

UNIVERSITY OF SWAZILAND
FACULTY OF SOCIAL SCIENCE
DEPARTMENT OF LAW
FINAL EXAMINATION, DECEMBER 2015

TITLE OF PAPER : **THE LAW OF DELICT**

COURSE CODE : **L 306**

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

INSTRUCTIONS : **ANSWER ANY FOUR (4) QUESTIONS.**

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QUESTION 1

Mathumbu confronts Khehla and severely assaults him with a spear and knobkerrie. Fana a brother of Khehla on seeing his brother bleeding profusely rushes to Mathumbu with the intention to blast him into eternity with his shot gun. Mathumbu a proficient marksman, is however much quicker in producing and using his own sidearm a 9mm pistol, with the result that Fana is fatally wounded in the chest.

Fana's blood is splattered far and wide and Lobusika a witness to all this who is three months pregnant suffers severe nervous shock that she consequently miscarries.

Khehla, Busi, Fana's wife and Fana's six dependants and Lobusika are considering suing Mathumbu.

Advise them.

[25 marks]

QUESTION 2

Nsibande, a motorcyclist who is not wearing a crash-helmet, is in a stationery position at a red traffic light. He is struck from behind by Dube who has not been applying his mind to his driving, but has been busy joking with the passengers in his car. The accident causes serious injuries to Nsibande; E1000 damage to his motor cycle; E4 000 for medical treatment following a fracture of one of his legs; E24 000 in consequence of head injuries (a brain haemorrhage).

Evidence shows that Nsibande would have sustained no head injuries, if he had been wearing a crash helmet as required by law.

Consider Nsibande's position.

[25 marks]

QUESTION 3

The police attempted to seize a number of bags of dagga in an area infamous for dagga growing. A belligerent crowd gathered and began stoning the police, forcing their retreat. That allowed the crowd to make off with most of the bags. The police attempted to stave off the attack by firing rubber bullets into the crowd and, when they run out of rubber bullets, shooting into the ground near the crowd with sharp point ammunition. Mamba is desirous of suing the Police for injuries sustained by her son in the shooting.

Advise her making use of decided cases.

[25 marks]

QUESTION 4

At the UNISWA stadium in a game between Uniswa Rebels and Mbabane Wizards there was abandonment of the game because of a fight between supporters of the two sides. Fanelo, a security policeman in trying to disperse the supporters got injured in his left leg. A week later he recognized Mazibuko who was amongst the rowdy crowd when she stopped her car next to his at a robot-controlled intersection. Fanelo opened his car window, pointed his finger at her and said to her in siSwati, "You are going to shit."

Mazibuko is considering suing Fanelo for insult, humiliation and loss of dignity.

Advise her.

[25 marks]

QUESTION 5

Makhanya who is a neighbour of Kunene is considering suing him on the basis of a statement that Kunene made of a community meeting at their Chief's kraal. Makhanya has recently converted to the Islamic faith. Kunene told the gathering at the Chief's kraal that "we will all be destroyed/killed by terrorists because Makhanya has associated himself with and sympathises with ISIS.

Advise Makhanya.

[25 marks]