



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT MOMBASA**

**CIVIL SUIT NO. 102 OF 2015**

**NELSON MGHADI.....PLAINTIFF**

**V E R S U S**

**RAZICK OBUBA..... DEFENDANT**

**JUDGMENT**

1. By his plaint dated the 22/6/2015, the Plaintiff pleads that on or about 30/8/2014, while he was riding a motor scooter Registration Number KMCA 394L from Bakarani heading to Mombasa island along the old Mombasa–Malindi and upon reaching Mwandoni, the Defendant’s authorized driver of motor vehicle Registration No. KBG 589M (*hereinafter referred to as the subject motor vehicle*) negligently and/or carelessly made a sudden U-turn and violently knocked him down causing the Plaintiff serious injuries, loss and damage. As a result of the accident, he suffered severe bodily injuries which have currently confined him onto a wheelchair. He has sued the Defendant as the registered owners of the said motor vehicle and claims damages for personal injuries grounded upon the tort of negligence. The claim seeks Special damages in the sum of Kshs 158,855.00, General damages, Loss of income and future earnings at the rate of Kshs 80,000.00 per month as from the date of accident till the date of judgment, Costs of an aid at the rate of Kshs. 10,000.00 per month as from the date of accident to the date of judgment, costs of future treatment at the rate of Kshs. 104,000.00 per year as from the date of accident to the date of judgment and costs of a motorized wheel chair at the rate of Kshs 120,000.00 with an annual maintenance costs of Kshs 500.00 and half-life of 15 years as from the date of accident to the date of judgment. As expected, the plaintiff further sought the costs of and incidental to the suit as well as Interest on the damages above at Court rates.

2. Upon being served, the Defendant filed a statement of defense on 28/8/2015 denying all the allegations in Plaintiff, save for the descriptive paragraphs 1& 2. The Defendant denied being the registered, actual, insured, and/or beneficial owner of the subject motor vehicle together with the occurrence of the accident and further that if at all the alleged accident occurred, then the same was as a result of the Plaintiff’s negligence, which substantially contributed to the said accident. Both sides filed witness statements and documents and at the hearing both sides called witnesses and produces documents in support of respective cases.

**The Plaintiff’s case**

3. At the hearing, three witnesses gave evidence for the Plaintiff. The first, **PW1, Dr STEPHEN K. NDEGWA** the medical doctor who prepared the medical report on the plaintiff, produced the medical report prepared by him on 15/6 /2015. According to the aforementioned medical report, the Plaintiff sustained the following injuries; ***Severe spinal injuries involving, Compression of the spinal cord at T11 causing paralysis at the level and resulting in stool and urine incontinence, Compression fracture of the thoracic spine number 11, Anterior displacement or dislocation of thoracic spine 10 over 11, Fracture of the first cervical vertebra, fracture of the second cervical vertebra and ortoid process leading to cervical kyphosis, Displaced fracture of the left scapular, Severe chest injuries involving, Bilateral lung contusions, Bilateral hemo-thorax and Left sided sterna-clavicular dislocation.***

4. PW1 further testified and stated that the Plaintiff is permanently disabled having been paralysed from his mid back and he is unable to enjoy conjugal rights due to his physical condition. Therefore, he cannot sire children in future.

5. On cross-examination by **Mr. Asena**, and upon being referred to discharge notes made on 26/12/2015, PW1 confirmed that there was no issue of urine and stool incontinence. However, in his view a patient with paralysis from T11 is expected to have incontinence of urine and stool.

6. PW1 further confirmed that the Plaintiff is not paralysed on the hands but asserted that the Medical Board has determined that paralysis of both lower limbs amounts to 100% permanent disability.

7. On the Plaintiff’s sexual ability, PW1 confirmed that he relied on his own experience and his clinical examination, which in his medical training was that a paralysis of that kind attracts paralysis of the sexual organ. He went on to confirm that the medical notes from Coast

Provisional General Hospital stated that the Plaintiff was intoxicated with alcohol but no levels of alcohol were disclosed in the notes.

8. On re-examination, PW1 stated that the Plaintiff was first taken to **Sayyida Fatimah Hospital** on the date of the accident before he transferred to Coast General Hospital and that, therefore, it was not reasonable for an intoxicated patient, on admission, to have alcohol in his system beyond 48 hours.

