



THE CATHOLIC UNIVERSITY OF EASTERN AFRICA

A. M. E. C. E. A MAIN EXAMINATION

AUGUST – DECEMBER 2018 TRIMESTER

FACULTY OF LAW

REGULAR PROGRAMME

CLS 106: LAW OF TORTS

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Date: DECEMBER 2018

Duration: 2 Hours

INSTRUCTIONS: Answer Question ONE and ANY OTHER TWO Questions

- Q1. a) Emma is seriously injured in a multiple car accident, for which she was in no way to blame. She is rendered paraplegic, confined to a wheelchair and suffers constant pain. She has to give up her job, but continues to try and do some of the voluntary work for the charities she is involved with. She, along with her two children, has to move out of her three-storey house in Nairobi and into a specially adapted ground-floor flat. Her boyfriend, Clive, who has a career in advertising, agrees to move in with her and be her carer; he gives up his job. She loses interest in social life and is unable to carry on with the majority of her leisure pursuits. It is established that the drivers' negligence caused the accident in which Emma was injured.
- Advise the Emma of any appropriate remedies in torts. **(15marks)**
- b) Write Explanatory notes on all of the following
- i) What is the effect of death on a suit or claims in torts **(5marks)**
 - ii) What are the defenses in occupiers' liability? **(5 marks)**
- Q2. "The general rule is that any person may sue or be sued in tort. All persons are subject to the same laws. However, some special rules apply in certain circumstances, which either restrict, forbid or qualify the right to sue or be sued. It means certain persons cannot sue, while some other persons cannot be sued". N.A. Saleemi, The Law of Torts
- a) Trade Unions **(5marks)**
 - b) An alien **(5marks)**

- c) Persons of unsound mind **(5marks)**
- Q3. Compare and contrast the duty of care owed to trespassers with that owed to visitors. Do you agree that the distinction is appropriate? **(20marks)**
- Q4. State the ways in which liability for defective products is regulated in tort law. Explain the manufacturers' liability in negligence and the problems claimants may encounter when trying to sue. **(20marks)**
- Q5. With the help of illustrated cases, discuss the objective standard of determination of duty in torts. **(20marks)**

END