

Abolishing Personal Injuries Law? A Response to Lord Sumption

Jonathan Morgan

This article considers the case for tort reform, responding to Lord Sumption's 2017 lecture to the Personal Injuries Bar Association. It disagrees with Lord Sumption that the 'utilitarian' case for tort law's abolition has been proven. Although tort is certainly, owing to its basic logic, a poor method of accident compensation (which is also very expensive to administer) it also has redeeming qualities. In particular, tort liability contributes to the deterrence of harmful behaviour and holds to account powerful bodies for the harm they do. The loss of these valuable functions must be acknowledged as an inevitable consequence of replacing tort with a compensation scheme. On the other hand, the article doubts Lord Sumption's reliance on tort's moral value as the key reason for its preservation. The debate can only be resolved by authoritative research into the social impact of tort law. An official inquiry with a less timid remit than the Pearson Royal Commission (1973–78) would be of enormous value.

Professional Negligence in 2017: The Year in Review

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This article considers the developments in professional negligence law that took place in 2017, including an in-depth consideration of two significant judgments by Lord Sumption in *BPE Solicitors* and *Tiuta*. The general pattern of decisions across the areas of scope of duty, breach of duty, causation, limitation and privilege are also reviewed. The overall conclusion is that 2017 has been a year of familiar restatement and refinement rather than radical development.