9. **PW2 PC Jonathan Bartimo**, a police officer attached to Nyali Traffic Base, at the time of his testimony, testified and stated that the accident occurred because of the subject motor vehicle making a U-turn on the road, and reversing onto the road, thereby causing the plaintiff to ram onto the subject motor vehicle while on his scooter. PW2 further stated the **P.C Baraza** visited the scene and made a sketch plan of the road view. He produced a police abstract and blamed the Defendant's driver for the accident

10. On cross-examination, PW2 confirmed that he was not the investigating officer and that he never participated in the investigations and did not have the police file in Court with him. He further confirmed that the Defendant's driver reported the accident.

11. On being questioned by this Court, PW2 stated that the abstract he produced did not have any conditions at the reverse because he only photocopied the front page.

12. The Plaintiff testified as PW3 and stated that he was married with two children and he was a self-employed carpenter at his workshop at Bakarani where he would make picture frames and would earn Kshs. 50,000/ from sales per month. He further stated that the Defendant's driver made a U-turn on the road hitting him on his left side after which he only regained consciousness, at **Sayyida Fatima Hospital** where he was informed that he had fractured his back. After a week, he was referred to Coast General Hospital where he was admitted for 5 to 6 months. He went on to state that he still had implants in situ as he testified with paralysis which made him unable to control his stool and urine and inability to basic life chores on his own, and that his sexual life is dead since he cannot achieve an erection.

13. The Plaintiff produced a bundle of treatment notes as Plaintiff exhibit 1 to 7. The documents on costs incurred were produced as Plaintiff exhibit 8 while a motor vehicle Official search certificate, which the Plaintiff alleged revealed the Defendant to be the owner of the subject motor vehicle, was produced as Plaintiff exhibit 9. The Plaintiff also denied being drunk at the time of the accident and that he was a licenced driver at the time of the said accident.

14. On cross-examination, the Plaintiff confirmed that he did not get the time to manoeuvre, as the U-turn was abrupt, and that the Defendant's driver took him to the hospital. He confirmed that he did not have any records of his earnings from his carpentry business but would earn an average of Kshs. 80,000/= per month. The Plaintiff also referred the Court to his exhibit 8 which was an invoice of Kshs. 19,465/=being the amount incurred at Sayyida Fatimah Hospital which remained unpaid as at the date of hearing.

15. The Plaintiff then confirmed that he could still undertake his business and trade with the assistance of a helper, although with difficulties and on Re-examination, he stated that that on the invoice it was indicated that there was no balance outstanding.

16. For the defence, **Mustafa Shakora Musa** gave evidence as DW1 and testified, while acknowledging the occurrence of the accident, that he had been a driver for 7 years and on the fateful day, he was driving vehicle registration No KBG 589M at a speed of 30 KPH, from Bamburi to town. He said that through his side mirror, he saw a pedal cyclist who was driving at a high speed and in a zigzag manner. The cyclist, who had neither a helmet nor a reflector jacket, suddenly hit him on the rear of his vehicle. He stopped, went outside the subject vehicle and pick the Plaintiff then took him to hospital. It is DW1's testimony that the Plaintiff reeked of alcohol and was visibly drunk thus ought to be blamed for the accident since he was speeding while on the wrong side of the road. The witness added that he was never charged with any traffic offence since he was on his lane headed to town, and it is not true that he made a U-turn on the road but it is the plaintiff who behaved in a suicidal manner leading to the accident.

17. On cross-examination, DW1 confirmed that the exhibited licence was issued after the accident, that he had not produced a copy of the original licence, and that he had nothing in Court to show that he possessed a licence at the time of the accident or that his original licence got lost.

18. When shown a written statement he made at the police station on the day of the accident, and filed by the defence in this matter, DW1 confirmed that he had indicated that he was travelling from Mombasa Island to Bamburi, but denied that he was making a U-turn in order to pick passengers for the morning rush, although he was alone in the subject vehicle, because he had just picked the subject vehicle from the owner's compound.

19. In Re-examination, DW1 stated that his statement written on 17.9.2014 was the same with the hand written one filed on 27.6.2017 and that he told the police that he was coming from Bamburi headed to town and that it is the Plaintiff who suddenly hit him from the back. On being questioned by the Court, DW1 disowned the identity card number and the driver's licence number given in the statement.

