



Session 3

Comparative Studies in Tort Law (2): Employees in Torts

Subject: Tort Law

For English Language Based Bachelor of Law Program (ELBBL)

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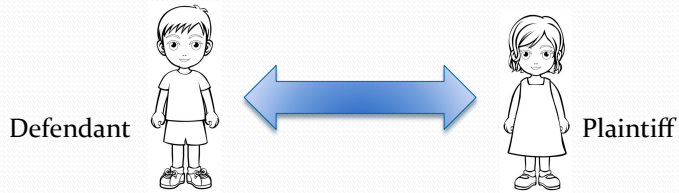
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Outline

- Requirements of torts
- Civil Codes in the case of Cambodia, Japan and France
- Meaning of employees
- Responsibility of employers
- Tortious actions by employees

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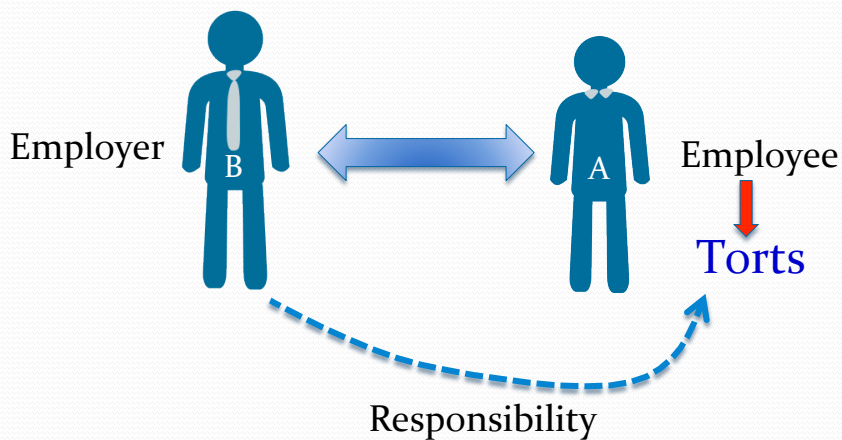
Requirements of Torts



1. The existence of a duty of the defendant
2. A violation of that duty
3. A showing that the violation causes the injuries
4. Damages,

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Employer vs. Employee



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Cambodian Civil Code, Art. 747

1. A person who uses an employee to perform work is liable for damages caused in violation of law to another in the performance of that work by the employee through the employee's intent or negligence.
2. A person who is in charge of supervision of the employee in place of the employer bears the same liability as the employer. However, this shall not apply where supervision was properly performed.
3. An employer or substitute supervisor may demand compensation from the employee in proportion to their degree of negligence.

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Japanese Civil Code, Art. 715

1. A person who employs others for a certain business shall be liable for damages inflicted on a third party by his/her employees with respect to the execution of that business; provided, however, that this shall not apply if the employer exercised reasonable care in appointing the employee or in supervising the business, or if the damages could not have been avoided even if he/she had exercised reasonable care.
2. A person who supervises the business on behalf of the employer shall also assume the liability under the preceding paragraph.
3. The provisions of the preceding two paragraphs shall not preclude the employer or supervisor from exercising their right to obtain reimbursement against the employee.

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French Civil Code, Art. 1384

Para. 5. Masters and employers, for the damage caused by their servants and employees in the functions for which they have been employed;

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Student Activities

Find out examples of possible tortious actions made by employees but the responsibility beard by the employers.

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Meaning of Employee

- Employees are “those who are contracted to assist any person in return for remuneration, but who do not perform manual labor fully or who do so incidentally.” (Labor Law, Art. 5)

មាត្រា ៥ នៃច្បាប់ស្តីពីការងារឆ្នាំ ១៩៩៧
 និយោជិត ឬអ្នកជួយគឺជនដែលបានចុះកិច្ចសន្យាជួយធ្វើការ
 បុគ្គលណាម្នាក់ដោយយកកម្រៃ ប៉ុន្តែគ្មានធ្វើមុខការហត្ថកម្មពេញទី
 ឬក៏គ្រាន់តែជួយធ្វើការហត្ថកម្មជាបន្ទាប់បន្សំប៉ុណ្ណោះ។

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Responsibility of Employers

- A work accident regardless of the cause, intentional or unintentional act includes:
 - ✓ Physical accident while working for employer,
 - ✓ Accident to apprentice គ្រោះថ្នាក់ដល់កូនជាង ឬសិស្សវិជ្ជាជីវៈ
 - ✓ Accident to those who are travelling to or back from the working place.
 - ✓ illness arising from the profession defined by law.
- (Labor Law, Art. 248)

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Tortious Actions by Employees (1)

During Working Hours



Sale Person
A



During driving to meet customers, A got accident and his motorbike was broken.

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Tortious Actions by Employees (2)

During Working Hours



Worker
A



Got injuries with machine in the factory.

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Tortious Actions by Employees (3)

Not Working Hours



Worker
A



A rode a motorbike to work. Accidentally, he caused harm to B and made B injured and his motorbike broken. B actually used over the speed limit. A also got some injuries. Suppose A's mistake is 75% and B's mistake is 25%.

The cure of A = \$150

The cure of B = \$230

B's motorbike repair = \$140.

Consider this case and the employer's responsibility.

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Tortious Actions by Employees (4)

Not Working Hours



Worker
A



A rode a motorbike from a company to his home. But he took a visit to his friend. Unfortunately, he caused harm to C who was riding properly in his own way. This accident caused C injured and his motorbike broken. A also got some injuries.

The cure of A = \$150

The cure of C = \$230

C's motorbike repair = \$140.

Consider this case and the employer's responsibility.

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Thank you!!!

Questions and Answers

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