



REPUBLIC OF KENYA



KENYA LAW
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**Njeri & another v Moniko's Limited (Civil Case 50 of 2015)
[2023] KEHC 19521 (KLR) (30 June 2023) (Judgment)**

Neutral citation: [2023] KEHC 19521 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MACHAKOS
CIVIL CASE 50 OF 2015
MW MUIGAI, J
JUNE 30, 2023**

BETWEEN

JANE WANJIKU NJERI 1ST PLAINTIFF

**AGNES WANJIRU KIMANI (SUING AS PERSONAL REPRESENTATIVE
OF THE ESTATE OF VERONICA WANGUI KIMANI -
DECEASED) 2ND PLAINTIFF**

AND

MONIKO'S LIMITED DEFENDANT

JUDGMENT

Plaint

1. This suit was commenced vide a Complaint dated 6.10.2015 wherein the plaintiffs seek the following from this Court;
 - a. Special damages of Kshs 57,160
 - b. General damages
 - c. Costs and interest.
2. The cause of action is alleged to have arisen on or about the 10.08.2013 when the Defendant's, agent or servant negligently and carelessly drove or controlled motor vehicle registration number KBM 443Z in which the deceased was a lawful passenger causing her to sustain fatal injuries.
3. It was averred that at the time of her death, she was aged twenty seven (27) years working as a caterer with an income of Kshs 19,000 per month which she used to support her family with. That she was at the time of her death healthy and happy with good prospects of life.
4. The dependents of the deceased were listed as;



- a. Jane Wanjiku Mother 49 years
- b. Lenny Thuku Son 11 years
- c. Samuel Kimani Son 3 ½ years

Statement Of Defence

5. Upon Service, The Defendant filed a defence dated 30.05.2016 in which he denied all the allegations raised in the Plaintiff and stated that in 2012, the directors of Moniko's Limited decided to buy out Alida Sher's shares in Moniko Limited and as part of the consideration transferred motor vehicle registration number KBM 443Z to her. It was therefore averred that on or about 10.08.2013, the defendant was not the owner of the said motor vehicle.

Reply To Defence

6. It was filed on 8.9.2016 and the Plaintiff reiterated the contents of the Plaintiff and further contended that she is a stranger to the transaction between the defendant and Alida Sher and the records of the Registrar of Motor Vehicles indicated the defendant as the owner of the accident vehicle at the time of the accident.

Hearing

Plaintiff's Case

7. The Plaintiff called two witnesses on 19.9.2022. PW1 Jane Wanjiku Njeri adopted her statement dated 29.10.2021 and produced the list of documents filed in 2015 as exhibit 1-7. These are;
 - a. Police Abstract
 - b. Death certificate
 - c. Limited grant of letters of Administration
 - d. Letter from Employer
 - e. Search Certificate and its receipts
 - f. Receipts
 - g. Demand letters
8. The Plaintiff further stated that her daughter, 27 years old was working as a caterer and left two young children, Lenny Thulu 12 years and Samuel Kimani 4 years. She said she was suing for general and special damages.
9. In her statement she said on 11.08.2013 she said she received a call from her sister Ruth Wairimu that her daughter had been involved in an accident near Makindu, had sustained serious injuries and was at Makindu hospital. She said her daughter used to earn Kshs 19,000 which she used to support her children and now she lives with them. She said she incurred Kshs 55,000 as funeral expenses .
10. Upon cross examination, she stated that the accident occurred on 10.8.2013 by motor vehicle KBM 443Z. The eldest child was 19 years. She said her daughter was working in greenhouse and was employed by Alidah Sher. According to the abstract, the motor vehicle was for Alidah Sher and it was insured by Heritage insurance company. She liaised with them and they are not in court. She said at



the time of the accident, the child was aged 12 years and that she went to the insurance company and they are not in court.

