Pure Economic Loss:

Generally no liability in negligence for pure economic loss.

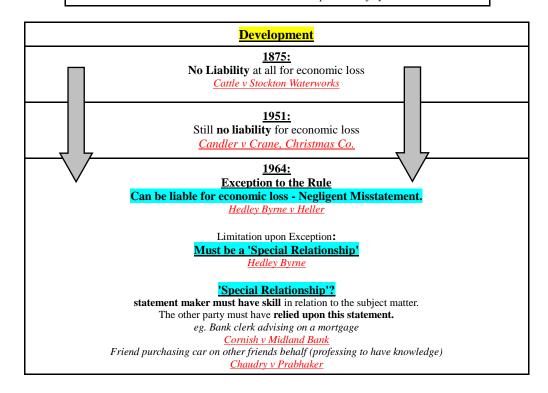
Is the general rule justifiable?

Denning in <u>Spartan</u> – healthy behaviour to not run to your solicitor as soon as something goes wrong.

Floodgates.

Canada – much easier to sue for pure economic loss - Rejected the English approach

Pure economic loss isn't as bad as personal injury



How to Establish a Duty of Care for Pure Economic Loss: When does a duty of care arise?

Factors judges consider - Factors overlap

<u>(1)</u>

Had D assumed responsibility?

Easy to sue if D somehow assumed the responsibility (trust me, ill take care of it etc.)

<u>Lennon v Commissioner</u> <u>Smith v Bush</u>

(2)

Was C's reliance reasonable?

Howard Marine and Dredging v Ogden

<u>(3)</u>

What was the purpose of D's

statement?
Smith v Bush

<u>Caparo v Dickman</u> <u>James McNaughton v Hicks Anderson</u>

Has D made the statement in a social, as opposed to business,

context?

social context – more diff to establish duty of care <u>Chaudry v Prabhaker</u>

(5)

The relationship between the parties?

Spring v Guardian Assurance

Duty of Care owed by employer to employee re references.

Effects - Companies will avoid to write references, or write very bland reference to avoid being sued for their statements.

Or they make certain people at the company writing references; 'reliable' employers

<u>(6)</u>

Did D claim to be an expert?

If you claim to be an expert - easier for you to get sued - because the standard of care would be higher

Esso Petroleum v Mardon Henderson v Merrett Synidcates

What is the size of class to which C belongs? Similar to the rule in Hill, 'floodgate'

argument.

If C is a member of a small class - more likely to be a duty

<u>James McNaughton v Hicks Anderson</u>

(8)
'Practical justice':
Denning style approach
White v Jones

(9)
What was D's state of knowledge?

James McNaughton v Hicks Anderson