

PROFILING OF CASES OF CONTRACTOR'S LIABILITY IN THE CONTEXT
OF OCCUPIER LIABILITY

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ABSTRACT

Generally, occupier's liability means the lawful responsibilities of a person the law called as an 'occupier' of premises for the safety of other persons entitled to be on the premises. Contractors have responsibilities for the safety of their own workers and in relation to the particular work activities they undertake and the extent to which that activity may affect any other person. Liability of contractor's for individuals injured on their job site depended upon the classification of injured parties as a business invitee, licensee or trespasser. This research is on Occupiers' Liability's cases and the profiling of cases has been done based on the year, types of parties involved, types of premise, nature of tort committed and judgment. The objective of this study is to develop the profiling of cases of contractor's liability to invitee, licensee and trespasser from the types of parties involved in the context of these groups of people and to determine the nature of contractor's liabilities. This study covers the court cases in Malaysia, Singapore and English and the cases that are related to contractor's liability to invitee, licensee and trespasser. The methodology of this study has been based on secondary data analysis. The research findings finds out that the number of contractor's liability cases is the highest from year 1970 until 1980 and the most party involved is the invitees. The analysis also identified that the most types of premises is land spaces. Besides that, this study also found that the most nature of tort committed is occupiers' liability to invitee. There is the liability imposed on the parties by the judges in 15 cases of contractor's liability.

ABSTRAK

Secara umum, liabiliti penghuni bermaksud tanggungjawab yang sah dari aspek undang-undang bagi seseorang “penghuni” terhadap keselamatan orang yang berhak untuk berada di premis tersebut. Kontraktor mempunyai tanggungjawab ke atas keselamatan pekerjaannya dan berhubungan dengan aktiviti kerja yang mereka lakukan, sejauh mana ia boleh mempengaruhi orang lain. Liabiliti kontraktor terhadap individu yang tercedera di tempat kerja mereka bergantung pada klasifikasi pihak tercedera sebagai peniaga jemputan, pemegang lesen atau pelanggar. Kajian ini adalah tentang kes-kes liabiliti penghuni dan profil kes akan dilakukan berdasarkan tahun, jenis pihak yang terlibat, jenis premis, sifat tort yang dituntut dan penghakiman. Tujuan kajian ini adalah untuk membina profil kes liabiliti kontraktor terhadap orang yang dijemput, pemegang lesen dan pelanggar dari aspek jenis pihak yang terlibat dalam konteks kumpulan orang tersebut dan untuk menentukan sifat liabiliti kontraktor. Kajian ini akan merangkumi kes-kes mahkamah di Malaysia, Singapura dan Inggeris dan kes-kes yang berkaitan dengan liabiliti kontraktor terhadap orang yang dijemput, pemegang lesen dan pelanggar. Kaedah kajian ini melibatkan analisis data sekunder. Hasil kajian mendapati bahawa jumlah kes liabiliti kontraktor adalah yang tertinggi dari tahun 1970 hingga 1980 dan kebanyakan parti yang terlibat ialah orang yang dijemput. Analisis ini juga mengenalpasti bahawa kebanyakan jenis premises yang terlibat ialah ruang tanah. Selain itu, kajian ini juga mendapati bahawa kebanyakan sifat tort yang dituntut ialah liabiliti kontraktor terhadap orang yang dijemput. Ada liabiliti yang dikenakan pada pihak-pihak oleh hakim dalam 15 kes.