11. PW2 was Josephine Aseyo stated that she was working with the deceased at Green house and on 10.8.2013 she was in motor vehicle KBM 443Z probox. She relied on her statement dated 16.10.2015 in which she stated that on 10.8.2013 they went to Makindu for outside catering and on their way back to Nairobi at about 7.15pm , they were four in the vehicle and the driver was driving at a high speed. They asked him to reduce the speed.
12. All of a sudden they heard the driver exclaim “oh shit” and the vehicle started swaying from one side of the road to another as the driver had lost control of the vehicle. It rolled several times. Veronicah had been thrown out of the vehicle but Evans was still breathing. She was taken to Nairobi Women hospital and later confirmed that Veronicah had lost her life. She blamed the driver of the Probox for over speeding and being careless thus causing the accident. they attended Veronicah’s funeral at Uplands.
13. Upon Cross examination, she stated that she was a waitress at Green house and after the accident did not go back. She was employed by Alidah Sher. The deceased, Veronicah was her friend, colleague and workmate. From the police abstract the vehicle is for Alidah Sher .She said she did not know who owned the vehicle. She said the motor vehicle had insurance and did not know if money had been paid. She said she had not been paid and had not gone to the insurance to ask for more money. Her friend died from the accident. she did not know the name of the driver.
14. The Defendant did not call any witness.

Submissions

15. The Plaintiff filed submissions on 5.12.2022 in which it was submitted on three issues. As to who was liable for the accident, it was submitted that the Defendant through its agent was liable. That the motor vehicle search indicates that the owner of the motor vehicle was the Defendant and no evidence was adduced to controvert it. According to the police abstract, the Defendant’s driver / agent was to blame for the accident as a result of his negligence and recklessness. Further, that the plaintiffs evidence was unchallenged.
16. Secondly, as to the issue of Quantum, under pain and suffering, it was submitted that the death certificate issued following a post mortem indicated that the cause of death was due to cardiopulmonary arrest, multiple injuries and internal bleeding due to road traffic accident. Further that PW1 had received information that the deceased died on the spot. Reliance was placed on the case of Sukari Industries Limited vs Clyde Machimba Juma HCCA 68/2015 where an award of Kshs 50,000 was given where the deceased died immediately after the accident.
17. On loss of expectation of life, it was submitted while relying on the case of Moses Akumba & another vs Hellen Karisa Thuya Civil Appeal 17 & 18 of 2015 that the deceased was healthy and productive had her life cut short as a result of the accident. an award of kshs 200,000 was therefore proposed.
18. On loss of dependency, the Plaintiff relied on the cases of John Oriedo Zakayo & Another vs Crown Bus Service Limited , Civil Appeal 8 of 2019 and Isaac Kimani Kanyingi & Another (suing as the Legal representative of the estate of Lose Gathoni Mugo (deceased) vs Hellen Wanjiru Rukanga , Civil Appeal 120 of 2015 and submitted that the court should use the multiplicand, multiplier and dependency ratio. It was submitted that the deceased was employed by Monikos Deli and Catering earing a salary of Kshs 18,000 and produced a letter of appointment/ employment dated 7.05.2014. That a multiplier of 25 years considering the deceased was 27 years and in good health was proposed. It was submitted that Kshs 3,600,000 would suffice on the loss of dependency. The Plaintiff cited the



cases of *Mwita Nyamohanga & Another vs Mary Robi Moherai* suing on behalf of the estate of John Tagere Mwita (Deceased), Civil Appeal 3 &4 of 2014 and *John Oriedo Zakayo* (supra) and

19. As regards special damages, it was submitted that the Plaintiff claimed for Kshs 58,050 and had provided funeral related expenses and costs receipts of KShs 57,500 and motor vehicle search fees of Kshs 550. The court was urged to find in favour of the Plaintiff and also award them costs of the suit. Reliance was placed on the case of *Mariko Ndwiga vs Edith Muthanje* ELC Appeal no 19 of 2019.

Defendant's Submissions

20. They were filed on 16.03.2023 in which two issues were raised. As to whether the defendant as the owner of the accident motor vehicle, it was submitted that the Plaintiff produced two contradicting documents of the ownership, a search from registrar of motor vehicles indicating the defendant as the registered owner and a police abstract indicating Alida Sher to be the owner. It was contended that the motor vehicle had been issued and transferred to Alida Sher as part of a buy out that took place in 2012 before the accident took place and as such she would be the beneficial owner as even the insurance for the motor vehicle was taken out by her.
21. It was submitted that the certificate of search is not conclusive proof of ownership as sometimes vehicles can change hands but the records are not amended. Reliance was placed on section 8 of the [Traffic Act](#) and *Samuel Mukunya Kamunga vs John Mwangi Kamuru* [2005] e KLR, *Nancy Ayemba Ngaira va Abdi Ali* [2010] e KLR and *Securicor Limited vs Kyumba Holdings (Limited)* (2005) e KLR.
22. Secondly, as to whether the defendant was vicariously liable for the actions and omissions of the driver of the accident motor vehicle, it was submitted that in the Plaintiff's faults the driver and the defendant vicariously liable and PW2 wholly blamed the driver of the motor vehicle for the accident but he was not sued and neither has any nexus between the driver and the defendant been shown. It was submitted that an agency or employer-employee relationship had not been established and neither that the driver was driving the motor vehicle at the owner's request or authority, express or implied.
23. It was submitted that the police abstract shows the driver as Francis Kariuki Mwangi and Alida Sher as the owner of the motor vehicle and that is the only document that shows a nexus between the driver and the owner of the motor vehicle who is not the defendant herein. Reliance was placed in the cases of *Paul Muthui Mwavu vs Whitestone (K) Limited* [2015] e KLR AND *PNM & Another* (the legal representative of estate of *LMM vs Telkom Kenya Limited & 2 others* [2015] e KLR.

