

THE OPEN UNIVERSITY OF SRI LANKA
LL.B. DEGREE PROGRAMME
LEVEL 6
02nd CONTINUOUS ASSESSMENT TEST 2006/2007
LAW OF DELICT - LWU 4326/3326
DURATION . 40 MINUTES



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DATE : 10th November 2006
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TIME : 3.00 p.m. – 3.40 p.m.
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Answer one question only.

01. Discuss the following cases.

- a) Malith decided to purchase a computer. Since Malith did not know much about computers he asked his friend Nikil, who is a data processing manager in a computer firm. Nikil advised Malith to purchase a NMB computer. With Nikil's recommendation Malith purchased a NMB computer with all its accessories.

After the computer was assembled it was not functioning properly. Hence Malith hired Asitha, a computer specialist to look into the computer. Asitha informed Malith that the central processing unit (CPU) of the computer was very old and it had been repaired several times. He also informed Malith that the lifespan of the computer had already expired. Later Malith discovered that Nikil actually is not a data processing manager but only a sales representative attached to the computer firm.

Can Malith sue Nikil for damages? Discuss with reference to case law.

- b) Keshani owns a cosmetic shop. Nayomi, one of her regular customers purchased large amounts of cosmetics for her wedding. Nayomi applied a face cream just two days before her wedding and instantly she felt an irritation of her face. Moments later red spots appeared all over her face. Later it was discovered that the manufacturer has increased the normal percentage of a particular chemical that was used for manufacturing the face cream. This defect would have been discovered if the face cream has been previously tested.

Advice Nayomi.

02. 'In actions for negligence the defence of *volenti non fit injuria* is limited in scope that it is of little value'

Discuss this statement with reference to the latest case law on this issue.