

UGANDA MARTYS UNIVERSITY -NKOZI

UNIVERSITY EXAMINATION

MAY, 2023

FACULTY OF LAW

**BACHELOR OF LAWS (LLB) YEAR II END OF SEMESTER TWO FINAL
ASSESSMENT, ACADEMIC YEAR 2022/2023**

NEGLIGENCE AND STRICT LIABILITY (LLB2211)

DATE: Wednesday, 24th May 2023

TIME: 2:00 pm – 5:30 pm

DURATION: 3 hours and 30 minutes

Instructions: Answer **FOUR** Questions in total. Question 1 is **COMPULSORY**

1. This is a partially open book exam. Candidates are permitted to bring into the Examination room and consult therein a clean reading list.
 2. Carefully read through all the Questions before attempting answers.
 3. No Names should be written anywhere on the Examination Book.
 4. Ensure that your **Registration Number** is indicated on all pages of the Examination answer booklet.
 5. Ensure your work is **clear** and **readable**. Untidy work shall be penalized
 6. Any type of examination Malpractice will lead to automatic disqualification.
 7. Do not write anything on the questions paper.
 8. Use the exam answer booklet for all your rough work
-

Question 1. (Compulsory).

An explosion occurred in a factory at Njeru. The factory belongs to a Chinese company called Ching Chong. Fifteen workers were injured and five others died as a result of the explosion. The explosion occurred because one of the boilers had not been properly sealed. Resolve the following;

- a) Hugo, an injured worker sues Ching Chong in negligence.
- b) Kato rushed to the scene in an effort to rescue victims. He pulled out a few injured victims and also saw the mangled bodies of the dead workers.

He suffered nervous shock and has sued Ching Chong for damages for the nervous shock he has suffered.

- c) Rudo owns a restaurant across the road from the factory. This restaurant mainly serves the workers at the factory. Rudo tells you that after the explosion the factory was closed by Ching Chong for two weeks and that as a result Rudo had no customers for two weeks and suffered loss of profits he would have made in the two weeks amounting to shillings 5million, Rudo sues Ching Chong to recover the amount.
- d) Members of the family of Opio one of the workers who lost his life in the explosion came to you. They want to sue Ching Chong for the death of Opio. Advise them on the legal basis of the proposed action and what must be included in the plaint in such a suit?

Question 2. How does the Bolitho test differ from the Bolam test?

Question 3. Under what conditions can secondary victims recover damages in the case of nervous shock.

Question 4. What is the nature of liability under the rule in Rylands v Fletcher? Are damages for personal injury recoverable under the rule?

Question 5. What is the difference between property damage and amenity damage in nuisance. What factors do courts consider in determining liability for amenity damage in nuisance.

Question 6. When does liability arise for animals in the case of;

- a) *Mansuetae naturae*? (tame by nature).
- b) *Ferae naturae*? (wild/ferocious by nature)