Determination

24. This Court has considered the pleadings, evidence and submissions of the parties. It is not in contention that an accident occurred on 10.8.2013 at 7.00pm at Mbuvo area along Makindu- Wote road involving motor vehicle registration number KBM 443Z in which the deceased herein and PW2 were passengers.
25. It is also not in contention that the accident was solely caused by the negligence of the driver Francis Kariuki Mwangi who was to blame for the accident according to the police abstract dated 5.9.2013 and was charged with causing dangerous driving and fined Kshs 10,000. The blame was also buttressed by PW2 who in her evidence explained how the accident occurred and blamed the driver for over speeding.
26. Further, it is not contested that the deceased veronichah wangui died on 10.08.2013 as per the death certificate, Limited Grant Ad Litem issued on 3.3.2015 as well as the testimony of PW1 and PW2 due to a road traffic accident. In addition, the fact that she worked at Moniko's Deli and Catering, the Defendant, is also not in contention, as per the oral evidence of PW1 and PW2 who was a colleague



and an eye witness in the accident. However, the court notes that there is a letter of appointment is dated 7.05.2014 yet the deceased died on 10.08.2013. Naturally, it would not be possible for such an arrangement to exist and the Plaintiff did not offer any explanation for this unusual arrangement. That document cannot be relied upon.

27. The issues that remain in contention are as follows;
- a. Whether the Defendant is vicariously liable for the accident
 - b. Whether the Plaintiff is entitled to general damages, special damages, costs and interest
28. The burden of proof was on the appellant to prove his case is in doubt. Section 107 (1), 109, 112 of the *Evidence Act*, Cap 80 Laws of Kenya provides that:

107(1) Whoever desires any court to give judgment as to any legal right or liability dependant on the existence of facts which he asserts must prove that those facts exist.

109. The burden of proof as to any particular fact lies on the person who wishes the court to believe in its existence, unless it is provided by any law that the proof of the fact shall lie on any particular person.

112. in civil proceedings, when any fact is especially within the knowledge of any party to those proceedings, the burden of proving or disproving the fact is upon him.

29. The Court of Appeal held in *Anne Wambui Ndiritu –vs- Joseph Kiprono Ropkoi & Another* [2005] 1 EA 334 stated that:

“As a general proposition under Section 107 (1) of the *Evidence Act*, Cap 80, the legal burden of proof lies upon the party who invokes the aid of the law and substantially asserts the affirmative of the issue. There is however the evidential burden that is case upon any party the burden of proving any particular fact which he desires the court to believe in its existence which is captured in Sections 109 and 112 of the Act.

30. The issue of vicarious liability was discussed in the case of *Kansa vs. Solanki* [1969] EA 318 that ;

“Where it is proved that a car has caused damage by negligence, then in the absence of evidence to the contrary, a presumption arises that it was driven by a person for whose negligence the owner is responsible (See *Bernard V Sully* [1931] 47 TLK 557. This presumption is made stronger or weaker by the surrounding circumstances and it is not necessarily disturbed by the evidence that the car was lent to the driver by the owner as the mere fact of lending does not of itself dispel the possibility that it was still being driven for the joint benefit of the owner and the driver.”

31. Section 8 of the *Traffic Act* Cap 405 provides:-

“The person in whose name a vehicle is registered shall, unless the contrary is proved, be deemed to be the owner of the vehicle.”



