

omissions which you can reasonably foresee would be likely to injure your neighbour. Who then is my neighbour? The answer seems to be - persons who are so directly affected by my act that I ought reasonably to have them in contemplation as being affected when I am directing my mind to the acts or omissions which are called in question." *Example of case. Lister v Romford Ice & Cold Storage Co. Ltd.* [1957]

Here is a summary of the circumstances surrounding the possible cases of the claimants and the defendant Marchelle.

Case 1

Snappy v Marchelle

From the scenario identified it is understood that Marchelle had breached the neighbour 'principle by not taking Snappy advice. He did not exercise a duty of care to Snappy and pedestrians that would have been on the road. In this case Snappy was the primary victim as he was physically injured as a result of Marchelle's negligent driving. Snappy can use causation to Prove a Tort Action and the standard of care breached by Marchelle once it has been shown that Marchelle was negligent and he had a duty of care to the Snappy, it must be shown that the actual injuries are not too remote, such that the damage caused was not totally unforeseeable in considering the negligent act. It must then be shown that it was as a result of Marchelle's risks which resulted in Snappy's injuries; thus, analysis of the materialization of risk into injury is required to prove negligence by using the concept of causation in fact. Marchelle's wrongful act against Snappy gives rise to a civil claim (usually for damages although other remedies are available). The liability is based on fault for example breach of statutory duty, vicarious liability and the tort established. The court in its decision uses the prime object of the tort of negligence to provide compensation for Snappy the injured person. However it is Snappy's burden to prove and show on a balance of probabilities that certain elements exist. The claimant Snappy who is involved in the car accident caused by the defendant's Marchelle's careless driving and gets mildly injured as a consequence. A successful tort claim must show that Marchelle's risks causing harm were unreasonable, negligent and his standard of care is breached as he would have owed a duty of care to Snappy, such that the duty to not cause this particular person harm was breached.

An example of cases *Caparo v Dickman* (1990) and

Rose v Plenty (1976) Vicarious liability.

A milkman (against company orders) took a 13-year-old boy to help him on his round, and the boy was injured through the milkman's negligent driving. The boy sued both the

milkman and the dairy co-operative. The trial judge found that the co-operative was not liable. The plaintiff appealed. The court held that the milkman was doing an authorized act, delivering milk, in an unauthorized way. Per Lord Scarman

The Court of Appeal (by a majority) found the dairy vicariously liable for the boy's injuries. The boy was actually helping to deliver the milk, and so the driver's action was an unauthorized way of performing his duties.

Case 2

Buncha-Garlic v Marchelle

Buncha Garlic was the Primary Victim who could have Foreseeable been hurt as a result of Marchelle negligent driving this could have triggered a serious mental condition to Buncha-Garlic an example of a case

Page v smith (1995) where the house of L held that foreseeability of physical injury was sufficient to enable the plaintiff, who was directly involved in an accident to recover damages for nervous shock even though he had not actually been hurt.

The court would seek to Commodify human life (all human life has a finite financial value) as in this case Buncha Garlic.

By compensation through the medium of money that would provide a division that can satisfy individual and allows them to divorce themselves from the issue as soon as possible and forget about the results.

Case 3

Fair- Anne V Marchelle

This is a case where the claimant fears for the personal safety of a close relative in particular her husband. Her nervous shock was caused by the sight of the incident or event of Marchelle narrowly missing Buncha - Garlic. However Fair-Anne the claimant must show that there was a close and loving relationship between herself and Buncha Garlic by proving that she is his spouse. Followed by sufficient proximity between her (the claimant) and the accident in terms of time and space, by showing that she witnessed the incident, by the fact that she was standing right across the road.

In this case compensation through money provides a division that we like and allows us to divorce ourselves from the issue as soon as possible and forget about the results.

The Law commission Report, Liability for Psychiatric Illness (no 249, 1998) highlights the continued problem for the courts in determining the extent of liability for post traumatic stress disorder. If damages are to be recovered, nervous shock must take the