

2.4 The law of negligence

We will now explore the law of negligence, using the following example.

Activity 1: The law of negligence

0 hours 20 minutes

Read the box below and answer the question that follows.

Catherine's surprise

Catherine is taken to a local café for a drink by a friend. The friend buys two bottles of lemonade. Catherine pours her lemonade into a glass and drinks some of it before noticing that there are the remains of a decomposed snail in her glass. She suffers shock and is very ill. She decides to sue the manufacturer of the lemonade for negligence as they have sold a product to a consumer that is not suitable for consumption.



What type of law do you think negligence is and do you think that Catherine will succeed in suing the lemonade manufacturer?

Discussion

Negligence in these circumstances comes under the classification of civil law. It is likely that Catherine may be able to claim some monetary compensation for the shock she received and the illness she suffered. You may have reached this conclusion just by thinking about the facts of the case and deciding that a manufacturer of a soft drink, such as lemonade, has a responsibility to make sure that their product reaches the general public in a condition that is fit to drink. You may have also thought that Catherine should have checked her glass before drinking the lemonade.

This example is based on the real case of *Donoghue v Stevenson* [1932] AC 562 (HL), decided in 1932, that had similar facts only involving ginger beer instead of lemonade. When summing up, the judge concluded that:

You must take reasonable care to avoid acts or omissions which you can reasonably foresee would be likely to injure your neighbour ... persons who are so closely and directly affected by my act that I ought reasonably have them in my contemplation as being so affected when I am directing my mind to the acts or omissions which are called into question.

This case created 'the neighbour principle', which would be followed if Catherine sued the manufacturer, as the facts of her case are very similar.

End of discussion