



KENYATTA UNIVERSITY

EXAMINATION FOR THE DEGREE OF BACHELOR OF LAWS

LPR 103: TORTS II

2ND SEMESTER 2022/2023

TIME: Hours

INSTRUCTIONS:

1. Answer ALL questions
2. Note that penalties accrue for failure to answer Question One.
3. Support your answer with illustrations from relevant case law, statutory provisions and any other applicable references.
4. Write neatly and legibly
5. Your answer script must bear your student's registration number.
6. Do not scribble or draft answers on the inner or outer cover pages of your answer booklets.
7. Do not write anything except your registration number on this Question Paper.

QUESTION ONE

- a) Stella Liebeck, a 79 year old woman, ordered a 49 cent cup of coffee from the drive-through a window of a local McDonald restaurant. McDonald required franchisees to serve coffee at 82-88⁰C. Liebeck was in the passenger seat of a 1989 Ford Probe which did not have cup holders. Her grandson parked the car so that Liebeck could add cream and sugar to her coffee. Liebeck placed the coffee cup between her knees and pulled the far side of the lid toward her to remove it. In the process, she spilled the entire cup of coffee on her lap. Liebeck was wearing cotton sweat pants they absorbed the coffee and held it against her skin, scalding her thighs, buttocks and groin.

Liebeck was taken to the hospital, where it was determined that she had suffered third- degree burns on six percent of her skin and lesser burns over sixteen percent. She remained in the hospital for eight days while she underwent skin grafting. During this period, Liebeck lost 9 kg, nearly 20% of her body weight, reducing her to 38 kgs. After the hospital stay, Liebeck needed care for three months, which was provided by her daughter. She suffered psychological trauma due to the constant mourning and groaning of the mother, as a result she started hallucinating.

Liebeck suffered permanent disfigurement after the incident and was partially disabled for two years.

- i) With aid of relevant authorities, advise Liebeck. (25 marks)
- b) With aid of relevant authorities distinguish between economic loss and pure economic loss. (5 marks)

QUESTION TWO

- a) Examine the tort of deceit. (8 marks)
- b) Analyse the liability of third parties under the law of tort. (12 marks)

QUESTION THREE

- a) Mary's home is adjacent to that of Mutoro who has trees with huge roots that have penetrated Mary's compound and are the verge of splitting the wall of her house. The same trees have over reaching branches that cause a power blackout at times in Mary's house. The Kenya Power company has advised severally that the trees should be pruned. As if that is not enough, they shed leaves into Mary's compound leading to her worker's constant turnover due to increased workload. Efforts by Mary to have the tree cut by Mutoro have landed on deaf ears. Mutoro alleges that Mary is jealous of the beauty in his compound.
 - i) Advise Mary of possible remedies available to solve her problems with the neighbor in regard to use and enjoyment of her land. (10 marks)
 - ii) Advise Mutoro of possible defenses that he may raise to counter Mary's claim. (6 marks)
- b) Write explanatory notes on how to assess quantum under torts law cases. (4 marks)