OBLIGATIONS

9 November 2022
10:30 – 12:00

Candidates must answer two questions in total - one question from section A and one from section B. All questions carry the same marks.

No marks will be awarded for copying out the text of materials which candidates are permitted to take into the exam.

Answers to each SECTION should be written in a separate answer book
Candidates must answer one question from Section A.

Question 1

Mr and Mrs Weaver have two sons, aged ten and seven respectively. One evening when the boys were playing outside the window shop of a nearby grocer’s was broken. The owner of the shop, Mrs Cross ran out of the shop and saw the two boys playing. She chased and caught them and took the boys back to their family home. Their mother, Mrs Weaver believing that she and her husband were legally liable for the damage agreed to pay the cost of the replacement window glass.

The cost, £1,200 was considerably more than Mrs Weaver thought it would be and more than she and Mr Weaver could afford to pay. Therefore, Mrs Weaver refused to pay for the window glass. Mr Cross paid the bill and is now seeking to recover the amount from Mr and Mrs Weaver based on Mrs Weaver’s agreement to pay.

Advise Mr and Mrs Weaver.

Question 2

Chris Grant, a young artist, inherited a vintage Mercedes Benz from his father. The car developed an oil leak. He contacted his local garage, East Lothian Classic Cars and spoke with the manager, Geoff to book the car in to be repaired. Chris has frequently bought spare parts for his car from East Lothian Classic Cars. He has taken the car into East Lothian Classic Cars three times for servicing and repairs.

When doing repairs or carrying a service, all customers have to sign a form. In a clause immediately below the customer’s signature was a clause which states: The Company is not responsible for damage caused by fire to the customer’s cars on the premises.

The day after Chris left his car for repair there was a fire at East Lothian Classic Cars. The fire was the result of the negligence of a garage employee.

East Lothian Classic Cars reject that they are liable to Chris based on the above clause.

Advise Chris of his contractual rights.

END OF SECTION A
SECTION B - DELICT

Candidates must answer one question.

Question 3

James is a keen sportsman. After a rugby match, he drove colleagues to post-match drinks in Stockbridge. He was the designated driver. However, Ken, one of his friend’s, chose to add vodka to his coke and James did not comment on it. He bought James a second coke with vodka, which James drank again without comment. Later, driving back to Marchmont with Ken and another friend, Gordon, James hit a curb and rolled his car over. Ken was seriously injured. James’ alcohol levels were found to exceed those permitted by law. Ken’s injuries lead to him developing sepsis and the loss of his lower legs. Gordon was released from Accident and Emergency with minor cuts to his head. However, later that night collapsed at home. He was found to have a major bleed in his brain. As a result, Gordon became paralysed on his right side and unable to work.

Advise James of his delictual liability (if any) to Ken and Gordon.

Question 4

Lesley is an emerging international fashion model. Whilst in Edinburgh visiting her family, she was shopping on George Street. Seeing her bus approach, she ran towards the bus stop. As she was approaching the bus stop at speed two security guards tackled a young man, John, to the ground. Lesley became entangled and she and John fell to the pavement. Lesley was lying on top of John and she heard John’s head smack the pavement beside her.

When she was helped to her feet by a pedestrian, Lesley saw blood trickle out of John’s right ear. On seeing the blood, Lesley fainted. Unfortunately, she fell on to her face, breaking her nose, jaw and breaking a number of teeth. As a result of her injuries, Lesley needed emergency surgery. She has a number of visible scars on her face.

Advise Lesley.

END OF SECTION B

END OF PAPER