32. The Court of Appeal(Omolo, Lakha & Bosire, JJA.) in Samuel Gikuru Ndungu V Coast Bus Company Ltd [2000]eKLR clarified that vicariously liability of the owner of a motor vehicle did not depend on the liability or decree against the driver but on proved negligence as follows:

“As we stated earlier, the appellant did not sue the driver of the accident motor vehicle. In Omar Athman v. Garissa County Council, Nairobi High Court Civil Case No. 2484 of 1992 (unreported) which the trial Judge cited in his judgment but did not make any comments on, Aganyanya, J. struck out the plaintiff's suit for incompetence because the driver of a motor vehicle in a running down defended suit was not made a party in the suit. In his view the liability against the owner of the vehicle in such a case being vicarious is dependent on a decree against his driver on the same facts.

In Selle & Another v. Associated Motor Boat Company Ltd. & Others [1968] EA 123, the respondents who owned and maintained a boat involved in an accident in which one of the appellants was injured, were held vicariously liable for their driver's negligence even though the said driver was not a party in the suit. Likewise in Mwonja v. Kakuzi Ltd [1982-88] 1 KAR 523, the respondent was held liable for its driver's negligence although the driver was neither made a party nor did he testify in the case against his employer. Chesoni and Nyarangi Ag. JJA (Kneller JA, dissenting, but not for the reason that the driver was not joined) held that on the basis of the evidence before the court the respondent as owner of the accident motor vehicle was liable to the appellant in damages for the proved negligence of its driver.

From the authorities it would appear to us that the mere fact that the driver of an accident motor vehicle is not joined in a damages claim against his employer arising from his driving is not fatal. Liability against the employer largely depends on the pleadings and the evidence in support of the claim. Vicarious liability of the employer is not pegged to the employees' liability but to his negligence. Having come to that conclusion we are unable to agree with Aganyanya J. that the non-joinder of the driver in an action as the one which gave rise to this appeal renders the suit incompetent.

33. In the case of Charles Nyambuto Mageto Vs. Peter Njuguna Njathi [2013] e KLR the court held:-

“From the interpretation of section 8 of the *Traffic Act* as elucidated above, a person claiming or asserting ownership need to necessarily produce a log book or a certificate of registration. The courts recognize that there are various forms of ownership, that is to say actual possession, and/or beneficial, all of which may be proved in other ways, including by oral or documentary evidence such as the Police Abstract Report

34. In the case of Joel Muna Opija Vs. East African Sea Food Limited 2013 eKLR, the Court of Appeal held that the best way to prove ownership of motor vehicle would be to produce a document from the registrar of motor vehicles showing the registered owner. However, if a police abstract is produced in court without any objection its contents cannot be denied

35. In this case, the Defendant in his submissions contends that the driver was not enjoined in the suit despite being found to be the one to blame. Guided by the cases cited above, that is not fatal. The Defendant as owner of the accident motor vehicle is liable to the Plaintiff in damages for the proved negligence of its driver. In this case, it has been proven that the driver was 100% liable for the accident. No evidence has been placed to prove that the deceased was liable for the accident to any extent.



36. With reference to section 8 of the *Traffic Act*, the records of the Registrar of Motor Vehicles that was produced indicates that the log book date was 11.2.2011 and the motor vehicle is jointly owned by National Industrial Credit Bank Limited and Monkos Limited. The Defendant claimed that they had sold the car to a third party but produced no evidence to support this claim.

37. The Defendant contends that the information in the police abstract and the one in the log book are conflicting as to ownership. The abstract indicates that the owner of the motor vehicle is Alida Sher. The issue of probative value of the police abstract was discussed in the case of Wellington Nganga Muthiora vs Akamba Public Road Services Ltd & Another,(2010) eKLR where the Court of Appeal held as follows:-

“Where a police abstract was produced and there was no evidence adduced by a defendant to rebut it and not even cross-examination challenged it, the police abstract being a prima facie evidence not rebutted could be relied on as proof of ownership in the absence of anything else as proof in civil cases was within the standards of probability and not beyond reasonable doubt as is in criminal cases. However, where it was challenged by evidence or in cross-examination, the plaintiff would need to produce certificate from the Registrar or any other proof such as an agreement for sale of the motor vehicle which would only be conclusive evidence in the absence of proof to the contrary”

38. Warsame J. (as he then was) in the case of Jotham Mugalo vs. Telkom (K) Ltd, Kisumu HCCC No. 166 of 2001 held as follows:

