



UNIVERSITY OF ESWATINI

FIRST SEMESTER RE-SIT EXAMINATION PAPER, JANUARY 2020

FACULTY OF SOCIAL SCIENCES

DEPARTMENT OF LAW

COURSE CODE: LAW303

TITLE OF PAPER: DELICT I

TIME ALLOWED: 3 HOURS

Instructions

1. Answer any 4 other questions

*Candidates may complete the front cover of their answer book when instructed by the Chief Invigilator and sign their examination attendance cards but must **NOT** write anything else until the start of the examination period is announced.*

No electronic devices capable of storing and retrieving text, including electronic dictionaries and any form of foreign material may be used while in the examination room.

DO NOT turn examination paper over until instructed to do so.

Question 1

Matsebula is driving his motor vehicle along a quiet street in town at around 11 pm at night. At an intersection he gets accosted by a man carrying a huge axe. This man strikes Matsebula’s windscreen and window on the driver’s side. In an endeavour to save his life, Matsebula presses down on the accelerator and speeds away whilst the traffic light is red for him. He collides with David’s car that has the right of way at the moment in time.

David institutes a claim against Matsebula for damages to his car. Will he succeed? **25 marks**

Question 2

The owners of a football stadium erect a temporary grandstand during a football match. The construction is done in a rushed and shoddy manner. The grandstand collapses during the game. Some spectators die and many are injured. All these events are broadcast live on television (TV). Gugu, the pregnant wife of Sipho, identifies her husband on TV to be amongst the dead. She suffers a miscarriage and nervous breakdown as a result of what she saw on TV. The gory pictures of the dead and severely injured were published by “Tell it as it is” TV much against the rules of the Broadcasting Regulator

Fully advise Gugu. **25 marks**

Question 3

Majay is travelling by train to work. His ticket is conditional on the fact that he accepts all risk of injury to himself and will not hold the railway company liable in the event of an accident. As fate would have it, the train is involved in an accident and Majay is seriously injured. He intends to sue the railway company.

- i. Will he succeed? Discuss. **15 marks**
- ii. Whilst he is in hospital for months, his children decide to sue the railway company for maintenance. Will they succeed? **10 marks**

Total 25 marks

Question 4

With the aid of decided cases, fully discuss the *actio injuriarum*.

25 marks

Question 5

Briefly discuss the following:

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| i. | Private defence | 5 marks |
| ii. | Necessity | 5 marks |
| iii. | Innuendo | 5 marks |
| iv. | Defences for defamation | 10 marks |

Total 25 marks