

**UNIVERSITY OF SWAZILAND**

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**FACULTY OF SOCIAL SCIENCE**

**DEPARTMENT OF LAW**

**FINAL EXAMINATION PAPER, MAY 2011**

**COURSE NAME : THE LAW OF DELICT**

**COURSE CODE : L306**

**TIME ALLOWED : THREE (3) HOURS**

**INSTRUCTIONS :**

- 1. ANSWER ANY FOUR (4) QUESTIONS.**
- 2. MARKS ARE INDICATED AT THE END OF EACH QUESTION.**
- 3. CANDIDATES ARE THEREFORE ADVISED TO ALLOCATE THEIR TIME ACCORDINGLY.**

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### **QUESTION 1**

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The owners of a rugby stadium erect a temporary pavilion for use during a rugby test. The construction of the pavilion takes place in a negligent manner. The pavilion, seating 5000 spectators, collapses during the game. Some spectators die and many are injured. All the events are broadcast live on national television and radio.

Nonhlanhla, the pregnant wife of Gwebu, saw on television how Gwebu falls from the pavilion and is struck by a steel beam and dies. Nonhlanhla suffers serious shock and has a miscarriage.

Advise Nonhlanhla.

(25 marks)

### **QUESTION 2**

Tsabedze, hits Khumalo three blows in the face with a fist. As a result of this assault, Khumalo suffers severe physical injury, in particular injuries to the brain, head, face and back. Simelane, the doctor in attendance at the hospital administers a tranquillizer to which Khumalo unfortunately responds with a violent allergic reaction, which worsens his condition. (The drug is still a new one in the market).

The reactions to the tranquillizer ultimately culminates in Khumalo losing 90% of his eyesight. A month after being discharged from hospital while taking a leisurely walk along the main street into Manzini City, he tripped over a pipe (which has been laid by the Manzini City Council) which protruded from a sidewalk of the public road, thus fracturing his left leg.

He wants to institute an action for satisfaction for shock, pain, suffering, discomfort, loss of amenities of life, loss of earning loss of earning capacity and infringement of dignity suffered by him.

Advise him.

(25 marks)

### **QUESTION 3**

As Lukhele is driving his motor-car, he sees Maseko standing in the middle of the road with an axe in his hand. Just as Lukhele reaches Maseko, Maseko suddenly lifts the axe and strikes Lukhele with full force. The axe strikes the door-pillar and Lukhele suffers no harm. However, Lukhele is thrown into great fright, ducks behind the steering wheel, depresses the fuel pedal and swerves to the wrong side of the road where he collides with Ndlangamandla's motor-car. Ndlangamandla, institutes a claim against Lukhele for compensation for the damage to his car. Will he succeed?

(25 marks)

### **QUESTION 4**

A vehicle insured by UNISWA Insurance Company which was driven negligently collided with Buyisile Dube, who was on roller skates. As a result of a major head injury, Buyisile was in a permanent vegetative state, unaware, of all body functions, blind, deaf and mute. She was 100%

disabled, with no prospect of recovery.

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Her father and natural guardian is considering suing for damages. Discuss the approach adopted by our courts in the so called "cabbage" cases and advise the father as to his daughter's chances of being awarded any damages. (25 marks)

**QUESTION 5**

Msibi had been walking his dog (which was on a leash) in a public road when the dog of Gama ran out of an open side gate on Gama's premises and attacked his dog. When Msibi intervened with a whip to fend off the attacking dog, the animal turned on him and bit his legs. Msibi was admitted in hospital for three weeks due to his injuries.

On his return from hospital he found that Maziya's cows had broken down his fence and destroyed all his maize fields.

Advise Msibi.

(25 marks)