Torts Law

Marshe

[Institutional Affiliation(s)]

Author Note

Actual vs Proximate Cause

Actual and Proximate Cause

In the case when a person gets a physical injury due to the negligence of another person, the aggrieved party can claim damages, monetary or otherwise, from the other party. Some pre-requisites have to be met. For example, the plaintiff has to prove that the cause of his injury is the negligence of the defendant and that he is the only cause of his injuries. The plaintiff also has to prove that certain other aspects of the cases as well, such as breach of duty.

Actual cause, also known by the term "cause-in-fact" is quite simple to understand (Smith, 2001). When a car hits a bike, the actions of the car driver are the "actual" cause of the accident. This cause is usually the one that does not need any sort of legal probing to find out. On the other hand, proximate cause means "legal cause", which means the cause that the law of the land recognizes as the main cause of the injury. It should be noted that this cause may not be the pivotal one in giving rise to the chain of events that have led to the actual injury of the plaintiff. Instead, it may be an action that has led to the facilitation of the injury, meaning that it may an indirect contributor to the chain of events that resulted in the injury of the aggrieved party. In this case, the plaintiff had to show that his injuries were a direct result of the proximate cause of the incident. In short, he has to prove beyond a reasonable doubt that without this proximate cause, the injuries would not have materialized in the first place.

Some states also have a "but for" test when it comes to determining the cause of an accident was proximate or not (Stauch, 1997). This rule often considers another possibility that may be able to establish the elements of proximate causes.

# References

Smith, P. (2001). Legal Liability and Criminal Omissions. *Buffalo Criminal Law Review, 5*(1), 69-103. DOI:10.1525/nclr.2001.5.1.69

Stauch, M. (1997). Causation, Risk, and Loss of Chance in Medical Negligence. *HeinOnline, 205*. Retrieved from https://heinonline.org/HOL/LandingPage?handle=hein.journals/oxfjls17&div=21&id=&page=