

**UNIVERSITY OF SWAZILAND**

**FACULTY OF SOCIAL SCIENCE**

**DEPARTMENT OF LAW**

**SUPPLEMENTARY EXAMINATION PAPER, JULY 2011**

**TITLE OF PAPER : LAW OF DELICT**

**COURSE CODE : L 306**

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

**INSTRUCTIONS :**

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

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**QUESTION 1**

J had been travelling on a train, having been given a free pass by the Railways. His free pass was conditional on the fact that he accepted all risk of injury to himself and would not hold the Railways liable. J died when the train was involved in an accident and his children sued the Railways for damages. The Railways wish to raise the existence of the contract as a defence to their claim.

Discuss.

[25 marks]

**QUESTION 2**

Dube was responsible for catering arrangements at the independence day celebrations for the state of UNISWA last year. The tea and luncheon rooms were filthy, the service was poor, scraps of meat and vegetables were lying about the floor and the table cloths were unduly stained with grease and other stains. The Times of UNISWA published a letter to the Editor which was critical of the catering arrangements, stating that the caterer - Dube was incompetent, that the food was disgraceful, that the tea rooms were dirty, that the floor was littered with refuse which had fallen or had been swept from the tables and that the table were greasy and indescribably filthy.

Dube is desirous of suing the Times of UNISWA. The newspaper is relying on the plea of truth and public benefit.

Discuss.

[25 marks]

**QUESTION 3**

A vehicle insured by Maswati Insurers collided with Sibandze. As a result of a major head injury, Sibandze was in a permanent vegetative state, unaware of all bodily functions, blind, mute and deaf. He was 100% disabled with no prospect of recovery.

His father and natural guardian wishes to sue for damages, in his personal capacity and also on his son's behalf, advise him.

[25 marks]

**QUESTION 4**

Employees of the Matsapha Town Board cleared a fire belt on vacant land by setting fire to the vegetation within the fire belt by means of drip torches. At first there was no wind, but the wind came up later in the day. The fire suddenly spread outside the fire-belt area, got out of control and damaged or destroyed a vast area involving Makhubu's house.

Can Makhubu successfully sue the municipality?

[25 marks]

**QUESTION 5**

Nkosi bumped his car onto the back of Nomsa's car which was stationary at a red traffic light. Nomsa suffered severe injuries and nervous shock which was made worse by the fact that Nomsa suffered from high blood pressure.

Nomsa has approached you for advice.

[25 marks]