

**UNIVERSITY OF SWAZILAND**  
**FACULTY OF SOCIAL SCIENCE**

**DEPARTMENT OF LAW**

**SUPPLEMENTARY EXAMINATION, JULY 2017**

**TITLE OF PAPER : THE 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.**

**THIS PAPER IS NOT TO BE OPENED UNTIL PERMISSION HAS BEEN GRANTED BY THE INVIGILATOR TO DO SO.**

### **QUESTION 1**

In January 2016 the Police were in hot pursuit of two runaway prisoners in the town of Manzini. The prisoners realising that they would easily get 'lost' in a crowded area make a dash for the bus rank which is usually very crowded with people. The prisoners dash in and around people thus making it difficult to apprehend them. Simelane, one of the police officers, shoots his service revolver into the air in order to scare the prisoners into submission but unfortunately the live bullet ricochets against a wall of the municipal toilets and hits an innocent commuter Dube on the left leg. This results in Dube having to spend eight months in hospital and his leg being amputated.

Advise Dube.

(25 Marks)

### **QUESTION 2**

Mndzebele a struggling family man of six wives plus twelve children makes his living by polishing shoes of interested customers in and around Manzini town. He carries all the tools of his trade in a bag which he carries slung over his shoulder. One day while he is on his way to board a bus home the bag gets snatched by a thief. Mndzebele recognises the thief as one of the Mozambican vendors who sell their wares in town. Fearing that the Mozambican might be carrying a weapon and also bearing in mind the importance of the contents of the bag he rushes to a nearby store and buys an okapi knife. After looking for the thief for close to an hour he comes across him whereupon the thief produces a tomahawk intending to defend the bag. Mndzebele kills the thief in the ensuing struggle.

Can he plead private defence.

(25 marks)

### **QUESTION 3**

LaMabuza from Mvakwelitje unknowingly eats poisonous mushrooms. After suffering severe vomiting, stomach cramps, and diarrhoea her husband rushes her UNISWA General Hospital. At the hospital the nurse on duty phones Dr. Msibi who is the Doctor on call. Dr. Msibi tells the nurse to attend to LaMabuza since he himself is not feeling well. The nurse not being a doctor administers to LaMabuza a lethal combination of drugs which proves fatal.

LaMabuza was the sole breadwinner of the family since the husband could no longer work on account of having contracted asbestosis while working as a miner at Bulembu mine.

The husband together with his six dependants are considering suing the hospital. Do they have any chances of success.

Discuss fully supporting your answer with decided cases.

(25 marks)

#### **QUESTION 4**

Dlamini a taxi driver backed his taxi over Thandi a child of seven years who had been playing on the pavement next to her home. Busi, Thandi's mother, who was at the house situated seventy years away heard the child scream and saw the taxi back into the child's tricycle, but she could not see the child. She suffered mental shock as a result.

She now wants to institute action based on negligence against Dlamini.

Discuss, making reference to decided cases.

(25 marks)

#### **QUESTION 5**

Owing to a strike by Matsapha Council workers, the public lavatories in Matsapha are somewhat below their usual high standard of cleanliness. Gija, a journalist who is annoyed at having just received a parking ticket persuades Mnisi an eccentric and tireless campaigner for improved public hygiene to join him in writing an article which is published in the Daily Mania. The article is expressed in heated terms and ends with the sentence:

“The Public lavatories in Matsapha are so filthy that one would think that those responsible for running the town of Matsapha spend every working day getting drunk at public expense in the company of the Town Hall lavatory attendant”.

Advise.

1. The Matsapha Town Council. (15 marks)
2. Mihla, the Matsapha Town Council lavatory attendant about their remedies in defamation. (10 marks)

Total: 25 Marks