

UNIVERSITY OF SWAZILAND
INSTITUTE OF DISTANCE EDUCATION
DEPARTMENT OF LAW
SUPPLEMENTARY EXAMINATION PAPER JULY 2017

TITLE OF PAPER : LAW OF DELICT

PROGRAMME : DIPLOMA IN LAW II

COURSE CODE : DL 025

TIME ALLOWED : THREE (3) HOURS

INSTRUCTIONS : 1. ANSWER ALL QUESTIONS

2. ALL QUESTIONS CARRY EQUAL MARKS

3. REFER TO RELEVANT CASE LAW

TOTAL MARKS : 100

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QUESTION 1

Mbekezeli suffered serious injury when he fell off a bus that was about to leave a station.

The bus was crowded and Mbekezeli stood close to the doorway, holding on to an overheard strap.

The bus had started to move while commuters were boarding and alighting, and Mbekezeli lost his grip when passengers who wished to disembark pushed against him. He fell out of the open doorway.

He is considering suing the owner of the bus, does he have any chances of success in a delictual claim?

[25 Marks]

QUESTION 2

To succeed in a delictual action, the Plaintiff must allege and prove that the act or omission which is the basis of his cause of action. Liability for omission will only arise where the Defendant has by prior positive conduct created a potential risk of harm and has failed to take reasonable steps to prevent the risk materializing.

Analyze the above statement with reference to case law.

[25 Marks]

QUESTION 3

Dlamini who had had several break-in's in his village shop decided to keep a vicious dog inside the shop at night. One day Nhloko broke into the shop and was severely mauled by the dog. He then sued Dlamini for negligence.

Dlamini maintains that he kept the dog in the shop in order to defend his property.

Discuss any prospects of Nhloko's claim.

[25 Marks]

QUESTION 4

Mabuza fractures a leg in a motor accident caused by Motsa's negligent driving. Mabuza is hospitalized and the leg is placed in a cast.

Immediately, after the leg has healed, Mabuza leaves the hospital, falls over a pipe which protruded from a sidewalk of a public road and fractures his leg again.

Mabuza wants to sue Motsa and the Manzini Municipal Council which laid the pipe, will he succeed?

Discuss and cite relevant case law

[25 Marks]