**BLAW 2000 LAW FOR ENGINEERS BENTLEY, MIRI & SLIIT**

**SEMESTER 2, 2020**

**MAJOR ASSIGNMENT**

**Due: 5th October @1pm by upload to Turnitin 3000 words limit. 50 Marks**

See instructions below under ‘Your Tasks’. You will complete an individual assignment on the scenario below. It requires you to explain and demonstrate the appropriate principles (and key cases) relevant to material covered in Topic 6 (negligence).



Image: Bigstockphot.com

Solomon Fielder Pty Ltd (Fielder) operates a motor vehicle panel beating and spray painting centre in the western suburbs of Perth. Fielder regularly carries out appropriate repair and maintenance work to the plant and machinery in the workshop as he is very safety conscious and does not wish to expose his employees or customers to unnecessary risk.

One day, Fielder engaged Victor & Co (Victor) who specialise in safety inspections and training in the motor vehicle industry to perform a safety inspection on one of the four specially imported spray booths that Fielder has on site. The booths differ from more common booths as they have the capacity to allow multiple car bodies and panels to be painted at the same time with different colours without overspray or contamination due to a sophisticated, modular partition system that is very quick to set up and disassemble. This feature is very useful for Fielder who regularly paint expensive and complicated sports cars for very fussy owners who expect fast results. Shane King is sent by Victor to carry out the safety inspection on the booth. Shane was well familiar with that type of booth as he had been working on them for a number of years at various locations in Perth while employed by Victor.

Unfortunately for Shane, one of the hydraulic lines burst while he was examining a fitting which resulted in Shane being sprayed with toxic hydraulic fluid. It was later discovered that Fielder had reconditioned rather than replaced some parts in the hydraulic system which was contrary to the requirements recommended by the manufacturer. It also transpired that Fielder had used parts obtained in Ebay during a previous service although they were of original specification and of good quality. Fielder had used these parts in the past and had not suffered any malfunctions or any unreliability with the other three other booths in the workshop. Shane suffered serious injuries as a result of the incident and he now cannot see in his left eye. He also suffers from recurring skin complications due to contamination he received on his arms and face. Shane now receives a small government funded disability pension and can no longer work in the motor vehicle safety sector. He also cannot play tennis anymore and has since missed a local tournament that he was expected to win. The tournament organisers promised prizemoney of $10000 for overall men’s champion.

An investigation into the incident revealed that Shane should have performed his inspection when the booth was not being used but he felt he could better assess the integrity of the hydraulic fittings whilst the booth was operational. He had been using this method for many years without incident. Shane seeks compensation for the pain and suffering, medical expenses, loss of future income and the prizemoney for the tournament.

**Question: Answer both 1 & 2 using separate 4 step structures.**

1. **Using the 4 step process explain what liability (if any) Solomon Fielder has to Shane King in the common law *Tort of Negligence.* (35 marks)**

**and**

1. **Using the 4 step process discuss whether Solomon Fielder has any common law *defence* to action in negligence (assuming Shane King is successful in proving negligence against him)? (15 marks).**

***Note: These questions should be considered using the common law. There is no need to refer to Occupational Health and Safety legislation for example.***

Submission: Via Turnitin. Instructions for submission via Turnitin are on Blackboard. Submit your answer as ONE Microsoft Word document (no PDF’s).

Note: The word count is not to exceed 3000 words.

**Assessment Rubric:**

Question 1

Area of law: 0 marks; Principles of law: 17 Marks; Application to facts: 14 Marks; Conclusion: 1 Mark; Referencing and general presentation 3 marks.

Question 2

Area of Law (0 marks) Principles of Law: 7 marks; Application to facts: 5 marks; Conclusion 1 mark; Referencing and general presentation 2 marks.

(Write in ways appropriate to the discipline, purpose and context concisely and effectively, appropriately referenced. Properly apply the four-step process.)

Please note:

1. Late papers incur a penalty of 5% marks for day 1 or part thereof late and 10% for each day after.
2. Exceeding word count limits will result in deduction of marks.
3. Reference correctly using the Chicago method.
4. Name your document correctly in the following format: “SurnameStudentNumberAssignment2.”
5. You may wish to check your submission using the Turnitin but remember your final upload is the version that will be marked. 6. Bibliographies are not included in the word count.

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