“Whereas it is true that it is the responsibility of the plaintiff to prove that the motor vehicle which caused the accident belonged to the defendant and the production of a certificate of search is a valid way of showing the ownership, it is not the only way to show that a particular individual is the owner of the motor vehicle as this can be proved by a police abstract. Since a police abstract is a public document, it is incumbent upon the person disputing its contents to produce such evidence since in a civil dispute the standard of proof requires only balance of probabilities. Where the defendant alleges that the motor vehicle which caused the accident did not belong to him, it is up to them to substantiate that serious allegation by bringing evidence contradicting the documentary evidence produced by the plaintiff as required by section 106 and 107 of the *Evidence Act*. The particulars of denial contained in the defence cannot be a basis to reject a claim simply because a party has denied the existence of a fact as a fact denied becomes disputed and the dispute can only be resolved on the quality or availability of evidence.”

39. Emukule J.in Charles Nyambuto Mageto v Peter Njuguna Njathi NKU HCCA No. 4 of 2009 [2013] eKLR thus:

“From the interpretation of Section 8 of the *Traffic Act* as elucidated above, a person claiming or asserting ownership need to necessarily produce a log book or a certificate of registration. The courts recognize that there are various forms of ownership, that is to say, actual, possessionary and beneficial, all of which may be proved in other ways, including by oral or documentary evidence such as the Police Abstract Report even, as held in the Thurania and Mageto cases (supra) that the Police Abstract Report is not, on its own, proof ownership of a motor vehicle. If, however there is other evidence to corroborate the contents of the Police Abstract as to the ownership, then, the evidence in totality may lead the court to conclude on the balance of probability that ownership.



40. The Defendant in this case has challenged the police abstract and the Plaintiff has produced a certificate from the Registrar which he ought to in such a case. I therefore find that the evidence of the Registrar of Motor Vehicles supersedes that of the police abstract in this case and in the absence of any evidence to the contrary. Had the investigating officer been called to explain how he arrived at the information in the abstract, then perhaps this court would have arrived at a different position. The Defendant did not call any witness nor produce any agreement or evidence to support its claim of transfer. The directors of the Defendant are also unknown to the court. The issue of whether the third party was a beneficial owner has not been proved.
41. On a balance of probability, I find that the Plaintiff has proved that the Defendant is the owner of the motor vehicle and is liable for the accident and now move to deal with the issue of damages.
42. The Plaintiffs prayed for general damages, special damages, costs and interest and they are the only ones who submitted on the same. This court is guided by the case of Hyder Nthenya Musili & Another v China Wu Yi Limited & Another [2017] eKLR, the Court stated as follows-

“As regards damages awarded under the Law Reform Act, the principle is that damages for pain and suffering are recoverable if the deceased suffered pain and suffering as a result of his injuries in the period before his death.... The generally accepted principle therefore is that very nominal damages will be awarded on these two heads of damages if the death followed immediately after the accident. The conventional award for loss of expectation of life is Kshs. 100,000/= while for pain and suffering the awards range from Kshs. 10,000/= to Kshs. 100,000/= with higher damages being awarded if the pain and suffering was prolonged before death.”

Pain And Suffering

43. As regards damages for pain and suffering, the Plaintiffs pray for Kshs 50,000 and Kshs 200,000 for loss of expectation of life. From the record, there is no evidence that the Deceased was taken to hospital, the police abstract indicates that the nature of injury was fatal meaning that she died at the scene of the accident. The receipts for special damages are only for funeral related expenses and the motor vehicle search. I will therefore take it that the deceased died on the spot and award Kshs 30,000 under this head.

Loss Of Expectation Of Life

44. As regards loss of expectation of life, I award Kshs 100,000 relying on the case of Hyder Nthenya Musili (Supra).

Loss Of Dependency

45. The Plaintiff suggested that the court should use the multiplier approach and award Kshs 3,600,000. In the case of Mwanzia vs Ngalali Mutua Kenya Bus Ltd cited in Albert Odawa vs. Gichumu Githenji Nku Hcca No.15 of 2003 [2007] eKLR, where the court made the following observation;

“The multiplier approach is just a method of assessing damages. It is not a principle of law or a dogma. It can, and must be abandoned, where the facts do not facilitate its application. It is plain that it is a useful and practical method where factors such as the age of the deceased, the amount of annual or monthly dependency and the expected length of the dependency are known or are knowable without undue speculation; where that is not possible, to insist on



the multiplier approach would be to sacrifice justice on the altar of methodology, something a Court of Justice should never do.”

