



THE CHARTERED INSTITUTE OF LEGAL EXECUTIVES

UNIT 6 – DAMAGES, SETTLEMENT AND COSTS IN PERSONAL INJURY CASES*

Time allowed: 1 hour and 30 minutes plus 30 minutes' reading time

Instructions to Candidates

- You have been provided with a copy of the supporting materials for you to use in this examination.
- You have **THIRTY** minutes to read through the supporting materials and this question paper before the start of the examination.
- **It is strongly recommended that you use the reading time to read the supporting materials and this question paper fully.** However, you may make notes on the supporting materials, this question paper or in your answer booklet during this time, if you wish.
- **All questions are compulsory. You must answer ALL the questions.**
- Write in full sentences – a yes or no answer will earn no marks.
- Candidates must comply with the CILEX Examination Regulations.
- Full reasoning must be shown in answers. Statutory authorities, decided cases and examples should be used where appropriate.

Information for Candidates

- The mark allocation for each question and part-question is given and you are advised to take this into account in planning your work.
- Write in blue or black ink or ballpoint pen.
- Attention should be paid to clear, neat handwriting and tidy alterations.
- Complete all rough work in your answer booklet. Cross through any work you do not want marked.

Do not turn over this page until instructed by the Invigilator.

* This unit is a component of the following CILEX qualifications: **LEVEL 4 DIPLOMA IN PERSONAL INJURY LITIGATION** and **LEVEL 4 EXTENDED DIPLOMA IN PERSONAL INJURY LITIGATION**

Question 1

Reference: Question 1 relates to **Document 1** of the supporting materials.

Assume that the report has been prepared upon the joint instruction of the parties.

- (a) Identify the factors which will be relevant in evaluating Tilly's claim for general damages, pain, suffering and loss of amenity.
(8 marks)
- (b) Advise Tilly whether a claim may be made on behalf of her mother for her mother's loss of earnings for the period over which she cared for Tilly.
(8 marks)
- (c) Explain what evidence you will need in order to put forward a claim for loss of earnings from Tilly's holiday job.
(3 marks)

It is March 2018. Proceedings are to be issued. You have established that Tilly's claim for loss of earnings from her holiday job amounts to £1,240.

- (d) Explain what rates of interest, and for what period, Tilly is entitled to claim in respect of both general and special damages.
(5 marks)

(Total: 24 marks)

Question 2

Reference: Question 2 relates to **Document 2** of the supporting materials.

- (a) Explain the relevance of negotiating on a without prejudice basis.
(3 marks)
- (b) Explain what arguments Pilgrim Henry should put forward to rebut the argument for contributory negligence.
(6 marks)

Assume that Pilgrim Henry is in a position to evaluate Tilly's claim for damages.

- (c) Advise Tilly what is the most sensible step to take in order to attempt to compromise her claim, and why this would be in her best interests in respect of costs.
(8 marks)

A settlement of Tilly's claim is reached by negotiation. You should assume that proceedings have been served.

- (d) Explain whether any procedural requirements must be met in order to finalise the settlement.
(4 marks)

(Total: 21 marks)

Turn over

Question 3

Reference: Question 3 relates to **Document 3** of the supporting materials.

Upon receipt of Troy's email, Pilgrim decides to speak to Troy to offer him some reassurance that, in addition to claiming for loss of earnings, a further head of claim can be made on his behalf given the circumstances

- (a) Explain what reassurance Pilgrim should offer Troy about the further head of claim which can be made to compensate him in light of his handicap.
(6 marks)
- (b) Advise Troy whether he can recover the cost of his watch which was damaged in the accident.
(4 marks)
- (c) Calculate with reference to Troy's pre-accident earnings **and** his likely future earnings the correct multiplicand upon which any claim for future loss of earnings will be based.
(5 marks)
- (d) Explain to Troy what impact, if any, the benefits which he has received may have on his claim for loss of earnings.
(4 marks)

(Total: 19 marks)

Question 4

Reference: Question 4 relates to **Document 4** of the supporting materials.

Additional Information

The matter progresses. Over a period of months, Pilgrim has had some difficulty obtaining firm instructions from Troy and this has often caused delays and some confusion in correspondence with Gable LLP. However, eventually, instructions are obtained as to settlement proposals which are put to the defendant's solicitors. Having taken instructions as indicated in their letter of 20 May 2018 (**Document 4**), a settlement of Troy's claim is reached by further negotiation. Costs are agreed to be paid on the standard basis.

Explain whether Troy's conduct might impact upon his costs recovery.

(6 marks)

End of Examination Paper