

# Problem Set 1

(1) Consider some of our historical case studies.

(a) Regarding “Hammurabi’s Code”, what was the economic problem? How did it address this problem?

(b) Regarding the “Writ of Right”, explain how it overcame the Coase Theorem’s transaction costs? Why don’t we use this institution today?

(c) Regarding feud law, in the Icelandic system it was up to the victim to identify and prosecute the tortfeasor. That could be a problem for a victim with insufficient resources (defined mostly in terms of the ability to use force) to enforce the verdict. How did Icelanders solve this problem?

(2) The economic theory of tort law is based on the idea that liability for accidental injuries should be assigned so as to minimize the expected costs of accidents, including the harm suffered by victims, the cost of precautions by injurers and victims, and the administrative costs of assigning liability.

(a) Considering only the unilateral care model, what are the effects on strict liability and negligence rules regarding the investment in precaution if (1) there are errors in determining the due standard of care, or (2) there are errors in determining victim damages?

(b) Summarize the types of liability assignments, and describe whether they are efficient with respect to the bilateral care model.

(c) In the bilateral care model, both simple negligence and contributory negligence achieved the efficient investment of care by both parties. If contributory negligence is more expensive to implement, why, until recently, was contributory negligence the predominant tort rule in the United States?

(3) Every year a certain number of consumers are hurt using lawn mowers. Installation of a safety lever reduces the risk of an accident from .002 to .001 but costs \$50 per mower. Suppose the damages from an accident are \$45,000 on average.

(a) Should the manufacturer be held liable for failure to install the lever according to the Hand rule?

(b) Would the manufacturer install the lever under strict liability?

(4) The case of *New York Cent. R. Co. v. Thompson* concerned a woman who accidentally caught her foot in some railroad tracks and was injured when a train failed to brake in time and struck her. Suppose the liability rule is negligence with a defense of contributory negligence.

(a) Will the woman be able to recover her damages if the court determines that she was negligent for walking on the tracks?

(b) Under what doctrine will the woman be able to recover, despite her negligence, if the court determines that the train saw her predicament and had time to brake but did not? Explain the economic rationale for this doctrine.

(5) In cases where the injurer's actions are seen as intentional or reckless, the court may also award punitive damages. Punitive damages are intended to punish the injurer for some perceived wrongdoing, as well as to deter future injurers from engaging in similar actions. The economic theory of punitive damages, however, is based solely on the deterrence motive; that is, the desire to provide injurers with the correct incentives for care. For a variety of reasons, injurers may not expect to face the full damages that they cause and will therefore take too little care.

Suppose, in the context of the unilateral care model with a strict liability rule, that an injurer expects to face liability for only a fraction  $\alpha$  of the damages he causes, where  $\alpha < 1$ .

- (a) Why would the injurer not have an incentive to invest in the socially efficient level of precaution?
- (b) What amount of punitive damages would correct that? Show your work.

(6) Consider the case of *Haft v. Lone Palm Hotel*. The plaintiff in this case sought to recover damages when her husband and son, who were both inexperienced swimmers, drowned in a hotel pool. Suppose that at the time of the drowning, there was no lifeguard on duty, nor was there a sign warning guests of this fact.

<i>Action</i>	<i>Cost of care</i>	<i>Probability</i>	<i>Damages</i>
No sign or lifeguard	0	.10	\$1,000
Sign	\$5	.075	\$1,000
Lifeguard	\$70	.005	\$1,000

- (a) Which action minimizes total costs?
- (b) Show that the plaintiff be able to prove that failure to post a sign constituted negligence.
- (c) Show that the plaintiff be able to prove that failure to post a lifeguard constituted negligence.
- (d) If the court systems are imperfect, which action should the plaintiff file for?