

**COLLEGE OF LAW
BOWEN UNIVERSITY, IWO, OSUN STATE
FIRST SEMESTER EXAMINATION
2022/2023 SESSION**

COURSE CODE: PCL 303

COURSE TITLE: LAW OF TORTS I

**INSTRUCTION: ATTEMPT FOUR QUESTIONS IN ALL
ANSWER AT LEAST ONE QUESTION FROM EACH SECTION
(EACH QUESTION CARRIES 17 ½ MARKS)**

TIME ALLOWED: 3 HOURS

Section A

1. On the 1st of February 2022, Mr. Joshua Odunla, Mr. Jacob Popoola, and Mr. Biola Ogunde, servants to (employees of) Light-Well Gas Company (Nigeria) Ltd, were delivering gas cylinders to Mr. Innocent Awosika's home in the Owode area of Osogbo. While Mr. Joshua Odunla and Mr. Jacob Popoola were unloading the gas cylinders, one of the cylinders caught fire from a lighted firework in the hand of Mr. Biola Ogunde. The resultant explosion and fire from the fireworks destroyed Mr. Innocent Awosika's house. Mr. Innocent Awosika intends to institute a legal action against Mr. Biola Ogunde and Light-Well Gas Company Nigeria Limited. During the company's visit to Mr. Innocent Awosika's house to verify the level of damage he had suffered. Mr. John Kulman, the company's Managing Director stated as follows:

You are free to sue Mr. Biola Ogunde for the damage he has caused you. The company has no hand in what has happened to you. Our company did not specifically instruct Mr. Biola Ogunde to engage in any action to destroy your house. Therefore, the company will never bear responsibility and, in strong terms, will reject any liability for the negligence of Mr. Biola Ogunde. The company, however, sympathises with you for the destruction of your house.

Due to the statement of Mr. John Kulman, the company's Managing Director, Mr. Innocent Awosika is confused as to whether or not to include Light-Well Gas Company (Nigeria) Limited in his suit (legal action) to recover damages for the destruction of his house.

With the aid of statutory and judicial authorities, advise Mr. Innocent Awosika.

2. The classification of torts helps to ensure a better understanding of the law of tort as a whole by putting it in a better perspective. It also helps the knowledge the relationship between various torts. Torts may be classified according to the kind of rights or interests which they protect. **Discuss.**

SECTION B

- 3a. Olamide was given a six months' notice to quit his rented apartment by his Landlord due to his arrears of rent. He then quickly decided to complete his two-bedroom bungalow so

that he and his family could move in before the expiration of the notice. At the request of Olamide, Awesome, his builder, took him to David's shop to buy some needed items for work. Olamide bought and paid for three Water Closets for Sixty Thousand Naira. After taking a receipt for the payment, he told David to keep the items in his store as he would pick them up in two months' time, which David expressly agreed to do. However, four months later, Olamide went to get the items from David but was informed that since he did not come for the items within the two months agreed upon, and in order to avoid any damage to them, the items were sold. David offered to return the money Olamide paid, but Olamide insisted on collecting the items he earlier bought. A verbal war ensued and Olamide established that the type he paid for currently sells for Forty Thousand Naira each. He later left with a threat of a law suit against David. **Advise the parties.**

- 3b. Identify the legal issues involved in the following scenarios:
- (i) Hephzi and Eniolu always play pranks on each other. While in class on Friday morning, Hephzi pulled the chair from under Eniolu as he was about to sit. Eniolu fell but sustained no injury.
 - (ii) During break, Adanna locked Amaka in the toilet for only thirty minutes without a means of escape.
 - (iii) Niye confronted Juba over some dirty pots that the latter left overnight in the kitchen sink. Juba in anger poured dirty water on Niye.
 - (iv) On her way from the library late last night, Oba suddenly jumped in front of Bolu who screamed in fear.
4. The tort of trespass applies to both children as well as adults, and the corresponding duty of care owed to each category is higher, equal or the same. **Fully discuss this assertion.**

SECTION C

5. Two mining companies - Frontiers Mines Ltd, and Beavers Mines Ltd - employed Peter during his working life. For both companies he was the on-site manager. Frontiers Mines, on which Lloyd worked for ten years, extracted gold, while Beavers Mines, on which he worked for twenty years, extracted granite. When Peter retired, he began to feel unwell and so went to his physician. He was informed that he had developed mesothelioma. It was later found that Frontiers Mines contained a dangerous mineral named mythos, while Beavers mines contained asbestos. Both mythos and asbestos could cause mesothelioma, and the two minerals operate in a similar but distinct way. Neither company took adequate precautions to protect their mine workers from exposure to these minerals. Peter had also been exposed to radiation when receiving an X-Ray for a broken arm as a child. The exposure might have caused mesothelioma, but medical evidence suggested this was extremely unlikely. It is not possible to determine or prove whether Peter's mesothelioma had been caused by exposure to the asbestos, the mythos, or the radiation. Peter is depressed and has come to you for advice. **Advise Peter as to his right and liabilities in tort.**

- 6 (a) Akin was driving carelessly from his house to the market. He failed to stop at a pedestrian crossing and collided with Beauty and her two children, Pam and Pauline. Pam was killed instantly while Beauty and Pauline were unconscious, owing to massive blood loss. Beauty suffered post-traumatic stress disorder from this incident and intends to sue Akin for damages.
Advise Beauty on the likelihood of a successful action for emotional distress.
- (b) Explain the doctrine of *res ipsa loquitur* and proof of negligence.