



MUEO

MOI UNIVERSITY

OFFICE OF THE DEPUTY VICE CHANCELLOR, ACADEMIC AFFAIRS, RESEARCH
& EXTENSION

MOI UNIVERSITY EXAMINATIONS

2022/2023 ACADEMIC YEAR

FIRST YEAR END OF THIRD SEMESTER EXAMINATIONS

FOR THE DEGREE OF EXECUTIVE MASTER OF BUSINESS ADMINISTRATION

COURSE CODE: MBA 837

COURSE TITLE: AVIATION LAW AND AGREEMENTS.

DATE: 28TH AUGUST 2023

TIME: 2PM – 5PM

INSTRUCTIONS TO CANDIDATES

ANSWER ANY FOUR QUESTIONS

THIS PAPER CONSISTS OF (3) PRINTED PAGES INCLUDING COVER PAGE PLEASE

TURN OVER

QUESTION ONE: (25mks)

Willer and Miller, both Nairobi residents, bought a Beech aircraft in Chicago. On July 9, 2020, both were killed when the plane crashed outside of Mississippi, in a flight from Nairobi through Phoenix, to Louisiana. Millers' survivors first sued Willer and Beech in Louisiana, but that suit was dismissed for lack of personal jurisdiction under the Louisiana statute. The survivors of both decedents filed separate suits against Beech in Texas state court and Nairobi, claiming that the plane crash was caused by the defective design of the plane's throw-over yoke and Beech's failure to adequately warn or instruct regarding this danger.

Millers' survivors have also filed nearly identical suits against Beech in Mississippi and Chicago. These suits are still pending. Advise both parties on the current legal and regulatory position to be relied upon. Discuss the Chicago, Warsaw 1929 and Montreal 1999 Conventions provisions that will aid you in advising all parties on the probability of success of the suits. (25 marks)

QUESTION TWO: (25ks)

On August 12, 2022, a Boeing 747 aircraft owned by Japan Air Lines (JAL) crashed while en route from Nairobi through Qatar to Osaka, Japan. Five hundred twenty people died in the crash, most of them Japanese nationals. Harikato and Judys, personal representatives, brought eight actions against Boeing and JAL on behalf of the estates of 71 Japanese nationals and 8 non-Japanese nationals. The suits were filed in Nairobi High Court, Japan High Court and Federal Court. Upon motion by Boeing, to which plaintiffs did not object, the Federal court consolidated the eight actions for "pretrial purposes". The consolidated actions were preassigned to the King County Track One system. Boeing then moved to dismiss all eight complaints on jurisdiction nil grounds.

Looking on the problem of states shooting down of planes and missing planes. Discuss the rights and duties of all involved states in the above hypothesis as provided for in the Chicago conventions and the 1919 Paris Convention. (25 marks)

QUESTION THREE: (25mks)

Critically analyze the Kenya Civil Aviation Act and compare this to the provisions of the Chicago International Convention on Civil Aviation. How has the KCAA Act incorporated the Chicago Convention provisions and the significance of the provisions within the Kenya Aviation Industry? (25 marks)

QUESTION FOUR: (25mks)

Explain the sovereignty, territorial, extradition and jurisdiction principles as expounded in the Chicago Convention. (25 marks)

QUESTION FIVE: (25mks)

On November 16, 2022, Viola George boarded an Air France jetliner in Paris for a 12-hour flight to Nairobi. The flight went smoothly in all respects until, as the aircraft descended to Jomo Kenyatta International Airport, Viola George felt severe pressure and pain in her left ear. The pain continued after the plane landed, but George disembarked without informing any Air France crew member or employee of her ailment. Five days later, Saks consulted a doctor who concluded that she had become permanently deaf in her left ear.

George filed suit against Air France in Nairobi High court, alleging that her hearing loss was caused by negligent maintenance and operation of the jetliner's pressurization system.

Looking into the above hypothetical case your task is to critically analyze the principle of air carrier liability as provided for under the Warsaw Convention 1929 and the Montreal Convention 1999. (25 marks)