



**UNIVERSITY OF ESWATINI
INSTITUTE OF DISTANCE EDUCATION
DIPLOMA IN LAW
FINAL EXAMINATION PAPER AUGUST 2020**

TITLE OF PAPER : LAW OF DELICT
COURSE CODE : IDE LAW 304
TIME ALLOWED : THREE (3) HOURS
INSTRUCTIONS : ANSWER ANY FOUR (4) QUESTIONS

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BY THE INVIGILATOR**

Question 1

Mr Nkosi, a manual labourer and breadwinner, has been hospitalised for a few months as a result of an accident that he claims was solely Mr Dlamini's fault. Mr Nkosi's motor vehicle was crashed into from behind and as a result skidded and overturned. Mr Nkosi sustained a fractured left arm, a serious head injury and dislocated hip. His injuries were so severe that they left him unfit for work.

Advise Mr Nkosi on the course of action available to him, support with decided cases. [25 marks]

Question 2

On a scorching day in December as he prepared to continue on his route, Sifiso, a kombi driver employed by We Take You There Transport Service, gulped down the last of his soft drink from a bottle and subsequently dropped the bottle out the passenger's side window just as the last passenger boarded. As he was driving off the bottle was crushed by the rear tyres, burst and shards of glass landed in the eyes of Simangele, an eighteen-year-old hawker who was selling fruit and vegetables to save for tertiary fees. As a result of the injury Simangele is partially blind.

Discuss:

- a) What arguments would Simangele raise if she wishes to sue? [15 marks]
- b) Who would be held liable for the claim that Simangele would institute and why? [10 marks]

Total: [25 marks]

Question 3

A vehicle insured by Maswati Insurers collided with Sibandze. As a result of a major 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, illustrating your answer with decided cases.

[25 marks]

Question 4

Distinguish between:

- a) Patrimonial damages and non-patrimonial damages. [5]
- b) Special damages and general damages. [5]
- c) Loss of earning and loss of earning capacity. [5]
- d) Mandatory interdict and prohibitory interdict. [5]
- e) *Actio de pauperie* and *actio de pastu*. [5]

Total marks [25]

Question 5

On a Sunday morning as congregants gathered outside the Holy Trinity Ministry before the service began, two police officers approached Dube as he and his family (wife, a teenage son and a teenage daughter) alighted from their motor vehicle. Dube, a respected and seasoned pastor, had been invited as the guest pastor by the Holy Trinity Ministry. As the police officers drew nearer, they exclaimed that they “finally caught” him and called Dube an imposter who was wanted for the statutory rape of 4 (four) teenage girls one of whom had fallen pregnant. Despite Dube’s vehement protests, the officers proceeded to manhandle him as both then took him by the belt around his waist, one in front and one at the back, and lifted him off the ground and he was bundled into the police van that was a parked a distance from

the church. The incident happened in public, within earshot and full view of congregants, senior members of the church and passers-by. Dube was taken to the police station where he spent the night but was released the next morning when it transpired that Dube bears a strong resemblance to the actual perpetrator and was in fact not the perpetrator.

Advise Dube.

[25 marks]