

THE KENYA SCHOOL OF LAW



DIPLOMA IN LAW (PARA-LEGAL STUDIES)

1ST YEAR TERM I EXAMINATION



LAW OF TORT I – DPS 102

8TH AUGUST, 2016

DURATION: 2 HOURS

Instructions to Candidates

- (a) Answer Question ONE and ANY OTHER THREE Questions
- (b) Question ONE carries 25 Marks
- (c) All other questions carry 15 Marks each

PLEASE TURN OVER

Question One

Kamau an experienced driver who does not have any accident record and who is known to service his vehicle regularly was involved in a road accident after doing everything he could to avoid it. In the process although he ended up injuring a passerby slightly, he avoided a larger crowd of School students who ran into the road at a place which was not designated for pedestrians and none of them got injured.

Meanwhile, he immediately called for help and the Kenya Red Cross sent an ambulance which sped to the accident scene. They rescued the passerby who informed them that his name was Hassan. Hassan truthfully informed the rescuers that he saw how well Kamau drove to avoid hitting the crowd of children and that it was unfortunate he hit him.

While trying to lift him onto the ambulance vehicle, they carelessly dropped him on the pavement injuring him further. At hospital he was treated and discharged. After three months he became paralyzed. His wife has sued Kamau. Her name is Khadija.

- i) Discuss Kamau's liability if at all. (5 Marks)
- ii) In your opinion do you think Khadija deserves any remedy while her husband is alive? (5 Marks)
- iii) While trying to put together the case, you ask Kamau for his identity card and he produces a US Green Card and informs you he is actually a US citizen. Explain his capacity to sue and any other requirement in Consular Law. (5 Marks)
- iv) With the aid of case law discuss the role in the causation chain played by the careless staff of Red Cross. (10 Marks)

Question Two

- (a) List and explain in detail any three special persons whether natural or artificial, who enjoy immunities and privileges in action in tort. (9 Marks)
- (b) With the help of the Wagon Mound case, explain *Novus actus interveniens* and how a defendant can gain from this principle. (6 Marks)

