Table of Contents

The Author 3

List of Abbreviations 11

General Introduction 13

§1. GENERAL BACKGROUND OF THE COUNTRY 13
  I. Geography 13
  II. History 13
    A. Early Japan 13
    B. Construction of the ‘Nation’ Centred on the Emperor 14
    C. Era of the Samurai (the Warriors) 14
    D. Modern Era 16
  III. Political System 17
  IV. Economic and Social Values 18

§2. LEGAL SYSTEMS 18
  I. Primacy of Legislation and Codification 18
  II. Position of the Judiciary 19
  III. Distinction between Public and Private Law 20
  IV. Sources of Private Law in General and of Tort Law in Particular 20
    A. Sources of Law 20
    B. General Law: Civil Code 20
    C. Case Law and Special Laws 24

§3. FUNCTION OF THE LAW OF TORTS 25

§4. RELATIONSHIP BETWEEN TORTS AND CRIMINAL LAW 25

§5. RELATIONSHIP BETWEEN CONTRACTUAL AND DELICTUAL OR
TORTIOUS RESPONSIBILITY 26
  I. Situations Where Both Responsibilities Coexist 26
  II. Differences of Both Responsibilities 27

§6. PROTECTED INTERESTS 28
Table of Contents

I. Property Rights 28
II. Rights or Interests Resulting from Contract or Other Business Transaction 28
III. Rights or Interests Relating to Family Relationship 29
IV. Rights or Interests Relating to Person or Personality 30

Part I. Liability for One’s Own Acts 31

Chapter 1. General Principles 31
§1. UNLAWFULNESS AND FAULT 31
§2. CONCEPT OF FAULT 32
§3. DUTY OF CARE 33
§4. CAPACITY 34

Chapter 2. Specific Cases of Liability 36
§1. LIABILITY OF PROFESSIONALS 36
  I. In General 36
  II. Medical Practitioners 37
  III. Legal Practitioners 38
  IV. Builders and Architects 38
  V. Others 39
§2. LIABILITY OF PUBLIC AUTHORITIES 39
§3. ABUSE OF RIGHTS 40
§4. INJURY TO REPUTATION AND PRIVACY 41
  I. Injury to Reputation 41
  II. Injury to Privacy 42
§5. INTERFERENCE BY A THIRD PERSON WITH CONTRACTUAL RELATIONS 43
§6. OTHERS 44

Part II. Liability for Acts of Others 45

Chapter 1. Vicarious Liability 45
§1. EMPLOYEE/EMPLOYER 45
§2. INDEPENDENT CONTRACTORS 47
## Table of Contents

I. Liability of Party Ordering Work 47
   II. Liability of Contractor 47

§3. LIABILITY OF LEGAL ENTITIES FOR ACTS OF THEIR ORGANS 48

Chapter 2. Liability of Parents, Teachers & Instructors 49

Chapter 3. Liability for Things and Animals 51
   I. Liability for Things 51
   II. Liability for Animals 52

Part III. Forms of Strict Liability 55

Chapter 1. Road and Traffic Accidents 55

Chapter 2. Product Liability 58

Chapter 3. Liability for Service 62

Chapter 4. Environmental Liability 63

Chapter 5. Others 65
   §1. STRICT LIABILITY UNDER THE CIVIL CODE 65
   §2. OTHER PROVISIONS OF STRICT LIABILITY 65

Part IV. Defences and Exception Clauses 67

Chapter 1. Limitation of Action 67

Chapter 2. Grounds of Justification 70
   §1. CONSENT 70
   §2. NECESSITY 70
   §3. SELF-HELP AND SELF-DEFENCE 71
   §4. OTHERS 71

Chapter 3. Contributory Fault 73
Chapter 4. Exemption Clauses

Part V. Causation

§1. CONCEPT OF CAUSATION

§2. JOINT TORT LIABILITY

Part VI. Remedies

Chapter 1. General Principles

Chapter 2. Kinds of Damages

§1. INDIVIDUAL AND COLLECTIVE DAMAGE

§2. DIRECT AND INDIRECT DAMAGE
   I. The Subject of Claimants
   II. The Scope of Claimants

§3. PECUNIARY AND NON-PECUNIARY LOSSES

§4. PURE ECONOMIC LOSS

§5. ACTUAL AND FUTURE DAMAGE (LOST PROFITS)

§6. OTHER COSTS

§7. MITIGATION OF DAMAGES

Chapter 3. Assessment and Compensation of Damages

§1. OBJECTIVE VERSUS SUBJECTIVE

§2. CONCRETE VERSUS ABSTRACT

§3. METHODS OF ASSESSING DAMAGES

§4. EQUITABLE LIMITATION OF DAMAGES
   I. Considering the Pre-existing Special Condition of the Victim
   II. Considering the Benefit and Loss Counterbalance

§5. METHODS OF PAYMENT
Chapter 4. Personal Injury and Death

§1. PECUNIARY LOSSES

§2. NON-PECUNIARY LOSSES

§3. SUCCESSION OF RIGHTS TO DEMAND PECUNIARY AND NON-PECUNIARY LOSS

Chapter 5. Various Damages (Property)

Chapter 6. Interference with Collateral Benefits

§1. INSURANCE

§2. SOCIAL SECURITY

Chapter 7. Other Remedies

§1. RESTITUTION FOR UNJUST ENRICHMENT

§2. INJUNCTIVE RELIEF

§3. PUNITIVE DAMAGES

Selected Bibliography

Index
Table of Contents