20. **DW2 Dr. LEAH WAINAINA**, a Medical Practitioner retained by the defendant to avail a second medical report on the plaintiff, having practiced since the year 2009, produced her medical report dated 4.1.2016 as Defendant's Exhibit No.1. She stated that to prepare the said report, she relied on the Plaintiff's history, treatment records from **Sayyid Fatimah Hospital**, medical report dated 15.6.2015, x-ray report dated 11.9.2014, and treatment notes from Coast General Hospital. She testified and stated that according to treatment notes from the Coast General Hospital, the Plaintiff was intoxicated with alcohol at the time of the accident. On costs to be incurred to improve on the plaintiff's livelihood and quality of life, DW2 stated that being a spinal injury patient, the needs include a helper, catheter care and diapers at Kshs. 25,000/= per month; the costs of a motorized wheelchair whose cost vary but approximately Kshs. 150,000/=and monthly expenses of Kshs. 15,000/= for physiotherapy and clinic visit to the spinal unit.

21. On cross-examination, DW2 confirmed that the Plaintiff was severely injured, however, in her view, the plaintiff had not been rendered vegetable. She further confirmed that she referred the Plaintiff to **Dr. Noorani** who prepared a medical report whose copy she did not avail to

this Court, then denied that she wholly relied on the report prepared by **Dr. Noorani** and that she never examined the Plaintiff. DW2 further confirmed that the costs she had proposed were average costs, and that the discharge summary relies on other documents while observing that there were no earlier documents between the discharge summary talking about intoxication.

22. On being questioned by this Court, DW1 stated that she works for Directline Assurance Company as a medical doctor and her duties are to examine persons injured, and thereafter to prepare medical reports and attend Court when summoned. She further confirmed that physiotherapy would cost between Kshs1000-2000 per session and the Plaintiff needs weekly sessions. For diapers, she stated that the Plaintiff needed about three per day, which amounts to 90 per month. DW2 also stated that the Plaintiff needs about one catheter per day and a piece costs about Kshs 50/= and lastly that a wheel chair would last for 10 years. When asked further questions by the court on the discharge summary, the witness said that its purpose is to state what happened during admission up to date of discharge and therefore, without previous history, it would not be possible to confirm if a patient was intoxicated with the observation that the documents from Sayyida Fatimah hospital never captured the issue of intoxication. Lastly, the witness confirmed that because of paralysis, the Plaintiff's sexual incapacity is also permanent.

#### **Analysis of Evidence, Submissions, and Determination**

23. The parties did not file a joint list of agreed issues for determination but being aware of the courts mandate and in light of the pleadings filed, the evidence availed and submissions of the parties, I consider that the issues that need be determined are as follows: -

**a. Who, between the parties, is to blame for the accident, and to what extent?**

**b. What is the quantum of damages, if any, payable under the various heads?**

**c. what orders should be made as to costs?**

#### **The Question of liability**

24. On liability, the defendant makes two contentions in the written submissions filed. First, that the Plaintiff did not prove that the Defendant's driver was to be blamed for the accident and secondly, that the Plaintiff was unable during trial to prove any of the particulars of negligence levelled against the Defendant's driver or even support them with any evidence both in his pleading and during trial. On the first issue, Ms. ADWAR Learned counsel argued that no charge sheet and or any police abstract was produced to the effect that the defendant was blameworthy just as much as no police file was produced in support of the allegations that the defendant made a sudden U-turn leading to the accident with PW2, **P.C Jonathan Bartio**, admitted that he was not the investigating officer in the matter and could not say much on how the accident occurred.

25. On the part of the plaintiff, **Ms. Shariff** submitted that PW2 confirmed the Plaintiff's testimony and told the Court that from the police O.B records, the accident was occasioned by the Defendant's driver who made a U-turn in the middle of the road and reversed in the process caused the said accident. She then added that even though PW2 was not the investigating officer, his evidence remained that the occurrence book entry no. 9/30/8/2014 assigned the blame to the Defendant's driver for causing the accident for which reason the Defendant should be held vicariously liable for the accident.

