

UNIVERSITY OF SWAZILAND

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FACULTY OF SOCIAL SCIENCE

DEPARTMENT OF LAW

SUPPELEMENTARY EXAMINATION, JULY 2014

TITLE OF PAPER : THE LAW OF DELICT

COURSE CODE : L 306

TIME ALLOWED : THREE (3) HOURS

INSTRUCTIONS : ANSWER ANY FOUR (4) QUESTIONS

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

QUESTION 1

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X and Y are involved in a motor-car collision. The accident was caused by Y's negligence. X suffers multiple injuries and he dies three months after the accident. Discuss the following actions which are instituted against Y:

- a) An action by X's mistress on the ground of the loss of an allowance for maintenance that he paid her monthly in terms of an agreement. (4 marks)
- b) Actions by X's stepchildren and his parents on the ground of loss of maintenance. (4 marks)
- c) An action by X's heirs on the ground that they now inherit less than they would have inherited had he lived longer. (7 marks)
- d) An action by X's executor on the ground of damage to X's motor car and loss of income by him. (25 marks)

QUESTION 2

A Health Board opens an isolation hospital for communicable diseases in a residential street in town. R's home is on the opposite side of the street at a distance of 30 metres.

R seeks an interdict on the ground of nuisance alleging:

- i) That it is possible from his house to see into the windows of the hospital, and the sight of human suffering would seriously interfere with R's comfort and enjoyment of life.
- ii) The danger and fear of infection.

Consider whether R is likely to succeed. (25 marks)

QUESTION 3

Critically discuss the principles governing the liability of municipalities making reference to decided cases. (25 marks)

QUESTION 4

Which defences may X raise against a defamation action by Y in the following sentences? Also name the requirements for each.

- a) X accuses a fellow parliamentarian Y of criminal activities during a debate. (5 marks)

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- b) X, on order informs the church council that the Minister has committed adultery with his X's wife. (5 marks)
 - c) During cross-examination in court the advocate X accuses Y, a witness of telling lies. (5 marks)
 - d) X, a reporter, publishes his own abbreviated version of defamatory remarks, made to a member of parliament Y during a session of this body. (5 marks)
 - e) X, a reporter, intimates in a newspaper that the Mayor of Manzini, Y, as a result of inside information, misuses his office to enrich himself. (5 marks)
- [25 marks]

QUESTION 5

X was walking along a country lane, when she was struck on the head by a rifle bullet and knocked unconscious. It turned out that Y, some two hundred yards away, had been shooting at a wood pigeon on the branch of a tree, with a small rifle meant for shooting at birds.

Discuss.

(25 marks)