



NATIONAL OPEN UNIVERSITY OF NIGERIA
FACULTY OF LAW, DEPARTMENT OF PRIVATE AND PROPERTY LAW
Plot 91, Cadastral Zone, Nnamdi Azikiwe Express Way, Jabi – Abuja
2022_2 POP EXAMINATION

COURSE CODE: PPL323

COURSE TITLE: LAW OF TORTS 1

TIME ALLOWED: 3 HOURS

INSTRUCTION: ANSWER QUESTION 1 AND ANY THREE (3) OTHER QUESTIONS.

QUESTION ONE CARRIES 25 MARKS, OTHERS CARRY 15 MARKS EACH.

1. Jane sued the defendant railway company for personal injuries he suffered due to the negligence of the servants of the company while he was traveling on the railway. The court held that the case was founded upon tort and not contract, although the tort occurred as a result of a contract to carry him as a passenger.

With the aid of decided case discuss;

- (a) the difference between a tort and contract
 - (b) the issues of overlap between a tort and a contract if any
 - (c) the elements of negligence
2. Aki who was erecting steel fell from the building where he was working and died when a section of the building collapsed. If he had been wearing a safety harness he would not have fallen to death. The defendants who were his employers were under a legal duty under statute to provide all the workers with safety harness. They were in breach of that duty by failing to provide them on the day of the accident. Pawpaw's car was also destroyed by the debris from the collapsed building. The now poverty -stricken Pawpaw could not afford the rent increment by his landlord and had to relocate to a remote part of the city. In the interim he took to petty trading with his wife but they were not receiving the desired patronage. He suffered financial embarrassment as his daughter was driven out of school due to inability to pay school fees. Aki's wife wants to sue the defendant for death of her husband. Pawpaw wants to sue for the financial embarrassment. Defendant argued that Aki died because his blood pressure has always been very high and he has been asthmatic. Advise Aki's wife and Pawpaw.

3. At a market fair at Lagos Port, Nigeria, the defendant Dayo threw a lighted squib “firework” on the stall of one Yates. Ola, in order to protect the goods of Yates threw it away. It landed on the stall of Favour who in turn threw it on. It hit the plaintiff in the face, exploded and blinded one of his eyes. James wants to sue Dayo and Favour for damages. Advise James
4. The defendant's horses while being driven by his servant in a public highway were startled by the barking of a dog. The horses ran away in fright and became so unmanageable that the servant could not stop them, but he could to some extent, guide them. While trying to turn a corner safely, the servant guided them so that, without intending it, the horses knocked down and injured the plaintiff who was on the highway. The plaintiff sued for negligence. The driver claims his actions were not intentional.

What are the plaintiff's chances of succeeding in court?

5. (a). With the help of decided cases discuss the defenses to trespass to person
(b). With the help of decided cases discuss the plea of *res ipsa loquitor*
6. (a). Examine the nature of a duty which an occupier owes a child.
(b). Examine the remedies available to a plaintiff in a successful action for onversion of a chattel.