brittany will be liable as she breached her duty to drive with reasonable care. She owes this duty whether or not she is inexperienced.
 - B) Hanna is not entitled to damages because she was in control of the car at the time of the accident.
 - C) Hannah was entitled to a lesser standard of care from Brittany because of Brittany's inexperience.
 - D) Brittany should pay only 50% of the damages suffered by Hanna.

Answer: A

- 9) A surgeon did not warn a patient that the operation could result in an illness because the illness was very rare and highly unlikely. Although he performed the operation with skill and care, the patient contracted the illness several weeks later. She is suing him for negligence. Most leading Australian specialists in the same field have said they would not have warned the patient. Which statement best expresses the most likely court ruling?
- A) The surgeon is not liable because patients can only sue a surgeon for negligence that may have occurred during an operation or related medical treatment.
 - B) The surgeon may be liable because professionals must satisfy a standard of care that is reasonable according to a court, not the medical profession.
 - C) The surgeon is liable because there is no defence under common law for a failure to warn a patient about any risk, no matter how small it may be.
 - D) The surgeon is not liable because he satisfied a standard that was generally accepted by specialists across Australia.

Answer: B

- 10) Last month you damaged your car when its front wheels dropped into a large hole in a road which is maintained by the local council. You have learnt that the hole had been in the road for three weeks, the council knew about the problem, and it would not have been expensive to fix. Which of the following statements best expresses the council's legal position?
- A) It may be liable because it knew there was a risk that could cause a loss.
 - B) It may be liable because road authorities are required under the common law doctrine of non-feasance to prevent damage to roads.
 - C) It probably is not liable because the duty of care established in the *Snail in the bottle* case does not extend to roads or highways.
 - D) It will not be liable because road authorities have been granted immunity from negligence actions since the passing of the civil liability legislation.

Answer: A

- 11) The 'scope of liability' test in remoteness of harm in a negligence action requires the plaintiff to prove that:
- A) the kind of harm was reasonably foreseeable.
 - B) the harm has some proximity to the breach.
 - C) the harm was unreasonably close to the location of the plaintiff's body or dwelling.
 - D) the harm caused by the defendant was libellous or intentional.

Answer: A

- 12) If the defence of contributory negligence is proved:
- A) the court reduces the damages payable by a percentage that reflects the extent to which the plaintiff contributed to his or her loss.
 - B) the defendant is not liable because the plaintiff was partly responsible for his or her loss.
 - C) both parties must pay for their own legal costs.
 - D) the defendant must pay additional damages because he or she contributed to the circumstances that caused the plaintiff's loss.

Answer: A

- 13) A court has found that a plaintiff is entitled to damages of \$150 000 but that her contributory negligence was 70%. What damages will the plaintiff be awarded?
- A) \$80 000 B) \$100 000 C) \$105 000 D) \$45 000

Answer: D

- 14) Which of the following is a defence to a negligence legal action?
- A) Contributory negligence. B) Ignorance of the law.
C) Reckless indifference. D) No intention to harm.

Answer: A

- 15) A plaintiff in a personal injury action usually has the right to take legal action for up to how many years after the loss has occurred?
- A) Twelve years. B) Ten years. C) Six years. D) Three years.

Answer: D

16) The first Australian case that recognised that a plaintiff may be able to recover damages for "pure economic loss" was:

- A) *Cook v Cook*.
- B) *Donoghue v Stevenson*.
- C) *Caltex Oil (Aust) Pty Ltd v The Dredge "Wellemstad"*.
- D) *Hackshaw v Shaw*.

Answer: C

17) Your business premises were flooded because old water pipes burst in the premises next door. If you claim for the sales you missed while your place was being repaired, the type of loss you would claim for is known as:

- A) floodgate loss.
- B) collateral property loss.
- C) intangible capital loss.
- D) pure economic loss.
- E) A and B above.

Answer: D

18) Crane, Chandler & Christmas & Co (CCE) is a firm of accountants. CCE strongly recommended to Baxter, who was a possible client, that he should re-structure his finances by taking out a foreign loan in French francs. Baxter followed their advice and lost a large sum of money. He now knows CCE had no expertise in foreign loans and had not carried out appropriate research. CCE argue they are not liable because they gave their advice for free. It is very likely that:

- A) CCE is liable for tort of conversion.
- B) CCE is not liable because it is an accountancy firm and does not specialise in foreign investment advice.
- C) CCE is liable for negligent misstatement.
- D) CCE is not liable because Baxter did not provide any consideration for their advice.

Answer: C

19) Murray, a chartered accountant, gave free financial advice to Sabrina. He told her the Boom company "was sure to make money" and encouraged her to invest in it. In fact, Murray had not properly investigated the company. Sabrina followed Murray's advice and lost all of her investment. If she sued Murray for negligent misstatement which of the following tests would the court apply?

- A) Should Murray have reasonably foreseen that Sabrina would rely on the statement?
- B) Was Murray's statement seriously made in serious circumstances?
- C) Did Sabrina reasonably rely on Murray's advice?
- D) Did Murray fail to exercise reasonable care?
- E) All of the above.

Answer: E

- 20) Which of the following statements provides the best summary of the duty of care owed by an occupier of premises?
- A) Occupier owe a lesser duty of care to trespassers or uninvited visitors.
 - B) Occupiers owe a higher standard of care to persons they invite onto their premises.
 - C) Occupiers must take reasonable care to avoid a reasonably foreseeable risk to anyone who enters their premises.
 - D) Occupiers must provide food and drink to any police officer, tax official or other important government representative who visits their premises.
 - E) Occupiers must display signs in several languages to warn visitors about any possible dangers on their premises.

Answer: C

- 21) Pygmalion saw a youth stealing petrol from the tank at his country service station. As the youth was running to his getaway car Pygmalion fired at the car's tyres. One shot went high and hit Ms Machete who was lying on the back seat. She has sued Pygmalion for negligence. Which of the following statements best sums up her legal position under common law?
- A) She will probably succeed. Pygmalion breached his duty of care by not checking the car was empty or firing high in the air. But her damages will be reduced because of her contributory negligence.
 - B) She will probably succeed. Pygmalion breached his duty of care by not checking the car was empty or firing high in the air.
 - C) She will probably not succeed. Pygmalion was exercising his constitutional right to defend his property with constitutional force.
 - D) She will probably not succeed. Occupiers of property owe a lesser duty of care to trespassers and Pygmalion satisfied a reasonable standard of care in the circumstances

Answer: A

- 22) An employee's negligence caused an employer to be liable. This category of negligence is called:
- A) employee liability.
 - B) vicarious liability.
 - C) employer's wrongful conduct.
 - D) personal unlimited liability.
 - E) all of the above.

Answer: B

- 23) Vicarious liability occurs when:
- A) an employer is liable for a tort committed by an employee.
 - B) a person suffers a reasonably foreseeable loss from a defective product.
 - C) a trespasser is injured on public or private land.
 - D) all of the above.

Answer: A

- 24) A 'fault-based' system in relation to motor vehicle accidents means that:
- A) the court must discover who is at fault.
 - B) the police must be able to attribute fault to the defendant.
 - C) both parties must be at fault in relation to the accident.
 - D) the person who suffers loss from an accident must prove the defendant was at fault.

Answer: D