



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT NAIROBI**

**CIVIL SUIT NO. 468 OF 2013**

**MARY WAITHIRA KARIUKI.....PLAINTIFF**

**VERSUS**

**NATION MEDIA GROUP.....DEFENDANT**

**JUDGMENT**

1. The Plaintiff MARY WAITHIRA KARIUKI claims from the Defendant NATION MEDIA GROUP that *on 23rd April, 2013 in its news bulletin of 8.00 pm the Defendant through its brand QTV Channel broadcasted and published of and concerning the plaintiff the following defamatory words* under the following heading ‘YALIYOJIRI MAJIMBO TOFAUTI’ (TRANSLATION:“OCCURRENCES IN VARIOUS COUNTIES)”the following words and images defamatory of the plaintiff.

COMMENTATOR:

*“ Kwingineko Kayole Catherine Wanjiru ametoa kilio Cha haki tangu alhamisi wiki iliyopita baada ya Kukamatwa kwa mwanawe na polisi. Imedhibitishwa Na maafisa was polisi kwamba kijana kuyo Felix Muiruri amewekwa kizuizinii katika nyumba ya Watoto ya Kitathuru baada ya kumng’oa msichana Mmoja meno”(TRANSLATION: Elsewhere in Kayole Catherine Wanjiru has cried for justice since Thursday Last week after the arrest of her child by the police. It has been confirmed by police officers that the boy Felix Muiruri has been incarcerated at Kitathuru Children’s home after he knocked out another girls Teeth).*

(Film of a flat in a residential area with a crowd of onlookers gathering below the flat. A picture of young boy purportedly Felix Muiruri wearing a school uniform and sign board of Kayole Police Divisional headquarters, Kitathuru Children’s Home, police truck and Catherine Wanjiru is also shown.) Then the above live broadcast was followed by (A picture of a woman purportedly Catherine Wanjiru narrating her story is shown. There is a caption below with Catherine Wanjiru name. A QTV microphone is being held for her) saying-

*“ Kuna mmama mmoja anasemanga amepigiwa mtoto na huyo mmama....huyo mama ndio alikuja hapa na polisi mmoja wa huko Soweto. Vile alikuja akaniambia niwapatie pesa ama waende na mtoto wangu....sa misi sikuwaambia kitu....ju sikuwa na pesa....after hapo sijawahi muona kutoka Thursday. Nimemtafuta nimerudi huko Soweto sijampta na pia huyo polisi sijampata” ( TANSULATION: There is a certain woman who usually says her child has been beaten and that woman.....That woman came here with a police officer from Soweto. When she came, she told me that I give them money or they go with my child...now I never told them anything.....because I never had money ....from there I have never seen him since Thursday. I have looked for him, I have gone back to Soweto I have not found him and even that police officer I have not found him).*

2. The plaintiff further pleaded that on 24th April, 2013 in its news bulletin of 7.00 pm in NTV Channel broadcasted the defendant through its brand and/or channel NTV under the heading NAIROBI MTOTO ALIYEZULIWA NA POLISI (TRANSLATION:“NAIROBI CHILD WHO HAS BEEN DETAINED BY THE POLICE“) broadcast and published the following words and images defamatory of the plaintiff:

ANCHOR:

*Kijana was miaka minane alikamatwa katika mtaa wa Kayole na kuwekwa seli kwa muda was siku tatu. Kisha Mtoto huyo alifikishwa katika mahakama ya watoto Milimani kwa madai ya kumng’oa mwenzake meno Walipokuwa wakicheza . Mwanahabari wetu Sharon Barang’a ana maelezo zaidi.” (TRANSLATION: An 8 year Old boy was arrested at Kayole state and out in the cells For a period of 3 days. Later the child was arraigned in Court for allegedly knocking out his colleagues teeth when They were playing. Our reporter Sharon Baranga has further Details). ( A film of 2 women who appear worried leaning on a slub. The caption “ MTOTO ALIYE ZULIWA NA POLICE “ has now been edited to include the words ALIKAMATWA KWA KUMNG’OA MWENZAKE MENO”( TRANSLATION: HE WAS ARRESTED FOR KNOCKING OUT HIS COLLEAGUE’S TEETH).*

COMMENTATOR:

*“ siku ya alhamisi wiki iliyopita haitasahaulika kwa mama mmoja Anaye julikana kama Catherine Wanjiru” ( TRANSLATION: Last Week Thursday will be an unforgettable day for a certain lady Known as Catherine Wanjiru).*

