



# MACHAKOS UNIVERSITY

University Examinations for 2020/2021 Academic Year

SCHOOL OF BUSINESS AND ECONOMICS

DEPARTMENT OF BUSINESS ADMINISTRATION

FOURTH YEAR FIRST SEMESTER EXAMINATION FOR

BACHELOR OF COMMERCE

BBA 401: COMPANY LAW

DATE: 10/8/2021

TIME: 11.00-1.00 PM

---

## INSTRUCTIONS:

Answer question one and any other two questions.

### QUESTION ONE (30 MARKS) (COMPULSORY)

#### *Lee v Lee's Air Farming [1961] AC 12*

Mr. Lee incorporated a company, Lee's Air Farming Ltd, in August 1954 in which he owned all the shares. Mr. Lee was also the sole 'Governing Director' for life. Mr. Lee was also employed as chief pilot of the company. In March, 1956, while Mr. Lee was working, the company plane he was flying stalled and crashed. Mr. Lee was killed in the crash. His widow brought an action for compensation under the Worker's Compensation Act and in this Act workman was defined as "A person employed under a contract of service" so the issue was whether Mr. Lee was a workman under the Act?

The Privy Council found that:

- The company and Mr. Lee were distinct legal entities and therefore capable of entering into legal relations with one another
- As such they had entered into a contractual relationship for him to be employed as the chief pilot of the company
- He could in his role of Governing Director give himself orders as chief pilot.
- It was therefore a master and servant relationship and as such he fitted the definition of 'worker' under the Act.
- The widow was therefore entitled to compensation

Basically liability means the extent to which a person can be made to account by law. He can be made to be accountable either for the full amount of his debts or else pay towards that debt only to a certain limit and not beyond it. In the context of company law liability may be limited.

The memorandum or articles of a company limited by guarantee and not having a share capital cannot give any person a right to participate in the divisible profits of the company, except than as a

member, and every provision in the memorandum or articles purporting to divide the undertaking of the company into shares or interests is treated as a provision for share capital, notwithstanding that the nominal amount or number of the shares is not specified.

In light of the above case answer the questions

- a) Explain the instances where a person becomes a member without being a shareholder of the company (4 marks)
- b) Reveal the consequences of incorporation of a company. (5 marks)
- c) Identify the characteristics of a company. (10 marks)
- d) Discuss the types of companies in Kenya today (5 marks)
- e) Analyze the grounds for disqualification of director of a company. (6 marks)

### **QUESTION TWO (20 MARKS)**

During the A.G.M Members voted your friend as a director in a Kenyan company

- a) Discuss with him five powers and five duties of a director of a company (10 marks)
- b) Illustrate the procedures involved in winding up of a company. (10 marks)

### **QUESTION THREE (20 MARKS)**

- a) Disclose the instances where a person may cease to be a member through act of parties (10 marks)
- b) Rivals have accused your boss of not running a company properly and are threatening to oust him. He is preparing to defend himself. Assist him, Identify the statutory offences in conducting a company affairs (10 marks)

### **QUESTION FOUR (20 MARKS)**

- a) Identify five cases where the court may lift the company veil of incorporation (10 marks)
- b) Explain five rights and five duties of an auditor (10 marks)

### **QUESTION FIVE (20 MARKS)**

- a) Former classmates who have just completed a degree course wish to start a company. However, their finances are limiting. Advice on the methods of raising share and loan capital. (10 marks)
- b) John has recently joined as a member in a blue chip company however he is not sure of his rights expound to him ten statutory rights of a member. (10 marks)