

# KASNEB

## CCP PART III SECTION 6

### DEBT RECOVERY

THURSDAY: 24 November 2016.

Time Allowed: 3 hours.

Answer ALL questions. Marks allocated to each question are shown at the end of the question.

#### QUESTION ONE

- (a) A court order of discharge from bankruptcy may be both conditional and suspensive.

In light of the above statement, identify five orders which the court might grant in favour of the bankrupt who has applied for discharge. (10 marks)

- (b) Explain five grounds which the court might consider while granting an order for dissolution of a partnership. (10 marks)  
(Total: 20 marks)

#### QUESTION TWO

- (a) (i) In relation to court judgement and decree, indicate four options available to a bank upon receipt of a garnishee order. (10 marks)

(ii) Highlight two circumstances when a garnishee order might not be obeyed. (4 marks)

- (b) With reference to attachment of debts, outline three types of bank accounts which could be attached. (6 marks)  
(Total: 20 marks)

#### QUESTION THREE

- (a) Differentiate between the following mechanisms of solving commercial disputes outside the courts:

(i) "Conciliation" and "Negotiation". (4 marks)

(ii) "Mediation" and "Arbitration". (4 marks)

- (b) Depending with the circumstances surrounding each particular case, a court might pronounce a summary judgement.

In reference to the above statement, explain the following:

(i) Summary judgement. (2 marks)

(ii) Circumstances under which summary judgement might be pronounced. (10 marks)

(Total: 20 marks)

#### QUESTION FOUR

- (a) Stella Tambo took her car to March Motor repairs for a complete engine overhaul. The mechanic at the garage assured her that the car would be very efficient in terms of speed and the engine would last another 5,000 km when the repairs were complete. The following day Stella Tambo collected her car and paid for the agreed repair charges of Sh.10,000.

After driving for only two kilometres, the car developed mechanical problems prompting her to drive back to the garage. At the garage no one appeared interested in listening to her.

Stella Tambo is aggrieved and seeks your legal advice.

Analyse the legal principles applicable in the above case and advise Stella Tambo the preliminary considerations she should make before initiating action for remedy by March Motor Repairs. (10 marks)

- (b) Describe five persons who might deliver summons once they have been issued by a court. (5 marks)

- (c) Explain the meaning of the term "locus standi" citing its applicability in civil cases. (5 marks)

(Total: 20 marks)

**QUESTION FIVE**

(a) When a company is being liquidated, every present and former member is liable to contribute to its assets up to any amount sufficient for payment of its debts and liabilities.

With reference to the above statement, discuss the liability of present and former members as contributories. (8 marks)

(b) Explain two circumstances in which a company might be liquidated voluntarily. (4 marks)

(c) Discuss four advantages of appointing a receiver under receivership. (8 marks)

**(Total: 20 marks)**

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