



ZIMBABWE EZEKIEL GUTI UNIVERSITY

FACULTY OF LAW, BUSINESS INTELLIGENCE & ECONOMICS

DEPARTMENT OF LAW & LEGAL SERVICES

EXAMINATION PAPER

MODULE CODE : LLB212
MODULE TITLE : LAW OF DELICT
DURATION : 3 HRS
LEVEL : 2.1
DATE : 09 APR 2025

INSTRUCTIONS TO CANDIDATES:

1. Answer any 4 questions.
2. Each question carries twenty-five (25) marks.
3. Number of marks for part questions are shown in brackets.
4. Start each question on a new page.
5. This paper consists of three (3) pages.
6. Answer sheets are provided.

Question 1

Tafadzwa, a cyclist collides with Ben in a reckless, negligent manner. The latter falls onto the road surface and breaks an arm. Ben is immediately taken to hospital where he receives treatment by doctor Nxumalo. Sister Regina administers a tranquilliser called Pain-Go to Ben, as Ben is quite upset about the accident. Unfortunately Ben responds with a violent allergic reaction which ultimately culminates in his dying of suffocation. (This is the first recorded case in which death results from treatment with Pain-Go.) Discuss only the question of whether Tafadzwa's and/or Sister Regina's conduct can be regarded factually and legally as the cause of Ben's death.

[25 marks]

Question 2

a. Explain the similarities and differences between the following concepts, as well as their effect on the possible liability of the defendant:

- i. consent to injury;
- ii. consent to the risk of injury;
- iii. *volenti non fit iniuria*;
- iv. voluntary assumption of risk;
- v. contributory intent;
- vi. contributory negligence

[12 marks]

b. Vimbiso would like to have her earlobes pierced so that she can wear fashionable earrings. Thabani, her boyfriend, who is a third-year law student, offers to do this for her. She is only too happy to accept this offer. The procedure goes quite well, but a few days later the wounds have turned septic and medical treatment is necessary. Vimbiso ends the relationship and institutes a delictual action for infringement of personality interests and to recover medical costs against Thabani. Thabani wishes to raise consent as a ground of justification. What are the merits of his defence? Substantiate your answer.

[13 marks]

Question 3

a. "The difference between a commission and omission is not of importance for the purposes of the law of delict." Discuss briefly.

[10 marks]

- b. In a certain town, the pavements are in a poor condition due to erosion. Several holes and furrows have developed in the pavements. The municipality fails to repair the pavements, despite requests to this effect by several of the residents. One day Mrs M, an aged resident, inadvertently steps into a hole in a pavement, falls, and suffers serious injuries for which she is hospitalised for a month. Mrs M wishes to recover damages from the municipality in a delictual action. Discuss only whether the conduct of the municipality was wrongful. In your answer refer to relevant case law.

[15 marks]

Question 4

Benny, a thirteen-year old boy, takes pot shots with his catapult at an empty can in the backyard of his parent's house. He misses and hits an extremely expensive sculpture in the neighbours' garden instead. The sculpture is now badly damaged. Discuss only, but in detail, whether Benny was negligent, referring to relevant case law.

[25 marks]

Question 5

- a. Name the different classes into which subjective rights are divided and indicate, with reference to examples, the objects of each category of subjective right.

[10 marks]

- b. There is dry grass on Mr Ncube's farm. He fails to cut the grass. A fire breaks out in the grass and spreads to his neighbour, Mr Moyo's farm, where it causes some damage. Can Mr Ncube be held liable for Mr Moyo's damage? Briefly discuss with reference to liability for an omission.

[15 marks]

END OF PAPER

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