

ශ්‍රී ලංකා විවෘත විශ්වවිද්‍යාලය
නීතිවේදී උපාධි පාඨමාලාව - 6 වන මට්ටම
අඛණ්ඩ ඇගයීම් පරීක්ෂණය 2 - 2017/2018
දිලික්ක නීතිය - LWU4326/LLU6814
කාලය - පැය (01) එකයි.



දිනය - 2019.08 15

වේලාව - පෙ.ව.09.00 - පෙ.ව.10.00 දක්වා

අපැහැදිලි අත්අකුරු සඳහා ලකුණු අඩු කරනු ලැබේ.

නීත්‍යානුකූල නොවන ලේඛන හා ජංගම දුරකථන ළඟ තබා ගැනීම විභාග වරදකි.

එක් ප්‍රශ්නයකට පමණක් පිළිතුරු සපයන්න.

01. සුමිත් එක් දොරක ඇති පළඳිදක් අලුත්වැඩියා කිරීම සඳහා ඔහුගේ මෝටර් රථය ඔහුගේ සුපුරුදු ගරාජයට රැගෙන ගියේය. ඔහු, පසුදින නුවර එළිය දක්වා ධාවනය කරන හෙයින් මෝටර් රථය සම්පූර්ණයෙන් පරීක්ෂා කරන ලෙසත් සහ අවශ්‍ය විය හැකි සෙසු අලුත්වැඩියාවන් සිදු කරන ලෙසත් ගරාජයේ හිමිකරු වූ රංජන්ට ප්‍රකාශ කළේය. රංජන් දොර අලුත්වැඩියා කරන ලද නමුත් මෝටර් රථයේ වෙනත් ගැටලු පරීක්ෂා කිරීමට ඔහුට කාලයක් නොතිබුණි. ඔහු සුමිත්ට ප්‍රකාශ කළේ නුවරඑළිය දක්වා ධාවනය කිරීමට මෝටර් රථය සුදුසු තත්වයේ පවතින බවයි.

පසුදින, සුමිත් නුවර එළිය දක්වා ධාවනය කළේය. ආපසු එන ගමනේ දී නිරිංග අක්‍රිය වූ අතර කන්දක ගැටීම වැළැක්වීම සඳහා පාරේ අනෙක් පසට හැරවීමට යාමේ දී මෝටර් රථය ගැටීමකට ලක් විය. ඔහුගේ හිස ගැටීමට ලක්වූ නමුත් ඔහුට මෝටර් රථයෙන් එළියට ඒමට හැකි වූ අතර සිහි මද ගතියෙන් මාර්ගයේ මැද සිටගෙන සිටියේ ය. වෙග සීමාව පැයට කි.මී.20 ට වඩා වැඩි වේගයකින් ලොරියක් ධාවනය කරමින් සිටි නිමල් වංගුව ගැනීමත් සමග මාර්ගයේ මැද සිටි සුමිත් බේරීම සඳහා වෙනතකට ධාවනය කළේය. එහිදී නිමල්, ප්‍රතිවිරුද්ධ දිශාවෙන් ගමන් කරමින් සිටි ලසිත් ගේ යතුරු පැදියේ මුහුණතෙහි ගැටුණි. ලසිත් මාර්ගයේ වැරදි දිශාවෙන් ගමන් කරමින් සිටි අතර ඔහු හිස් ආවරණ පැළඳ සිටියේ නැත. ලසිත්ගේ හිසට සහ කණේරුකාවට බරපතල හානි සිදු විය.

රංජන්, සුමිත්, නිමල් සහ ලසිත් සතුව යම් වගකීමක් පවතින්නේ දැයි පැහැදිලි කරන්න. මෙකී එක් එක් පුද්ගලයා කාහට වගකිව යුතුද එසේ වගකිව යුතු වන්නේ ඇයි?

02. “නොසැලකිල්ල පිළිබඳ සාර්ථක ඉල්ලීමක් කිරීම සඳහා අවධානයේ යුතුකම පැවතීම මූලික අවශ්‍යතාවයකි. යුතුකමක් නොමැති නම් සාධාරණ අවධානය දැරීමට අපොහොසත් වීම, වගකීම ජනිත කිරීමට ඉඩ ලබා නොදේ.”

(Lunney and Oliphant. Tort Law, Text and Materials, Third Edition, page 120.)

දිලික්කමය වගකීම පුළුල් කිරීමේ හෝ සීමා කිරීමේ අරමුණින් අවධානයේ යුතුකම පිළිබඳ මූලධර්ම අධිකරණයන් භාවිතයට ගෙන ඇත්තේ කෙසේද යන්න ඔබගේ දිලික්ක නීතිය පාඨමාලාව ඇසුරින් සාකච්ඡා කරන්න.

