

UNIVERSITY OF SWAZILAND
FACULTY OF SOCIAL SCIENCE
DEPARTMENT OF LAW
FINAL EXAMINATION, DECEMBER 2016

TITLE OF PAPER : THE 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

While driving his brand new Mercedes Benz along the Mbabane-Manzini freeway at around 2 a.m., X slows down as he approaches traffic lights. The traffic lights are red and as X prepared to bring the car to a complete stop, a crowd of three men emerge from the nearby bushes seemingly heading for X's car. Sensing danger on account of the rising number of car hijackings X accelerates, thereby colliding with Y for whom the lights were green. On impact Y who is not wearing his seat belt gets thrown out of the car through the windscreen and lands on the pavement sustaining severe injuries on his head, arms and legs. A few seconds later Y's car catches fire and is completely gutted down. On seeing this Y suffers severe emotional shock and loses consciousness.

Meanwhile the three men who X had originally seen, confront X with guns demanding his car keys. X gives them the keys whereupon they push X into his car's boot and drive off with him at very high speed. X managed to open the boot and takes out one of his arms which is bleeding profusely from the accident with Y's car. P driving on the next lane on seeing this gets so terribly frightened that he bumps into D's car who is also driving on the same road, causing it extensive damage.

Discuss.

(25 marks)

QUESTION 2

X a funeral undertaker and his friend Y go to their local pub for drinks one Saturday afternoon. After having one too many they decide that it would be fun if they drove around in the hearse-the vehicle for conveying the dead to the grave. On their return from collecting the vehicle they team up with two lady friends whom they decide to take for a ride.

X and his lady friend sit in the front while Y and his friend jump into an empty casket at the back of the car. As X slows down at an intersection Y and his lady friend open wide the lid of the casket.

Q, a motorist following from behind on seeing this suffers from severe emotional shock that he loses control over his car which veers off the road and injures P who was taking his dog for a walk.

Since Q is hypertensive and diabetic the shock affects him considerably so that he has to spend three months in hospital. While in hospital Q contracts pneumonia due to the fact that his bed is close to a draughty window – this prolongs his recovery period by a further two months.

Discuss all the issues brought out by this problem.

(25 marks)

QUESTION 3

Zwane is walking by the shops at Mahhala when he is suddenly struck by a barrel falling from the upstairs shop of Melisa. Melisa and her employees do not know how the barrel got ejected through their shop window.

Zwane suffers severe injuries. Advise Zwane. (25 marks)

QUESTION 4

Masuku a driving school instructor gives the driving school car to Denise a learner driver to drive the car to her house since she herself is rushing somewhere else with her friend Sibusiso. On her way to Masuku's house, Denise loses control of the car, overturns it, writing it off. Due to losing control of the car, Denise bumps onto Mhlabane's car causing extensive damage to the car and causing injuries to Mhlabane.

Masuku and Mhlabane are considering suing Denise, what are their chances of success? (25 marks)

QUESTION 5

Zakithi is married to Ndiweni under civil rites in community of property. Zakithi is a successful business woman who runs a boutique, salon and a fleet of public transport vehicles. She joined the church of New Dawn and Enlightenment Crusade in 2013, which was founded by Pastor Mndzebele in 2010. The members of the church are required to tithe an obligatory 10% of their gross income every month, further, since this is a new church pastor Mndzebele, has ordered that each congregant should further tithe 30% every month of their gross income to aid towards building a structure for the church, at present the church meets in a tent. Thus Zakithi has been tithing 40% of her gross income to the church, Ndiweni has tried in vain to persuade his wife from depleting their joint estate by paying this huge 'unjustified' money to the church. Zakithi always counters her husband's advise by saying that Mndzebele has told the congregants that by paying huge sums in tithes God is going to bless them mightily, that they will be billionaires in no time and the they will be granted all their wishes.

Whereupon Ndiweni decides to confront Mndzebele. He finds him outside his church with some congregants. Ndiweni accuses Mndzebele saying he is a fraud, a thief, a thug, a destroyer of families, a swindler of epic proportions taking advantage of innocent victims like his wife, and a filthy scum deserving to burn in the fires of hell for all eternity.

As a result of Ndiweni's action Mndzebele loses $\frac{3}{4}$ of his congregation. He wishes to sue Ndiweni.

Advise him. (25 marks)