*( A film of a flat with clothes hanging out on the balcony. A crowd of on looking gathers below the flat was also shown).*

COMMENTATOR:

*Siku hiyo Catherine alimwacha mwanawe Felix Muiruri wa Miaka minane acheze na wenzake na haikupita muda mrefu Wageni ambao hakuwatarajia.”(TRANSLATION: That day Catherine left her son of 8 years to play with his colleagues And it did not take a long time before she received unexpected visitors).*

*(Film of lady purportedly Catherine is shown while she is narrating of the events which occurred to a QTV microphone)*

*“ Vile alikuja wakaniambia niwapatie pesa ama waende na mototo wangu. Sami Sikuwaambia kitu juu sikuwa na pesa”. (TRANSLATION: When she came they told me to give them money or they go with my child. Now I never told them anything because I did not have money).*

COMMENTATOR: *“ Baada ya hapo kijana wake alipotea na alipojaribu kuuliza polisi aliarifiwa hajaonekana”.(TRANSLATION: After that her son went missing and when she tried to inquire at the police she was informed he had not been seen).*

*( Film of Catherine narrating her story resumes)*

*“Nimemutafuta nimerundi huko Spoweto sijampata, na pia huyo polise sijampata”. (TRANSLATION: I have searched for him I have gone back to Soweto I have not found him, and I have also not found that police officer.”)*

COMMENTATOR: *“ Kulingana na mamake Felix mtoto alikamatwa baada ya Kudaiwa kuwa alimng’oa mwenzake meno wakati wakicheza.”*

(TRANSLATION: “ According to Felix’s mother the child was Arrested after it was alleged that he knocked out his Colleague’s teeth when they were playing.”)

( A blurred film of a young boy purportedly Felix Miruri narrating how the events took place)

“ Vile tulikuwa tunacheza....huyo huyo kulikuwangana mwizi ameiba simu aka..akaanza kukimbizwa.....vile akakimbizwa aka..aka akaanguha mtoto huyo mtoto akaanguka . Sasa mama huyo....brother ya huyo mtoto akakuja akashika wawili wetu. Hawa wawili waka... walichapwa sa vile walichapwa kesho yake tukapelekwa kwa chief”. ( TRANSLATION: “ When we were playing....that that ...there was a thief who had stolen a phone he started being chased.... When he was being chased he...he knocked down the child, the child fell down... now the woman ...the child’s brother came and caught two of us. These two were...were beaten now when they were beaten the next day we were taken to the chief”).)

COMMENTATOR: “Lakini Felix hakuwa pekee. Alikamatwa pamoja na watoto Wengine ambao wazazi wao walitoa pesa za kugharamia pesa Sa hospitali. ( TRANSLATION: “ But Felix was not alone. He was arrested together with other children whose parents removed Money that catered for the hospital expenses.”)( A film of a lady purportedly one of the parents whose child was arrested standing besides Catherine narrating her story of what transpired).

“ Tulitoa elfu kumi, nikamwambia mama huwezi ku...kuongea na sisi kama wazazi na wewe ni mzazi? Mama akasema, kama mnataka tumalize hii kesi mtatoa kila mzazi elfu kumi kumi tuliongea kwa chief. Nikamwambia mi niligharamia Kenyatta na elfu yangu tatu. So unataka nikuongezee elfu saba? Akasema ndio. Mama huyu akasema yeye hana chochote.”( TRANSLATION: “We removed ksh 10,000/-, I told the lady you can’t talk to us as parents and you are a parent? The lady said, if you want us to finish this case you will remove each parent 10,000 we spoke of at the chief. I told her I catered for the expenses at Kenyatta with my 3,000. So do you want me to add you 7,000? She said yes. This lady said she never had anything.”)

( A film of a police officer narrating the events which took place)

“ Ndiyo hiyo kesi ilienda katika Soweto police station. Na basi huyo kijana akachukuliwa na polisi...na basi katika juhudi ya police kutafuta vile anaweza kuwa accompanied na mzazi wake alikataa kata kata kuandamana na polisi. Basi mtoto peke yake akawekwa ndani.” (TRANSLATION: “ That case went to Soweto police station. And then this boy was taken by the police....and in the efforts of police looking as to how he can be accompanied with the parent who completely refused to accompany the police. Then only the child was put inside.”)