හිමිකම් ඇවිරිණි.

THE OPEN UNIVERSITY OF SRI LANKA
 LL.B. DEGREE PROGRAMME - LEVEL 6
 2ND ASSIGNMENT TEST 2017/2018
LAW OF DELICT - LWU 4326 / LLU6814
 DURATION - 1 HOUR



 Date: 15th August 2019 Time: 9.00 - 10.00am

Students will be penalised for illegible handwriting.

It is an examination offence to have unauthorized documents or mobile phones or any other electronic item with you in the examination hall.

Answer ONE question only.

- Sumith took his car to his regular garage in order to repair a dent in one of the doors. He told Ranjan, the owner of the garage, to do an overall check on the car and attend to any other repairs that may be needed as he was driving upto Nuwara Eliya the next day. Ranjan repaired the door but did not have time to check the car for any other problems. He told Sumith that the car was in a suitable condition to be driven to Nuwara Eliya.

The following day Sumith drove upto Nuwara Eliya. On the return journey the brakes failed and Sumith had to crash the car into the side of the road to avoid going over the mountain. He had hit his head but was able to get out of the car and was standing dazed in the middle of the road. Nimal who was driving a lorry about 20 kilometres over the speed limit came around the bend and swerved to avoid Sumith. He crashed head on into Lasith who was riding his motor bike in the opposite direction. Lasith was riding on the wrong side of the road and was not wearing his helmet. Lasith suffered serious injuries to his head and spine.

Explain the liability, if any, of Ranjan, Sumith, Nimal and Lasith. To whom will each of these people be liable and why?

- "The existence of a duty of care is the primary requirement for a successful claim in negligence. If there is no duty, the failure to take reasonable care cannot give rise to liability."

(Lunney and Oliphant. Tort Law, Text and Materials, Third Edition, page 120.)

In the light of your course on Law of Delict, discuss how the courts have used the duty of care principle as a means of expanding or restricting delictual liability.



இலங்கை திறந்த பல்கலைக்கழகம்
 மாணாடவியல் மற்றும் சமூக விஞ்ஞானங்கள் பீடம்
 சட்டக்கற்கைகள் திணைக்களம்
 சட்டமாணி பட்டப்படிப்பு நிகழ்ச்சித் திட்டம் - மட்டம் 6
 தொடர் மதிப்பீட்டுப் பரீட்சை II - 2017/18
 LWU 4326/LLU 6814 - தீங்கியற் சட்டம்
 காலம் : ஒரு (01) மணித்தியாலம்

திகதி : 15.08.2019

நேரம் : மு.ப 09.00- மு.ப 10.00

தெளிவற்ற கையெழுத்திற்கு புள்ளிகள் குறைக்கப்படும்.

பரீட்சை மண்டபத்தில் அதிகாரபூர்வமற்ற ஆவணங்கள் அல்லது கையடக்கத் தொலைபேசிகள் அல்லது வேறு ஏதேனும் இலத்திரனியல் உட்கரணங்கள் என்பவற்றை கொண்டிருத்தல் ஆனது பரீட்சைக் குற்றம் ஆகும்.

ஒரு (01) வினாவிற்கு மாத்திரம் விடையளிக்க.

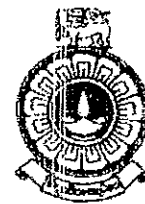
1. சுமித் என்பவன் தன்னுடைய கார் வண்டியை அதன் ஒரு கதவில் ஏற்பட்ட சேதத்தை திருத்தம் செய்யும் பொருட்டு வழமையாக செல்லும் வண்டிகளைப் பழுது பார்க்கும் இடத்திற்கு கொண்டு சென்றான். அவன், அப்பழுது பார்க்கும் இடத்தின் உரிமையாளரான ரஞ்சன் என்பவனிடம் தான் மறுநாள் நுவரெலியாவிற்கு வண்டியை செலுத்திச் செல்ல உள்ளதனால் காரினை முழுமையாக சோதிக்காமாறும், தேவையான பழுதுகளை சரிபார்க்காமாறும் கூறினான். ரஞ்சன் காரின் கதவை திருத்திய போதும், அவனுக்கு காரில் ஏதேனும் வேறு பிரச்சினைகள் உள்ளனவா என சோதிக்கப் போதுமான காலம் இருக்கவில்லை. நுவரெலியாவிற்கு செலுத்தக்கூடிய பொருத்தமான நிலையில் கார் இருப்பதாக சுமித்திற்கு அவன் கூறினான்.