26. This being an action for negligence, like in all civil litigation, the burden is always on the Plaintiff to prove that the accident was caused by the negligence of the Defendant. If, however, in the course of trial there is proved a set of facts which raises a prima facie inference that the accident was caused by the negligence on the part of the Defendant, the issue will be decided in the Plaintiff's favour unless the Defendant provides some answer adequate to displace that inference. That that juncture it is said that the evidentiary burden shifts after the burden of proof is discharged. See **Nandwa vs. Kenya Kazi Ltd (1988) KLR, 488**

27. In the present case, the Plaintiff to the court's satisfaction that the Defendant's driver caused the accident by making an abrupt U-turn in the middle of the road and reversing onto the road thus knocking him down. That evidence was corroborated by the evidence of PW2 who confirmed that indeed the accident was as a result of the Defendant's driver making a U-turn and reversing on the road. On the other hand, the defence evidence is that the defendant being the owner of the suit motor vehicle, employed DW1 as a driver and on the material day the driver was in the cause of his duty as such driver when the accident occurred. PW3 exhibited a copy of records for the accident vehicle dated 18.6.2015, which showed that the Defendant was the registered owner of the subject motor vehicle. The ownership of the vehicle is therefore established and undisputed. The drivers position as an agent of the owner is established and not disputed just like the occurrence of the accident. What must be decided, from the rival evidence by the two sides is who between the two is more credible than the other. In his evidence, he confirmed to have been driving at 30 K.P.H from **Bamburi to town** when through his side mirror, he saw a cyclist approach from behind at a high speed and ridding in a zigzag manner and suddenly hit his vehicle from behind. However, in his written statement, filed in the Defendant's lists of documents dated 27.8.2015 ,he put it as follows:

**“...at about 08:30 am I was driving a motor vehicle KBG 589M Nissan Matatu from Mombasa going to Bamburi and on reaching Mwandoni, I had a bang from the rear, i stopped and on checking saw a Motorcycle had hit the matatu I was driving from the rear. I stopped and called the owner of the vehicle who told me to report the matter to Dog Section...”** (Emphasis supplied)

28. In cross-examination by Ms Sharriff, DW1 could not produce the driving license he possessed at the time of the accident and admitted the contradiction in the account of how the accident occurred as disclosed in the two statements showed to court to have been made by him. In fact, he flatly denounced one of the statements which was aligned to his oral evidence and adopted the one which said he was driving from town towards Bamburi and not the other way round. In my view, DW 1, contradicted himself in such a fundamental way that he is incapable of any credibility. I find that his evidence is evasive if not an entire conjecture.

29. That state of evidence by the defence when juxtaposed against the evidence by the plaintiff which I have held was within balance of probabilities, leave no option to the court but a conclusion that the plaintiff evidence stood uncontroverted and the defendant was wholly to blame for the accident. I find that the defendant's driver failed on his duty to exercise due care, attention and lookout while driving the subject motor vehicle. that failure is sufficient proof of negligence for which the defendant is vicariously liable. I therefore find and hold that the Plaintiff evidence establishes on a balance of probabilities that the accident was caused by the negligence on the part of the Defendant.

30. I further find that the Defendant's allegations that the Plaintiff was speeding and riding under intoxication his motor cycle in a zigzag manner was not proved at because the alleged intoxication was not captured by the primary treatment documents from **Sayyida Fatimah Hospital**. Consequently, I find that the Defendant is 100% liable for the accident and the resultant injuries and damage occasioned to the Plaintiff.

### **Quantum of Damages**

31. In the plaint, the remedies sought, beyond costs and interest, are; special damages in the sum of Kshs 158,855/ general damages, I presume, for pain suffering and loss of amenities, loss of income and future at Kshs 80, 000 per month, costs of an aid at Kshs 10, 000 per month, cost of future treatment at Kshs 104,000 as well as costs of motorized wheelchair at kshs. 120,000 and maintenance thereon, all calculated from date of accident till date of judgment.

32. I propose to deal with and consider the prayers in a seriatim manner and the order set out in the plaint.

### **Special Damages**

33. The Plaintiff availed receipts for hospitalisation, clinical procedures and drugs. I have carefully perused the same and they add up as follows:

a) Coast Province General Hospital Mombasa	Kshs. 109,487/=
b) Sayyida Fatimah hospital.....	Kshs. 22,465/=
c) Pharmacies.....	kshs. 8,370/=
d) CT scan.....	Kshs. 22,500/=
e) Medical report.....	kshs. 7,000/=
f) Copy of records.....	kshs. 2,000/=
g) P3 form.....	kshs. 1,000
<b>TOTAL</b>	<b>172,822/=</b>

34. Even though that sum was strictly proved by documents, the court cannot award what was not specifically pleaded. The sum pleaded and particularised at paragraph 6 of the plaint, and the sum the court can award according to the law, is **Kshs 158,855/=**. For that sum judgment is entered for the plaintiff against the defendant.