( A film of a board of Kayole Police Station Division Headquarters)

COMMENTATOR: “ Ilibainika kuwa kijana huyo alizuiliwa polisi jumapili alipofikishwa katika Mahakama ya watoto ya Milimani. Kisha alipelekwa katika makao ya watoto Kitathuru. “ Sharon Barang’a NTV(TRANSLATION: “ It was later discovered that the boy had Been in custody until Sunday when he was taken to Milimani Children’s Court. Later he was taken to Kituthuru Children’s Home. Sharon Barang’a NTV”).)

ANCHOR: “ Bila shaka ni taarifa ya kustaajibisha mzazi kuhakikisha kwamba mtoto wa mwenzake anaingia korokoroni siku tatu kwa kummng’oa mtoto wake jino. Bila shaka kuna njia za kuwaadhibu watoto au kuwasemesha wazazi kukomesha visa kama hivyo.”(TRANSLATION:” There is no doubt that this is information that is both surprising and worrying seeing a parent ensuring a fellow parent’s child is incarcerated for 3 days for knocking out her child’s tooth. There is no doubt there are other means of disciplining children of scolding parents to curb scenario such as this).

3. The plaintiff further pleaded that on the same day in its 9.00 pm bulletin in NTV the Defendant through its brand and /or channel NTV broadcast published under The heading caption “ CHILD ABUSE? “ The following words and images Defamatory of the plaintiff.

ANCHOR: “ Let’s look at an incident that could attract the attention of children Rights Advocates. Police in Kayole arrested and detained an 8 year old in the cells on allegations of hurting a playmate. The boy’s mother claims that she did not know her child’s whereabouts for 3 days. A police did confirm detaining the boy.”

(A film of 2 ladies leaning on a wall looking clearly distraught and worried. The Caption below that reads child abuse has been edited to the words “8 year old Detained in police cells.”)

COMMENTATOR: “Just like any normal day Catherine Wanjiru permitted her son Felix Muiruri to go and play with his friends. Little did she know that the events of the day would haunt her as she would be separated from her son for a period of 4 days. A few hours after she released her son, she received some unlikely visitors with a chilling message.’

( A film of a lady with a caption Catherine Wanjiru narrating her story as to what Allegedly transpired. AQTV microphone is held as she speaks) “ Vile alikuja akaniambia niwapatiepesa a ama waende na mtoto. Sa misikuwaambia kitu ju sikuwa n apes”. ( TRANSLATION: “ When she came she Told me I give them money or they go with my child now I did not tell them Anything because I did not have money.”)

( A film of a crowd of people gathered under a block of flats)

COMMENTATOR: “ What followed later was an endless search for her son. A Search that took to a nearby police station but I was told her son wasn’t there.”

( The picture reverts to the film of Catherine Wanjiru narrating her story.) “ Nimerufuta nimerudi huko Soweto sijampata.” (TRANSLATION: “ I have Searched for her, I have not found her . And I have also not found the police officer)

COMMENTATOR: “ According to Catherine the boy was arrested together with other children after they were accused of hurting another child while they were playing.”

( A blurred film of a young boy purportedly Felix Muiruri narrating the incident as It allegedly occurred).“ Vile tulikuwa tunacheza...huyo kulikuwangana mwizi ameiba simu aka...akaanza Kukimbizwa...vile akakimbizwa, aka...akaangusha mtoto. Huyo mtoto akanguka. Sasa mama huyo ...brother ya huyu mototo akakuja akashika wawili wetu. Hawa Wawili waka...walicha ...walichapwa sa vile walichapwa kesho yake tukapelekwa Kwa chief.”(TRANSLATION:” When we were playing ...that that ...there was a chief Who had stolen a phone he started being chased...when he was being chased he ..he knocked down the child, the child fell down....now that woman...the child’s Bother came and caught 2 of us. These 2 were...were beaten now when they were Beaten the next day we were taken to the chief.”)

( The picture reverts to the picture of the 2 women shown earlier. The caption CHILD ABUSE? Has been edited to include BOY ALLEGEDLY BEAT UP PLAYMATE