46. As regards the award under loss of dependency, the Court of Appeal in *Chunibhai J. Patel and Another vs. P. F. Hayes and Others* [1957] EA 748, 749, stated the law on assessment of damages under the *Fatal Accidents Act* and held as follows:

“The Court should find the age and expectation of the working life of the deceased and consider the ages and expectations of life of his dependants, the net earning power of the deceased (i. e his income less tax) and the proportion of his net income which he would have made available for his dependants. From this it should be possible to arrive at the annual value of the dependency, which must then be capitalized by multiplying by a figure representing so many years’ purchase”

47. In *Frankline Kimathi Maariu & another v Philip Akungu Mitu Mborothi* (suing as administrator and personal representative of Antony Mwiti Gakungu deceased [2020] eKLR where the court was dealing with a similar issue stated:

(23)In the present case, there was no satisfactory proof of the monthly income. Where there is no salary proved or employment, the Court should be wary into subscribing to a figure so as to come up with a probable sum to be used as a multiplicand. In such circumstances, it is advisable to apply the global sum approach or the minimum wage as the appropriate mode of assessing the loss of dependency.

[24]. The global sum would be an estimate informed by the special circumstances of each case. It will differ from case to case but should not be arbitrary. It should be seen to be a suitable replacement that correctly fits the gap.”

48. Similarly in *Moses Mairua Muchiri v Cyrus Maina Macharia* (Suing as the personal representative of the estate of Mercy Nzula Maina (deceased) [2016] eKLR, held as follows-

“It has been held elsewhere that where it is not possible to ascertain the multiplicand accurately, as appears to have been the case here, courts should not be overly obsessed with mathematical calculations in order to make an award under the head of lost years or loss of dependency. If the multiplicand cannot be ascertained with any precision, courts can make a global award, which by no means is a standard or conventional figure but is an award that will always be subject to the circumstances of each particular case.

49. From the record, PW1 stated that the deceased used to work in greenhouse and was employed by Alidah Sher and this was corroborated by PW2 who was a colleague of the deceased person and employed by the same Alidah Sher. It is trite law that parties are bound by their pleadings, the Plaintiffs pleaded that the deceased used to earn 19,000 but claim Kshs 18,000 in the submissions which are not pleadings. Secondly, the letter of employment as indicated earlier is dated 2014, after the death of the deceased therefore cannot be relied upon to show how much the deceased was earning.

50. This court will use the multiplier approach which is the safest in the circumstances. Using a multiplier of 25 years and the Regulation of Wages (General) (Amendment) Order, 2013 which indicates the salary for a cook as Kshs 10,563 award Kshs 3,168,900 under this head.

51. As regards special damages, it is trite law that they must be pleaded and proved. The Plaintiff has produced receipts that amount to Kshs The following documents were produced;



- a. KRA receipt Kshs 500
 - b. Tatumu B24 dated 17.8.2013 Kshs 13,000
 - c. Tiisir B16 dated 17.8.2013 Kshs 5,500
 - d. University of Nairobi & Services Kshs 16,500
 - e. Goward Funeral Services receipt 230 Kshs 23,000
 - f. Goward Funeral Services receipt 229 Kshs 16,000
- Total Kshs 74,500

52. The Plaintiff pleaded Kshs 57,160 and parties are bound by their pleadings. The Plaintiff is thus awarded Kshs 57,160 as special damages.

53. Costs and Interest are awarded to the Plaintiff.

Disposition

54. Consequently, I award as follows;
- a. Liability 100% In favour of the Plaintiff
 - b. Damages
 - i. Pain and suffering Kshs 30,000
 - ii. Loss of expectation of life Kshs 100,000
 - iii. Loss of dependency Kshs 3,168,900
 - c. Special damages Kshs 57,160
 - d. Costs and interest

It is so ordered.

**DELIVERED SIGNED & DATED IN OPEN COURT IN MACHAKOS ON 30TH JUNE 2023.
(VIRTUAL/PHYSICAL CONFERENCE)**

M.W.MUIGAI

JUDGE

In The Presence Of:

No Appearance - For The Plaintiff

Wangui Kimani - For The Defendants

Geoffrey/Patrick - Court Assistant(s)

