

Legal Environment for Business and Tort Law

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Compensatory Damages

The Case

Her case will be based on the tort law of negligence. Thus, she acquired injuries, which she can prove while having coffee at my shop. She will argue that the manager acted irresponsibly by serving a too-hot coffee. The customer will argue that she was injured while she was on the premises of my business. Thus, her case will be based on the tort law of negligence since the customer is seeking reimbursement for the injuries she acquired while in my place. Also, she will base her case on circumstances that the coffee was too hot since the degree of burns was 16%. Therefore, she demonstrates that the shop acted irresponsibly by making the coffee that hot. Furthermore, she will argue that even if she were to drink that coffee, there was a possibility that she might get injured due to the coffee temperature.

Therefore, she will try to prove that the manager was negligent in serving coffee at high temperatures. Thus, she will base her case on the tort law of negligence. Under the [tort of negligence](#), the customer, to prove that we are guilty, will have to (1) demonstrate we owed a duty of care, (2) prove we violated and breached the duty of care, (3) must be a proof that negligently caused damages and injury, and (4) damages or injury occurred (Cross, 2015). Under the duty of care, the plaintiffs must demonstrate that the defendant owed them a legal duty of care. Therefore, the court examines the duty of the following to establish a legal duty of care: (1) is there a close relationship between the parties? (2) Did the damages or injury cause foreseeable? (3) Is it appropriate, fair, and just to inflict a duty of care (Cross, 2015)?

Also, in proving that there was negligence, the plaintiffs must establish that we breached the care of duty. Thus, for the tort of negligence to have existed, the defendant must breach the legal duty imposed on them (Cross, 2015). Therefore, the law uses the 'reasonable man' test to identify whether the legal duty of care was breached. The objective test considers the defendant's behavior in determining the breach. Once the breach of duty is demonstrated, the plaintiff will use this to demonstrate how the damages and injuries were caused, whether indirectly or directly.

Therefore, the client case will be based on tort law of negligence. Regrettably, the client will manage to convince the jury that we acted irresponsibly that why she was injured. This because we owed her care of duty and we violated the care duty the moment the manager served her with that coffee.

Therefore, the jury will reward her with compensatory damages.

Plan for Tort Reforms

Introduction

Tort law is a law that is responsible for seeking reimbursement for the members of society who experience losses due to the dangerous conduct of others. Therefore, the law stipulates that the damages may be intentional, negligent, or strict liability (Cross, 2015). Due to increased lawsuits against the big hospitals, there is a need to reform tort laws to avoid a situation where people are taking advantage of the law to gain monetary wealth. The increased medical malpractice lawsuits have caused an increase in medical costs. This is because expensive lawsuits increase the costs of the organization to provide medical care; thus, high costs are being passed on to clients. Therefore, insurance companies end up raising the premiums. Therefore, there is a need to amend tort laws.

Reforms Plan

This is to ensure that the reforms do not take away victims' rights but help remove the excesses. Therefore, the plan should be based on the following pragmatic principles. First, lawyers involved in medical malpractice cases should not be allowed to get huge paychecks after their client is rewarded by the jury. Thus, like lawyers in other businesses, they should be paid for their performance. Therefore, by taking this drastic step, we will manage to reduce the number of cases that are not genuine in courts. Also, lawyers shouldn't be allowed to cash while, at the same time, there are piling on the government for crackdowns. This pragmatic step will also help reduce the number of excess cases. Furthermore, when lawyers commit crimes, the punishment should be severe. Currently, attorneys are filing frivolous suits, and their cases are normally at some point rejected by the court, or they are thrown out. Therefore, these reforms will allow genuine cases in court while at the same time eliminating abusive cases. These are simple laws that will help maintain the existing tort law, but they will help in abusive cases.

Frivolous cases and excess cases have increased due to the country's views of the free market and individualism. Therefore, the modern tort started with an unprecedented wave of personal injuries in the organization. Another reform that should be taken is if the plaintiff loses malpractice, he or she pays for the expenses the defendant has used in the case. Advocating for this reform assists in eliminating unnecessary medical malpractice lawsuits. Also, the law should be enacted to stipulate the amount that the institution should pay in case injuries happen due to recklessness or negligence. Therefore, having a stipulated formula will help avoid over- or under-compensation. These reform plans will help in reducing excess cases and serve justice to victims.

References

Cross, Frank B. (2015). *The Legal Environment of Business: Text and Cases*