



KISII UNIVERSITY
SECOND YEAR EXAMINATION FOR THE AWARD OF THE
DIPLOMA IN LAWS
FIRST SEMESTER, 2022/2023
(SEPTEMBER-DECEMBER, 2022)

DLAW 0217: ELEMENTS OF INSURANCE LAW

STREAM: Y2 S1

TIME: 2 HOURS

DAY: TUESDAY, 3:00 – 5:00 P.M.

DATE: 13/12/2022

INSTRUCTIONS

- 1. Do not write anything on this question paper.***
- 2. Answer Question ONE [Compulsory] and any other TWO Questions.***
- 3. Illustrate your answer with relevant cases and statutory provisions where applicable.***

QUESTION ONE

a) Mr. Mamuti is a law student at Uzalendo university school of law. He has just been introduced to a new course that is; introduction to the law of insurance. He is quite perplexed as he does not understand this new course and its key concepts. He has been approached by Mr. Kebaya who has insured his property worth Ksh 10,000,000 with two insurance companies; BRITAM INSURANCE Co. LTD for Ksh 8,000,000 and AMACO INSURANCE Co. LTD for Ksh 6,000,000. The value of property destroyed was estimated to be Ksh 6,000,000 after fire outbreak. Mr. Kebaya is stranded on where to claim.

1. Define double insurance.

(2 marks)

2. Vividly describe the salient features of the double insurance. (4 marks)

3. Advise him on the possible options available with regard to double insurance. (9 marks)

b) The principle of average clause requires that one bears proportion of any loss if ones assets were insured for less than their reinstatement value. Ms. Purity owns a building worth Ksh 5,000,000 but insured it for Sh 3,000,000 to Prudence Assurance Co. The property is totally destroyed by floods. Advise her on the amount she should claim from the Insurance company.

(3 marks)

c) Generally, both the insurer and insured bear the loss proportion to the covered and uncovered sum. Ms. Ednah owns a car worth Ksh 2,500,000 which she insured for Ksh 1,500,000 and the fire insurance policy comprises the average clause. Due to fire outbreak, the property was partly destroyed. It was found out that the value destroyed Ksh 750,000. Ms. Ednah has approached you for an advice on the amount she is expecting from insurer. Advise her accordingly. (6 marks)

d) The principle of subrogation has its genesis on the operation of maxims of equity and is essentially an equitable device used to avert injustice with the core objective of compelling the ultimate settlement of debt by the party who in equity and good conscience should pay (anonymous...). Discuss the maxims of equity applicable in the principle of subrogation. (6 marks)

QUESTION TWO

As an expert of insurance law, you have been invited to give a key note address on insurance law. Your address is aimed at enlightening the attendees on the double insurance, reinsurance and insurance.

- a) State and explain the roles of insurance company. (10 marks)
- b) Discuss the key objectives of reinsurance. (6 marks)
- c) Discuss the major types of reinsurance. (4 marks)

QUESTION THREE

- a) State and explain the basic parts of insurance contract. (10 marks)
- b) The insured has the right to be indemnified against loss but cannot make a profit from it by getting paid insurance money as well as compensation from a third party. After the insurance company has paid the insured for injuries and losses sustained by the insured, the insurer acquires the right of insured to claim against the third party.
 - i) Identify and explain the principle of insurance law captioned in the above statement. (3 marks)
 - ii) Discuss the limitations/qualifications of the above identified principle. (4 marks)
 - iii) Discuss the persons whom against the principle cannot apply. (3 marks)

QUESTION FOUR

In the case of Joseph Kitheka vs Mitchell Nzioka & another, the contract of indemnity was defined to mean, a contract where a person promises to indemnify another for consideration called premium, against losses that might happen as a result of perils or events against insurance is taken.

- a) Based on the above statement, discuss the meaning of contract of indemnity. (8 marks)
- b) State and explain the methods of indemnity. (8 marks)
- c) Discuss the extent of the application of the principle of indemnity in relation to principle of subrogation. (4 marks)

QUESTION FIVE

Make explanatory notes on the following sub-headings:

- a) Dissolution of insurance company. (5 marks)
- b) Cover note. (5 marks)
- c) Assignment and surrender. (5 marks)
- d) Roles of Insurance Regulatory Authority (IRA). (5 marks)