COMMENTATOR: “some parents of the other children co-accused with Felix bailed the children out and also paid the hospital bill for the child who was hurt. But Felix’s mother didn’t have the money.” (Film of another woman standing besides Catherine Wanjiru narrating how they Paid for the beaten child’s medical expenses. The lady

narrates her story through QTV microphone. The caption later reveals her name as Veronica Wambui)“ Tulitoa elfu kumi nikawambia mama huwezi ku...kuongea na sisi kama wazazi na Wewe ni mzazi? Mama akasema , kama mnataka tumalize hii kezi mtatoa kila Mzazi ile elfu kumi kumi tuilongea kwa chief. Nikammwambia mi niligharamaia Kenyatta na elfu yanf=gu tatu. So unataka nikuongezee elfu saba akasema ndio.Mama huyu akasema yeye hana chochote.”(TRANSLATION: “ We removed the 10,000 . I told the lady you cannot talk to us as parents and you are a parent? The lady said, if you want us to finish this case you will removed each parent 10,000 we spoke of at the chief. I told her I catered for the expenses of Kenyatta with My 3,000 . So do you want me to ass you 7,000? She said yes . This lady said she Never had anything)( The picture changes and badge of Fibiias Karanja Kenya police is shown . The said Police officer proceeds to narrate the version of events as they had transpired Through QTV microphone).

COMMENTATOR: “ Police superintendent Fibiias Karanja of Kayole police station Had this to say>”“ Ndiyo hio kesi ilienda katika Soweto police station. Na basi huyu kijana Akachukuliwa na polisi...na bas..katika juhudi ya polisi kutafuta vile anawezaKuwa accompanied na mzazi wake akikataa kata kuandamana na polisi. Basi mtoto Peke akawekwa ndani” ( TRANSLATION: “ Yes that case went to Soweto police stationAnd then this boy was taken by the police and in the efforts of the police looking as To how he can accompanied with the parent who completely refused to accompany The police. Then only the child was put.( Picture changes to a building with 2 people standing outside and a police vehicle Parked outside. Later the sign board of Kayole police Division headquarters is also Shown)

COMMENTATOR: “ The young boy was taken to Milimani Children’s court then to Kitathuru Children’s Home. Sharon Barang’a NTV.”Head

4. The plaintiff averred that the above reproduced broadcast words and images referred to her in the natural and ordinary meaning and were understood to mean that; she abused and had abducted the child; that she is a person of unconscionable morals as she was trying to benefit from the child's misfortunes; she is an extortionist; that she kidnapped and or abducted the child yet the child's mother knew where her son was; that she is an irresponsible parent who does not know how to resolve domestic issues; that she is a corrupt person as she had colluded with the corrupt police officers to extort money from the parents of the children who hurt her child; that she is a criminal and that she is dishonest and deceitful.

5. The plaintiff stated that the publication was full of falsehood since she on 5<sup>th</sup> March, 2013 made a report at the Chief's camp in Kayole that 5 boys namely, Felix Muiruri, Fidrous Odhiambo, Titus Akengo, Martin Kamau and Charles Kairu had assaulted her daughter and later reported to the Soweto Police Station and the said boys were arrested. She stated that the news broadcast was actuated by malice since the publishing of the news segments were done without seeking her comments and clarification from her on the accusations; publishing the said segments while knowing that they were libellous and proceeding with the publication having established that the prospect of material advantage in publishing the said words outweighed the prospect of material loss. She alleged that the said publication was made in a sensational manner and with a recklessly misleading headline; that prior to the publication on 23<sup>rd</sup> April, 2013, she received a phone call from one of the Defendant's reporters seeking to know more about the incident but that the said reported never showed up as agreed; that the Plaintiff went to give her story to the Defendant on 25<sup>th</sup> April, 2013 so that a retraction could be made to no avail. She averred that the said publication has occasioned her psychological distress and has had to move to another neighbourhood.

6. She sought general damages, aggravated and or exemplary damages, special damages of KShs. 5,800/=, an order compelling the Defendant to publish an unequivocal apology and retraction to her on its QTV and NTV channels at similar times and or similar programmes bearings equal prominence as the defamatory statements and costs and interest.

7. The defendant despite being served with summons to enter appearance on 15<sup>TH</sup> November, 2013

through S. Owino Head of Legal, neither entered an appearance nor filed defence to the plaintiff's suit and on 11<sup>th</sup> December, 2013 ex parte interlocutory judgement was entered against the defendant.

8. Jane Acham (PW1) who is a counselling psychologist with Women's Rights Awareness Programme testified for the plaintiff and stated that the Plaintiff was in a very bad emotional state at the time she was counselling her. That the Plaintiff broke down in their meeting and it is her 7 years old daughter who indicated that they were insecure at Kayole after being attacked by some young men who injured her. That the Plaintiff reported to the Defendant who instead highlighted the story in the negative. She produced a counselling report (P. Exhibit 1) to that effect.

