

**UNIVERSITY OF SWAZILAND**  
**FACULTY OF SOCIAL SCIENCE**  
**DEPARTMENT OF LAW**  
**FINAL EXAMINATION, MAY 2012**

208

- TITLE OF PAPER** : **LAW OF DELICT**
- COURSE CODE** : **L 306**
- 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.**

**DO NOT OPEN THIS PAPER UNTIL PERMISSION HAS BEEN GIVEN BY THE INVIGILATOR.**

### **QUESTION 1**

A policeman ordered Shongwe, for no reason, to get into a police van. When Shongwe refused to do so, and resisted attempts to put him into the van by clinging to the wire mesh surrounding the van's passenger compartment, the policeman used a wooden police baton to beat Shongwe's hands loose. He broke two fingers on Shongwe's right hand.

Shongwe wishes to sue the Minister responsible for Police under:

1. The Acquillian action (patrimonial loss)
2. The action for pain and suffering; and
3. The actio injuriarum for infringement of dignity – contumella

Discuss and advise.

[25 MARKS]

### **QUESTION 2**

Dlamini was arrested in connection with labour disturbances and deported to South Africa. Soon after the deportation, Gule addressed a meeting of the Federation of Swaziland Employers at which he called Dlamini "not a fanatic" but a criminal in the fullest sense of the word." He stated that the government had acted correctly and urged that he should not be allowed to return. Dlamini was later permitted to return.

Dlamini is desirous of suing Gule for defamation.

Advise him.

[25 MARKS]

### **QUESTION 3**

Mbekezeli suffered serious injury when he fell off a bus that was about to leave a station. The bus was crowded and Mbekezeli stood close to the doorway, holding on to an overhead strap.

The bus had started to move while commuters were boarding and alighting, and Mbekezeli lost his grip when passengers who wished to disembark pushed against him. He fell out of the open doorway.

He is considering suing the owner of the bus, does he have any chances of success?

[25 MARKS]

### **QUESTION 4**

Gwebu who had had several break ins in his village shop decided to keep a vicious dog inside the shop at night. One day Smanga broke into the shop and was severely mauled by the dog.

Gwebu maintains that he kept the dog in the shop in order to defend his property.

Discuss.

[25 MARKS]

**QUESTION 5**

Mabuza fractures a leg in a motor accident caused by Motsa's negligent driving. Mabuza is hospitalized and the leg is placed in a cast.

Immediately, after the leg has healed, Mabuza leaves the hospital, falls over a pipe which protruded from a sidewalk of a public road and fractures his leg again.

Mabuza wants to sue Motsa and the Manzini Municipal Council which laid the pipe, will he succeed?

[25 MARKS]