### **General damages**

35. The enduring principles on award of damages remains that comparable injuries should attract comparable awards<sup>[1]</sup>, that the sum awarded as damages should compensate the injured without appearing to enrich him<sup>[2]</sup> or punish the wrongdoer<sup>[3]</sup> and lastly that the award should remain at a level which does not injure the economy and the body politic<sup>[4]</sup> even though such caution ought to give regard to the ever present inflation and its erosion on the value of money<sup>[5]</sup>.

36. In assessing and awarding general damages for personal injury, the court consider the nature and extent of the injuries pleaded and proved together with the residual effects upon the claimant. Here, the injuries of the plaintiff as pleaded and proved by oral evidence and the produced medical documents including the medical report by Dr. S. K. Ndegwa dated 15.6.2015 revealed *Severe spinal injuries involving; Compression of the spinal cord at T11 causing paralysis at the level and stool and urine incontinence; Compression fracture of the thoracic spine number 11; Anterior displacement or dislocation of thoracic spine 10 over 11; Fracture of the first cervical vertebra; Fracture of the second cervical vertebra and ortoid process leading to cervical kyphosis; Displaced fracture of the left scapular. Severe chest injuries involving: Bilateral lung contusions; Bilateral hemo-thorax; Left sided sterna-clavicular dislocation.* Both Dr. Ndegwa and Dr. Leah Wainaina in their medical reports and testimonies in Court, confirmed that the Plaintiff is permanently disabled having been paralysed from his mid back downwards and is unable to perform basic chores including the enjoyment conjugal rights and therefore, he cannot sire children in future. Both assessed disability at 100%. I consider the injuries to be grave and debilitating with indeed with devastating effects on the plaintiff's quality of life for the remainder of his life. Having taken all into consideration, I consider that I need to assess damages under the following heads; -

### **Pain and Suffering, loss of amenities and consortium:**

37. For pain and suffering the award is made in consideration of the amount of pain and suffering the Plaintiff underwent and any

deprivation suffered in the enjoyment of usual amenities of life which determine ones quality of life. I consider the amenities of life to consist of the mundane activities like being able to walk, bathe, eat or just dance unaided but also transcend to the greater ideals perpetuation of the humankind by procreation. The award is to compensate for the physical and mental distress undergone by the Plaintiff occasioned by the bodily injuries even though it must be born in mind that no amount of money can restore a physically deformed body.

38. In the filed submissions, the Plaintiff proposed the sum of Kshs 6,000,000/= under this head while the Defendant proposed a sum of Kshs 1,500,000/= would be appropriate and this head. Both cited decisions in support of respective positions. I have had the benefit of reading those submissions and the cited decisions which I shall take into a court as guides but not binding because assessment of damages must remain resident in the discretion of the court. Having read the decisions in **JOHN HUGO KINYAKI v. CMC MOTORS GROUP LTD & ANOR, Nairobi HCCC No. 1366 of 1997**, **Cosmas Mutiso Muema vs Kenya Road Transporters Ltd & Another HCCC No. 285 of 2016** and **Ngure Edward Karega –vs- Yusuf Doran Nassir (2014) eKLR** cited by the parties in which varied awards were met at different times by different courts. In applying my mind to what would be a reasonable award, while taking into account the incidence of inflation and the plaintiff's overall conditions inflicted by the accident, I do award to the plaintiff the sum of Kshs. 6,000,000 for general damages.

#### **Loss of Amenity and Consortium:**

#### **Loss of income**

39. Loss of earnings or income is a special damage claim, and it is trite law that special damages must be pleaded and strictly proved. Where there is no evidence regarding special damages, the Court will not act in a vacuum or whimsically. In **S J v FrancESCO Di Nello & another [2015] eKLR** the Court of Appeal held that:

**“Claims under the heads of loss of future earnings and loss of earning capacity are distinctively different. Loss of income which may be defined as real actual loss is loss of future earnings. Loss of earning capacity may be defined as diminution in earning capacity. Loss of income or future earnings is compensated for real assessable loss which is proved by evidence. On the other hand loss of earning capacity is compensated by an award in general damages, once proved.**

