

TORT OF NEGLIGENCE

QUESTION 1

(a) Richard's painting business has become very successful over the past few years. As a result of this growth in his business, Richard has been able to employ a supervisor, Jed. While working at a height of 6 metres on his business's home-made mechanical platform Jed has an epileptic seizure and falls to the ground breaking his leg. The mechanical platform was unsafe because it did not comply with the Australian Safety Standards. Jed is now suing Richard, at common law, for not providing a safe system of work. Advise Richard, using the basic information above, as to whether Jed could bring a successful claim against him in the Tort of Negligence. In answering the question explain what each of the elements of negligence are and how they would be applied. (10 Marks)

The issue identified here is whether Jed could successfully sue Richard in the tort of negligence for providing an unsafe and hazardous work environment.

Negligence is defined by the failure to extend a duty of care, to prevent others from getting injured through an individual's advertent or inadvertent acts or omissions. In order to build a case through the tort of negligence, the plaintiff must prove that the defendant had a duty of care, breached that duty of care and consequently resulted in loss, damage or injury to the plaintiff. A duty of care is owed to all those who are closely and directly affected by an individual's act. According to the neighbourhood principle, a duty of care is owed to all those with whom the individual is in a proximate relationship. Most often employer and employee relationships involve an established duty of care where the employer owes a duty of care in terms of safety to his/her employees working in close proximity.

Furthermore, risk of injury in a workplace could be reasonably foreseeable if safety standards are not properly complied with. In this case, as Jed's employer, Richard has an established duty of care to Jed and as the relationship is sufficiently close, Richard should take enough care not to put Jed at risk.

As Richard's mechanical platform was not upto Australian safety standards, there was a foreseeable risk of employees getting injured. Thus, Richard owed Jed a duty of care.

Past Questions On Tort Of Negligence

Birju Kotecha



Past Questions On Tort Of Negligence:

Kidner's Casebook on Torts Kirsty Horsey, Erika Rackley, 2015 The essential companion for undergraduate tort law students providing a comprehensive portable library of leading tort cases Horsey Rackley bring together a range of carefully edited extracts combined with insightful commentary questions and annotated cases to help students identify and analyse the key elements of a case

Law Express: Business Law (Revision Guide) Ewan MacIntyre, 2014-08-01 The Law Express series is designed to help you revise effectively This book is your guide to understanding essential concepts remembering and applying key legislation and making your answers stand out

Casebook on Torts Richard Kidner, 2012-06-28 Richard Kidner's established Casebook on Torts is an essential casebook for students of tort law The case selection for this book has been based upon the standard cases and the extracts outline the reasoning behind each case decision

Q&A Torts Birju Kotecha, 2014-12-05 Routledge Q As give you the tools to practice and refine your exam technique showing you how to apply your knowledge to maximum effect in an exam situation Each book contains up to fifty essay and problem based questions on the most commonly examined topics complete with expert guidance and fully worked model answers These books provide you with the skills you need for your exams by Helping you to be prepared each title in the series has an introduction presenting carefully tailored advice on how to approach assessment for your subject Showing you what examiners are looking for each question is annotated with both a short overview on how to approach your answer as well as footnoted commentary that demonstrate how model answers meet marking criteria Offering pointers on how to gain marks as well as what common errors could lose them Aim Higher and Common Pitfalls offer crucial guidance throughout Helping you to understand and remember the law diagrams for each answer work to illuminate difficult legal principles and provide overviews of how model answers are structured Books in the series are also supported by a Companion Website that offers online essay writing tutorials podcasts bonus Q As and multiple choice questions to help you focus your revision more effectively

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The book delves into Past Questions On Tort Of Negligence. Past Questions On Tort Of Negligence is a crucial topic that must be grasped by everyone, from students and scholars to the general public. This book will furnish comprehensive and in-depth insights into Past Questions On Tort Of Negligence, encompassing both the fundamentals and more intricate discussions.

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