9. The Plaintiff (PW2) testified on oath and narrated the publications as pleaded and produced a CD for the broadcast as P. Exhibit 2 and certificate to authenticate the video CD as P. Exhibit 3. She also produced photographs of her assaulted daughter as P. Exhibit 4 (a) and (b). She stated that after the assault, her daughter was treated at Mama Lucy Kibaki Hospital and produced (P. Exhibit 5 (a) to (d) treatment documents to that effect. She stated that she reported to Kayole chief's camp where she was issued with a P3 form (P. Exhibit 6). That she found out that the boy who had assaulted her daughter was called Felix Muiruri. That Felix's mother is the lady who was alleging that she did not know where her son was and that the plaintiff had demanded money from her. She stated that Felix was charged in Milimani Children Court Case No. 119 of 2013. she produced a charge sheet as Pex 4 She maintained that what was broadcasted concerned her and not any other person and lamented that the news was aired without interviewing her. She produced a letter P. Exhibit 7 with which she raised a complaint or rather concern on the publication with the Defendant and even send them photos of her daughter before and after the assault but that she did so in vain. That because she was being ridiculed that she abducted someone's child, she had to move houses. She stated that she has had to go for counselling and that she incurred a cost of KShs. 5,800/= to obtain the video CD from Synovate.

10. Dickson Ndicho Kariuki (PW3) testified that he lived in Kayole in the neighbourhood where the incident took place. He was the plaintiff's son and that he was at the balcony on the material day when he heard screams. That he went to the scene and found her sister going by the name Eunice bleeding. That he was shown the boys who had injured her and demanded that they take him to their parents. Shown the video clips, he stated that the boy who was saying that the girl was hit by a thief is one of the boys who assaulted his sister. That he was referring to him as the brother to the girl who arrested them and took them to the chief. He denied that there were thieves who were escaping.

11. Chief Inspector Hussein Abduba (PW4) who was at the material time stationed at Soweto Police Station recounted that on 5<sup>th</sup> April, 2013, the Plaintiff made a report on her daughter's assault by a young boy. Those investigations were conducted and the said boy, Felix Muiruri was charged in court. Shown the video clip, he denied that officers demanded money from the boy's mother. He stated that he was informed by the officers that the boy's mother was asked to accompany the police to the police station but she refused. PW 4 watched the video clips and stated that they did not accurately reflect what transpired. He affirmed that Felix's mother knew where her son was.

12. Corporal Peter Lempreg Cheron (PW5) from Soweto Police Station confirmed that the Plaintiff made a report of her daughter's assault on 5<sup>th</sup> March, 2013. He produced a certified copy of the Occurrence Book to that effect. He stated that the matter was investigated and Felix was charged on 19<sup>th</sup> March, 2013. He produced a copy of the OB as P. Exhibit 11 and charge sheet as P. Exhibit 2.

13. Kenny Otwere (PW6) who is the Assistant Chief of Kayole Central Sub-location recounted that the Plaintiff visited her office on 5<sup>th</sup> March, 2013 in company of 4 boys (Felix Muiruri, Martin Kamau, Fidelis Odhiambo and Newton Karanja) and her daughter. That she reported that the said boys had assaulted her daughter. He summoned the boys' parents with a view of resolving the matter amicably but the said parents said they could not pay the girl's medical bill since it was an accident. And that because the parents failed to agree, he referred them to Soweto Police Station. He stated that later, the Plaintiff came to him in company of a police officer and asked for directions on where one of the boys schooled. He stated that after the news broadcasting, many people called him to find out what had transpired and

that most neighbours knew that it was the Plaintiff that was being referred to in the broadcast.

14. George Okoth Abuor (PW7) who works with IPSOS Synovate as the Assistant Editorial Manager testified and explained that their mandate was among others to record Television and Radio station reports. He produced the video CDs as P. Exhibits 2A, 2B, 2C, 3 and the certificate to authenticate the said as P. Exhibit 8.

15. At the close of the plaintiff's case her advocate Mr Gomba filed written submissions and submitted authorities in support of her claim. I have given due consideration to the parties pleadings and submissions. The issues that emerge for determination are:

- a. *whether the Defendant published the words complained of.*
- b. *Whether the words published referred to the plaintiff and whether they were false.*
- c. *Whether the plaintiff's credibility and reputation has been injured.*
- d. *Whether the publication bore the defamatory meaning attributed to them in the plaint.*
- e. *Whether the words were published in good faith, in public interest without malice and whether the defence of qualified privilege would apply.*
- f. *Whether there was a notice of intention to sue or demand for an apology.*
- g. *Whether the plaintiff is entitled to damages and if so how much.*
- h. *Who should bear the costs of the suit?*

16. I will determine the above issued into two namely, whether the plaintiff proved that she was defamed and secondly if she is entitled to any damages and how much.

