

7. (3 points)

a. (2 points)

Briefly describe each of the following legal principles and briefly explain a reason each principle is plaintiff-friendly or defendant-friendly:

- i. Joint and several liability
- ii. Gross income wage replacement
- iii. Collateral source rule
- iv. Prejudgment interest

b. (1 point)

Identify a reform to each of the legal principles in part a. above that would benefit the counterparty to the one identified in part a. above.

**CONTINUED ON NEXT PAGE**

**QUESTION 7**

**TOTAL POINT VALUE: 3**

**LEARNING OBJECTIVE(S): A4**

**SAMPLE ANSWERS**

**Part a: 2 points**

Sample

J&S:

Plaintiff can recover any or all damages from any or all defendants regardless of share of liability  
plaintiff friendly = plaintiff fully compensated for loss even if one defendant unable to pay

Use of gross income in calculation of income replacement in case where plaintiff can no longer work

plaintiff friendly = receives more money than if working -> no taxes, lower expenses because not traveling for work

Cannot admit any other sources of recovery for plaintiff in a case

plaintiff friendly = plaintiff can recover once from insurance and once from tortfeasor

Interest awarded for time between event date or date of filing of the lawsuit and award settlement. Interest on award

plaintiff friendly = plaintiff is fully compensated

**Part b: 1 point**

Sample 1

Replace with proportional liability

Switch compensation from gross to net

Eliminate collateral source rule

Eliminate prejudgment interest

Sample 2

Eliminate J&S liability and replace with proportional liability system

Change the base to net income

Eliminate collateral source rule and allow the evidence of plaintiff's other financial recoveries be considered at trial

Reduce prejudgment interest

#### **EXAMINER'S REPORT**

Candidates were expected to be able to describe several legal principles, explain if each favours the defendant or plaintiff, and identify reforms to the principles.

#### **Part a**

Candidates were expected to describe several legal principles and provide an explanation as to why the legal principles were plaintiff-friendly or not.

A common error included:

- Mentioning that the principle was plaintiff-friendly but not providing an explanation

#### **Part b**

Candidates were expected to provide a plausible reform that would shift the favour balance between plaintiff and defendant.

There were no common errors on this sub-part.