மறுநாள், சுமித் நுவரெலியாவிற்கு வண்டியை செலுத்தினான். மீள் திரும்பும் போது வாகனத்தின் தடுப்பான் (Brake) செயலிழக்கப்பட்டதுடன், வண்டி மலை மீது மோதுவதைத் தடுக்கும் பொருட்டு வண்டியை வீதியின் பக்கம் செலுத்தி மோத வேண்டி ஏற்பட்டது. அவனது தலையில் அடிபட்ட போதிலும் அவன் காரில் இருந்து வெளிவர முடியாமாக இருந்ததுடன், வீதியின் மத்தியில் அதிர்ச்சிக்குள்ளாகி நின்றிருந்தான். வாகன வேகக்கட்டுப்பாட்டு அளவிலும் இருபது கிலோ மீற்றர் அதிகமாக லொறி வண்டி ஒன்றை செலுத்தி வந்த நிமல் என்பவன் வளைவைச் சுற்றி வந்து, சுமித்தின் மீது வண்டி மோதுவதைத் தடுக்கும் பொருட்டு திசையை மாற்றினான். எதிர்ந்திசையில் மோட்டார் வண்டி ஒன்றைச் செலுத்தி வந்து கொண்டிருந்த லசித் என்பவன் மீது தனது லொறி வண்டியின் முன்பாகத்தால் மோதினான். லசித் பாதையின் தவறான பக்கத்தில் வண்டியை செலுத்தி இருந்ததுடன் தலைக்கவசம் அணியவும் தவறியிருந்தான். லசித் அவனது தலை மற்றும் முதுகெழும்பு என்பவற்றில் கட்டும் காயத்திற்கு உள்ளாகினான்.

ரஞ்சன், சுமித், நிமல் மற்றும் லசித் ஆகியோர் மீது ஏதேனும் பொறுப்புடைமை இருப்பின் விளக்குக. இவ் ஒவ்வொருவரும் எவர் மீது, ஏன் பொறுப்புடையோர்?

(20 புள்ளிகள்)

THE OPEN UNIVERSITY OF SRI LANKA
 LL.B. DEGREE PROGRAMME - LEVEL 6
 2ND ASSIGNMENT TEST 2017/2018
 LAW OF DELICT - LWU 4326 / LLU6814
 DURATION - 1 HOUR



 Date: 15th August 2019 Time: 9.00 - 10.00am

Students will be penalised for illegible handwriting.

It is an examination offence to have unauthorized documents or mobile phones or any other electronic item with you in the examination hall.

Answer ONE question only.

1. Sumith took his car to his regular garage in order to repair a dent in one of the doors. He told Ranjan, the owner of the garage, to do an overall check on the car and attend to any other repairs that may be needed as he was driving upto Nuwara Eliya the next day. Ranjan repaired the door but did not have time to check the car for any other problems. He told Sumith that the car was in a suitable condition to be driven to Nuwara Eliya.

The following day Sumith drove upto Nuwara Eliya. On the return journey the brakes failed and Sumith had to crash the car into the side of the road to avoid going over the mountain. He had hit his head but was able to get out of the car and was standing dazed in the middle of the road. Nimal who was driving a lorry about 20 kilometres over the speed limit came around the bend and swerved to avoid Sumith. He crashed head on into Lasith who was riding his motor bike in the opposite direction. Lasith was riding on the wrong side of the road and was not wearing his helmet. Lasith suffered serious injuries to his head and spine.

Explain the liability, if any, of Ranjan, Sumith, Nimal and Lasith. To whom will each of these people be liable and why?

2. "The existence of a duty of care is the primary requirement for a successful claim in negligence. If there is no duty, the failure to take reasonable care cannot give rise to liability."

(Lunney and Oliphant. Tort Law, Text and Materials, Third Edition, page 120.)

In the light of your course on Law of Delict, discuss how the courts have used the duty of care principle as a means of expanding or restricting delictual liability.

2. "கவனயீனத்தில் ஒரு வெற்றிகரமான கோரிக்கைக்கான முதன்மைத் தேவைப்பாடு ஆனது, கவனக்கடப்பாட்டின் நிலவுகை ஆகும். கடப்பாடு காணப்படாவிடின், நியாயமான கவனத்தை அளிக்க தவறியமை பொறுப்புடைமைக்கு இட்டுச் செல்லாது."

(Lunney and Oliphant. Tort Law, Text and Materials, Third Edition, page 120.)

தீங்கியல் சட்டம் எனும் உமது பாடநெறியின் பின்னணியில், தீங்கியல் பொறுப்புடைமையை விரிவாக்குவதற்கு அல்லது மட்டுப்படுத்துவதற்கு கவனக்கடப்பாட்டுக் கோட்பாட்டை எவ்வாறு நீதிமன்றங்கள் உபயோகித்துள்ளன என ஆராய்க.

(20 புள்ளிகள்)

- பதிப்புரிமை பெற்றது -