17. The Plaintiff was able to prove on a balance of probabilities that it is her who was referred to in the bulletin. It emerged from the evidence on record that her daughter had been assaulted by among others a boy named Felix Muiruri who was charged with the offence of assault. It is after the said Muiruri was arrested that the boy's mother made claims that her son had disappeared and that she did not know his whereabouts. Further, it emerged from the evidence of PW6 that the neighbours knew or understood that it was the Plaintiff that was being referred to in the bulletin to have caused the boy's disappearance. It is therefore clear that the bulletin referred to the Plaintiff and no one else. It must be noted that a defamatory article must not necessarily refer to one by name rather if an inference can be drawn from the surrounding circumstances that it refers to a certain person then that is enough proof just like in this case.

18. Secondly, from the evidence that was presented by the Plaintiff, and the documents she produced and her witnesses which I found credible and believable, it was established that the boy, Felix Muiruri was arrested by police officers and taken to Soweto Police Station and later charged in court with assaulting the plaintiff's minor daughter Eunice following interrogation at the Kayole Chief Camp. There is no evidence to the contrary. The information in the bulletin can therefore not be found to be true. It was further clear from PW6's evidence that neighbours were asking about what transpired. Secondly, PW1's evidence was that the Plaintiff suffered some distress as a result of the bulletin. She had to be cancelled and she had to move houses because she was labelled as an abductor. Clearly and considering that the said bulletin contained no truth, the plaintiff was defamed and as a result her reputation was injured.

19. Fortified by the case of **Mikidadi v. Khalfan & Another [2004] 2 KLR 496**, I am of the view that **no** defence or excuse could hold since the Defendant did not check whether the publication was factual. In libel, it is not enough to say that the libel was originated elsewhere and that the defendant merely repeated it. From the evidence on record, and the broadcasts which this court had the opportunity to view in court and reviewed during the writing of this judgment, the Defendant did not seek verification of the story from the Plaintiff, the police or the area Chief hence the Defendant was motivated by sensationalism of reporting a very juicy issue of child abuse which attracts the attention of viewers. The defendant is a national broadcaster and must have known that the broadcast was being viewed by the whole world. It even called on Child rights activists to take interest in the case and the unfolding events of outright child abuse. Due to the Defendant's carelessness and recklessness I draw an inference of malice and the defence of privilege though not on record would not stand.

20. On whether the plaintiff was entitled to any damages, in **Oyaro v. Alwaka T/A Weekly Citizen & 2 Others [2003] KLR 574** it was held that an action for defamation is essentially an action to compensate for harm done to his reputation and the Court will therefore take into account the Plaintiff's profile vis-à-vis what is published against him. Courts have been known to award exemplary damages where it is established that the Defendant's motive was purely financial and that the financial prospects of broadcasting a story which it knows to be false exceeds the potential financial costs in the event that they are found liable. Further the Court has discretion to award general and aggravated damages when circumstances permit and the plaintiff relied on **Machira v. Mwangi & Another [2001] 1 KLR 532, Ochieng & 8 Others v. Standard Limited [2004] 1 KLR 225, Kalya & Another vs. Standard Limited [2002] 2 KLR 665.**

21. In libel damages are at large and the discretion as to what to award is left to the Court. However in conserving the amount to award the Court takes into account the reputation of the plaintiff, the severity of the defamatory imputation, the extent of the publication and any aggravating/mitigating factors. There is no doubt that the bulletin was not aired once and further that no apology was tendered to the Plaintiff. Considering **Lucy Njiru v. Nation Media Group HCCC No. 835 of 2007** I find that an award of Kshs. 1,000,000 (1 Million) all inclusive of general and exemplary damages suffices. The Plaintiff is also awarded special damages of Kshs. 5,800/= pleaded and proved plus costs and interest of this suit. Interest at court rates on general damages to accrue from the date of this judgment until payment in full. Interest on special damages to accrue at court rates from the date of filing suit until payment in full.

22. **Dated, signed and delivered in open court at Nairobi this 8<sup>th</sup> day of December, 2015.**

**R.E.ABURILI**

**JUDGE**