

THE OPEN UNIVERSITY OF SRI LANKA

LL.B. DEGREE PROGRAMME – LEVEL 6

1st ASSIGNMENT TEST 2022/2023

LAW OF DELICT – LWU 4326 / LLU6814

DURATION – 1 HOUR



Date: 25th September 2023

Time: 3.30-4.30 PM

Students will be penalised for illegible handwriting.

It is an examination offence to have unauthorized documents and mobile phones with you in the examination hall.

Answer **ONE** question only.

1. "At one time the law was that unforeseeability was no defence (*Re Polemis*) but the law now is that there is no liability unless the damage is of a kind which is foreseeable (*The Wagon Mound No. 1*). The liability for damage today is thus based on the concept of foreseeability. The damage should have been foreseen by a reasonable man as being something of which there was a real risk, unless the risk was so small that the reasonable man would feel justified in neglecting it."

[Sharvananda J in *Collettes Ltd. v. Bank of Ceylon* [1984] 2 Sri LR 253 at 300.]

Discuss the accuracy of this statement in the light of cases that followed *Re Polemis* and *The Wagon Mound 1*.

2. Many countries have replaced delictual actions with alternative systems of compensating victims of injury in many situations. Discuss the nature of these alternative systems of compensation and consider whether they are appropriate in the Sri Lankan context, and whether they can be implemented effectively. Give reasons for your answer.