40. From the above-cited authorities, loss of income and/or future earnings must be pleaded and proved as they are in the nature of special damages. Nevertheless, the Court of Appeal also cited with approval the decision of **Apaloo, J.** (as he then was) in **Wambua v Patel & Another [1986] KLR 336**, where the Court had found the Plaintiff had not kept proper records of what he earned but stated:

**“Nevertheless, I am satisfied that he was in the cattle trade and earned his livelihood from that business. A wrong doer must take his victim as he finds him. The Defendants ought not to be heard to say the Plaintiff should be denied his earnings because he did not develop more sophisticated business method” .... But a victim does not lose his remedy in damages because the quantification is difficult.”** See also **Jacob Ayiga Maruja & Another vs. Simeone Obayo [2005] eKLR** for the proposition that the proof of ‘*profession of a person must be by production of certificates and that the only way of proving earning is equally the production of documents*’.

41. At trial, the plaintiff never produced any document or indeed oral evidence from a third party on which the figures he claims for loss of income and future earnings are predicated being content with an alleged income of Kshs 80,000/- or Kshs 50,000 as a carpenter. While, documents are not the only way to prove a profession or income, in this case even a customer of the plaintiff could have attended to tell court that he was indeed a carpenter. In the absence of proof of income and profession, even the application of minimum wage become unrealistic. I find the claim not proved and decline to make any award.

#### **Future Medical Costs**

42. It is well established that future medical expenses also take the face of special damages but are awarded as general damages. In **Kenya Bus Services Ltd v Gituma [2004] EA 91**:

**“And as regards future medication (physiotherapy) the law is also well established that, although an award of damages to meet the cost thereof is made under the rubric of general damages, the need for future medical care is itself special damages and is a fact that must be pleaded, if evidence thereon is to be led and the Court is to make an award in respect thereof. That follows from the general principle that all losses other than those which the law does contemplate as arising naturally from the infringement of a person's legal rights should be pleaded.”**

43. According to the evidence by the two doctors who testified, the Plaintiff would need a good motorized wheelchair every five years at the cost of Kshs 120,000/=with an annual maintenance of Kshs. 500 x 25 =12500 and a half-life of 25 years. In the said twenty-five years, he would require five (5) wheelchairs at the cost of Kshs 600,000. /=. According to the same testimonies, the Plaintiff requires diapers, condom catheter and urine bags at regular interval. The evidence of DW was more explicit in this regard when the witness said;

**“physiotherapy would cause between 1000, and 2000 per session per day and he would need weekly sessions**

**For diapers he need about 3 per day thus 90 per month**

**For catheters he need about one per day and one costs Kshs 50**

44. These are claims that were never specifically pleaded in the plaint put evidence was led on them in a manner to suggest that the parties had let same for the courts determination. I will thus take that evidence into account, having been given freely by both sides and hold that

owing to the nature of the plaintiff's injuries, future medical expenses are inevitable. I chose a global sum of Kshs 2,500,000 under this head.

45. There was a specific prayer for an aid or helper at Kshs 10,000 per month. According to Dr. Ndegwa, a helper to assist the Plaintiff in moving around will be paid Kshs 10,000/- per month and a sum of kshs 104,000/= per year from the date of the accident for the plaintiff expected remainder of life. In addition, DW2 was of the view that a helper would cost between Kshs 10,000 and 20,000 per month. I find the sum of kshs 10,000/= per month as reasonable and that the plaintiff would require Kshs 10,000 for 25 years and arrive at Kshs 3,000,000/=.

**Disposition**

46. The upshot is that I find and enter judgment on liability against the Defendants at 100% and award damages as follows:

a) General damages for pain and suffering and loss of amenities	Kshs. 6,000,000/=
b) Costs of a helper.....	Kshs. 3,000,000/=
c) Damages for future treatment.....	Kshs. 2,500,000/=
d) Motorized wheelchair.....	Kshs. 600,000/=
e) Cost of annual maintenance of the wheelchair.....	Kshs. 12,500/=
f) Add Special damages	Kshs.158,855/=
<b>Total Kshs</b>	<b>Kshs <u>12, 271,355/=</u></b>

47. The Plaintiff shall have the costs of the suit, plus interest on items a), b) c) & e) at Court rates from the date of this judgment while interest on f) will be calculated from the date of the suit.

**Dated, signed and delivered via Microsoft Teams This 30<sup>th</sup> day of April, 2021.**

**P.J O OTIENO**

**JUDGE**