

Doctrine of Causation in Tort Law

The Doctrine of Causations states that the defendant's action/inaction must have caused the plaintiffs loss.

There must be a causal link between the plaintiff's loss and the defendants conduct. To prove causation the courts have devised several tests, the 1. "But For" test, an act is the cause of a loss if the loss would have happened "but for" the act in question. This was outlined in **Barnett v Chelsea and Kensington hospital**. In this case the plaintiff was a widow who sued the Hospital where her husband went seeking medical treatment. It was discovered he had arsenic poisoning but the hospital were negligent to discover this. Barnett lost her case as her husband would've died despite the negligence of the hospital.

2. The material element test. The conduct of the defendant must've been a material element and a substantial factor in bringing about the loss of the plaintiff.

3. Novus Actus Interveniens or "new intervening act". This test applies where there is a number of causes to a loss. As per **McKew v Holland**, the plaintiff received initial injuries from the defendant which resulted in his leg to give way without warning. He decided to go down a set of stairs unaided with no handrail, his leg gave way and he suffered further injuries. The courts found that McKews decision to descend the stairs was a Novus Actus Interveniens. Another example of NAI is **Connolly v South of Ireland Asphalt** where the defendant was a quarrying company. Their daily business activity caused potholes to form on the road outside their premises. The weather conditions caused these potholes to fill with water, usual traffic splashed the water onto the road. There has been a cold night which subsequently caused the water to freeze over. Mr Wade was driving a motorcycle along the road and fell off due to the conditions. Connolly hit him in his car and he was killed. The Supreme Court found that his conduct did not constitute a Novus Actus Interveniens as he was driving negligently.

When a defendant commits a tort the consequences of this may be viewed on a timeline. There may be an unbroken causal link connecting the plaintiffs lost to the defendant's action. In between the tort and the loss there may be a novus actus interveniens that breaks this causal link so that the NAI is the true cause of the loss.

The aim of the Doctrine of Causation is to achieve fairness in fact and in law.