



Session 29

Tort Law

Cases 1

Case 1: Reibl v Hughes (UK)

Reibl underwent surgery for the removal of an occlusion in the left internal carotid artery. Hughes, the surgeon, performed the surgery properly, however either during or immediately after the surgery the plaintiff had a massive stroke that left him paralyzed on the right side of his body and impotent. Prior to the surgery the respondent did not inform the appellant specifically about the risk of stroke. The appellant consented to the surgery. He only had 1.6 years left at his job before he was eligible for his pension and extended disability benefits. Reibl was successful at trial and recovered \$225,000; however a new trial was awarded upon appeal

How specific must the information about the risks of a medical procedure be to enable a person to make an informed choice between surgery and no surgery?

Case 2: Haynes v Harwood (UK)

Harwood's servant brought a two horse carriage into a residential neighbourhood and parked it across the street from a police station while he was off doing work. While the servant was away, children upset the horses and they broke free and were on a path to injure people. Haynes, a police officer, saw this from a window. He ran out and stopped the horses, however one of them fell and injured him. He brought an action for damages but was unsuccessful at trial and appealed

When someone knowingly puts himself or herself in danger to protect others, is the negligent party liable for damages suffered in the protection effort?

Case 3: Dillon v Twin State Gas & Electric Co

- Defendant maintained wires to carry electric current over a large public bridge
- Wires ran across bridge a foot above the horizontal girders
- Wires were insulated for weather protection but not against contact
- Deceased and other boys had played on the bridge for many years
- Deceased, sitting on a horizontal girder, lost balance and instinctively grabbed the wires to save himself from falling
- He was electrocuted

What is the extent of the defendant's liability in causing the plaintiff's loss?

Case 4: TB Bright v Kerr

Appellant was a company licensed to manufacture and sell wine throughout Ontario, and had a retail store on Yonge St., Toronto. Its deliveries up to 4 o'clock p.m. were made by a certain delivery service. In the evening one S. would telephone inquiring if there were parcels to deliver, and if so would call for them and make delivery (within the time prescribed by regulations under the Liquor Control Act), collecting payment and securing signatures to orders and receipts. He was paid a stipulated sum per parcel, payment being made weekly. While delivering parcels as aforesaid, the motorcycle which he (S) was driving struck K. who died as the result.

At the trial, which was had with a jury, the trial judge, on motion at close of plaintiff's case, dismissed the action as against appellant (defendant). The Court of Appeal for Ontario (Middleton J.A. dissenting) ([1937] O.R. 205) set aside said dismissal and ordered a new trial between plaintiff and appellant, confined to the question of liability of appellant and assessment of damages. Appellant appealed to SCC.

Case 4: TB Bright v Kerr

The question on this appeal was appellant's liability for damages by reason of the accident (in an action brought under the Ontario Fatal Accidents Act).