

THE KENYA SCHOOL OF LAW



PRE-BAR EXAMINATION

THE LAW OF TORTS – PRB 003

7TH JANUARY, 2020

DURATION: 3 HOURS

9.00 AM – 12.00 NOON

Instructions to Candidates

- (a) Answer Question ONE and ANY OTHER TWO Questions
- (b) Question ONE carries 25 Marks. All other questions carry 20 marks each.
- (c) Marks shall be lost for illegible handwriting

PLEASE TURN OVER

Question One:

- a) Discuss any five functions of Law of Torts. (5 Marks)
- b) Okembo bought a piece of land measuring 10 acres where he reared 50 Zebu Borana Bulls for slaughter. Four of his neighbours namely Kamenju, M'ntarachi, Otieno and Mbiti reside in their respective plots. On 19th November 2019, two bulls got out of the farm and attacked one of the neighbours, Kamenju in his farm causing him serious injury. Kamenju is considering taking legal action against Okembo. Advise Kamenju as to the likelihood of succession in a suit against Okembo.

(20 Marks)

Question Two:

Discuss the capacity of the following persons to sue or be sued under the Law of Torts:

- a) Judges (5 Marks)
- b) Diplomats and Heads of State (5 Marks)
- c) Persons of Unsound mind (5 Marks)
- d) Corporations (5 Marks)

Question Three:

- a) Discuss any five defences available to the defendant in an action for Tort. (10 Marks)
- b) Distinguish between a Tort, Crime and Contract. (10 Marks)

Question Four:

- a) Discuss the elements of "Defamation" (10 Marks)
- b) Using Case Law, discuss the defences to defamation. (10 Marks)

Question Five:

- a) Discuss main elements of the Tort of Negligence. (10 Marks)
- b) Explain the application of the Limitations of Actions Act Cap 29 in filing of actions in Tort. (10 Marks)

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