

THE LAW OF TORT

The "egg shell" rule

1. The courts have also made it clear when applying this rule of reasonable foreseeability that so long as the kind or type of injury or damage could be reasonably foreseen, it does not matter that the effect or extent of that harm on the particular plaintiff is unusual or unforeseeable, in that it is greater or less than an ordinary person would suffer.
2. This is sometimes referred to as the "egg-shell skull" rule because it means that provided a defendant could reasonably foresee that a plaintiff would suffer some kind of physical injury, the defendant is liable even if the plaintiff had an exceptionally weak skull, or exceptionally brittle bones, or an unusual heart or blood condition, with the result that the plaintiff suffered a greater degree or extent of harm from that physical injury than would have been suffered by others. Conversely, of course, a defendant might be lucky, if the plaintiff had an exceptionally strong skull or strong bones, or strong heart, so that the plaintiff suffered a lesser degree or extent of harm than would have been caused by others.
3. Refer to the following cases:

-Smith v Leech Brain & Co [1962] 2 QB 405.

-Robinson v Post Office [1974] 1 WLR 1176

-Stephenson v Waite Tileman Ltd [1973] 1 NZLR 152

Observation:

4. It seems clear that, at least as regards physical harm, provided it was of a kind that was reasonably foreseeable, the fact that it had a greater or lesser effect on the plaintiff than was foreseeable does not protect the wrongdoer from liability. There is some doubt as to whether the same rule applies with regard to financial loss (read: