FACTUAL SCENARIO – DELICTUAL DAMAGES

A black Range Rover (with registration numbers and letters **TMP 088 GP**) transporting the Tshwane Mayor from Soshanguve township was speeding recklessly on the R80 highway between the Pretoria CBD and Wonderpark in Pretoria North. The driver of the black Range Rover, Simon Mapanga (**a 32 year old driver of 11 Maunde Street Atteridgeville**), was irritated by a slow moving vehicle in front of him and intentionally bumped the vehicle with the Range Rover from behind. Because of the speed at which Simon was driving and the size of his vehicle, the collision from behind caused Pieter van der Linde, the driver of the smaller and slower Toyota Tazz (with registration numbers and letters **ZPV 377 GP**), to lose control of his vehicle. The Toyota Tazz crashed into a concrete pillar of a bridge crossing the highway and as a result was damaged beyond repair.

After the accident the driver of the black Range Rover, Simon, pulled up next to the Toyota Tazz to see if the driver and passengers were okay. One of the bystanders at the scene of the accident, Sphelele Nkosi, saw how the accident happened recorded the entire incident with his cell phone. Simon was angered by Sphelele's actions and demanded that he (Sphelele) hand over his cell phone to him (Simon) or face assault. When Sphelele refused to hand over his phone, Simon hit him with his fists in the face and grabbed Sphelele's phone from him. Simon threw Siphele's expensive iPhone X on the tar road under the passing motor vehicle. The phone was crushed beyond recognition while Sphelele had to be treated for facial injuries at the medi-clinic after this incident.

After the accident, the Van der Lindes were conveyed by ambulance to the Louis Pasteur Private Hospital. Pieter (a **55 year old electrician of unit 102 Wonderpark Estates, Pretoria**), the driver of the Toyota Tazz, was unconscious after the accident and remained in a coma due to severe head injuries, which were partially aggravated by him not wearing a safety belt at the time of the accident. He eventually died 6 months after the accident without ever regaining consciousness. Magdel van der Linde (a **26 year old receptionist at the Tshwane City Council**), Pieter's pregnant wife, was a passenger in the Toyota Tazz and suffered a whiplash injury and a few minor scratches to the face. The trauma of the accident induced Magdel into early labour. Baby Jese was born with deformities and will need medical assistance for the rest of his life. Magdel was discharged from hospital after 30 days and baby Jese was treated in hospital for a further ten (10) weeks. Seventy five (75) year old grandfather John and his fifteen (15) year old grandchild Tess, Pieter's daughter from a previous marriage, were sitting at the back seat of the Toyota Tazz. Grandfather John had back problems before the accident, but after the accident his back deteriorated to such an extent that he had to undergo an operation. The operation was not successful and he has now been confined to a wheelchair. Grandfather John spent 6 weeks in hospital. John had a safety belt on

during the accident, as did his grandchild Tess. Tess was traumatized by the accident and had to receive psychiatric counseling for 12 months after the accident. Tess broke her left leg in the accident and also suffered from severe head injuries. She was hospitalized for 3 months and her grades in school dropped after the accident. This drop in grades severely affects her pre-accident ambitions of studying towards a law degree at the University of South Africa.

Pieter was 55 years old at the time of the accident and earned a yearly salary of R480 000. Magdel was the beneficiary of Pieter's life insurance policy to the value of R2 million and also received a lump sum of R2.5 million from Pieter's employment pension fund after his death. Pieter's Toyota Tazz was fully insured with a reputable insurance company. Magdel is earning a salary of R7 000 per month and was away from the office for the 30 days she was hospitalized and took unpaid leave for three months post the statutory maternity leave. Grandfather John owns his own business and after the accident he could no longer be involved in the day-to-day business of his company. He had to appoint a manager, Steven, to attend to his business interests. Pieter and his family were members of the ABC medical aid fund, but grandfather John had no personal medical insurance.