



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

(CIVIL DIVISION)

CIVIL SUIT NO. 557 OF 2005

MARTIN KIDAKE

(Minor suing through mother and next friend

REBECCA ASEYO).....PLAINTIFF

VERSUS

WILSON SIMIYU SIAMBI.....DEFENDANT

JUDGEMENT

1. The plaintiff, **Martin Kidake**, brings this suit through her mother and next friend **Rebecca Aseyo** seeking General damages for pain suffering and loss of amenities, special damages, Costs of the suit and interest.
2. According to a further amended the plaint filed on 3rd July, 2012, on 12th May 2002 the plaintiff was lawfully walking along Luanda-Majengo Road in Nairobi when the Defendant's driver through his negligence knocked the plaintiff and injured him. The particulars of negligence and injuries were outlined in the said plaint. It was further pleaded that the plaintiff will require a further sum of Kshs 30,000.00 per year for a wheelchair, Kshs 600,000.00 for future surgery and physiotherapy and Kshs 347,000.00 for future medical treatment. It was further pleaded that the plaintiff would require Kshs 10,000.00 monthly for a minder.
3. On his part the defendant filed a further amended defence on 15th August, 2012 in which he averred that he was neither the owner nor was he in control, management or direction of the vehicle KAC 319P which was alleged to have been involved in the accident hence was unaware of the accident. He therefore denied any negligence on his part as well as the fact of injuries sustained by the plaintiff. The claim for special damages and the particulars thereof were similarly denied. He however pleaded that if such accident occurred then the same was caused or substantially contributed to the plaintiff's negligence and set out the particulars thereof. He also relied on the doctrine of *volenti non fit injuria*. According to him this suit is an abuse of the process of the court since the plaintiff had previously filed a suit between the same parties in CMCC No. 5069 of 2005 (Milimani) in respect of the same subject matter which suit was withdrawn though the costs therefor remain unpaid to date. He prayed that the suit be dismissed with costs.
4. On 9th February, 2011, the parties recorded a consent by which it was agreed that the plaintiff would shoulder 20% of liability while the Defendant would shoulder 80% and that the matter would proceed for the assessment of quantum of damages.
5. The first witness for the plaintiff who testified as PW1 was **Mr Washington Wokabi** He was a

holder of Bachelor of Medicine and Surgery and Masters of Medicine and Surgery. According to him, he examined the plaintiff on 6th June 2007 and prepared his report dated 11th June, 2007. In preparing his report he relied on the history given by the plaintiff's mother as well as the medical summary from Kenyatta National Hospital as well as previous reviews and Medical Report by **Dr Kiama Wangai**. According to him the plaintiff as a result of the road accident sustained severe head injury which caused him to go into a coma for 3 months but after he regained consciousness he remained severely handicapped mentally and physically. He also sustained a fracture of the right humerus. He was subsequently started on physiotherapy and rehabilitation and as enrolled in a special school. He lost the ability to speak, walk, hold objects and developed severe lack of coordination of both the upper and lower limbs.

6. According to his examination, the plaintiff was conscious but handicapped and could not walk without support. He had paralysis of both upper limbs but which was severe on the right side. All joints of the right upper and lower limbs were stiff and spastic. According to PW1, the plaintiff was severely mentally handicapped and could not be able to speak or verbalise and had no vocabulary. He could however see and hear and the fracture had united.
7. In his view, the plaintiff sustained severe brain damage with severe mental and physical handicaps and further improvements were unlikely and he would remain severely handicapped and would have to depend on others. He would not live an independent life and would never be able to have a family of his own. Chances of possible epilepsy were high. The fracture of the collarbone and humerus had healed well and with all factors considered the total disability was assessed at 100%.
8. Three years later PW1 examined the plaintiff on 21st July, 2010 and wrote a report dated 29th July, 2010. On interviewing the plaintiff's parents he was informed that the plaintiff's general condition had not changed and that his needs and challenges had increase. He had stopped going to the special school and required a minder to take care of him since he had to be fed, clothed, washed and taken to the toilet. In the doctor's assessment nothing had changed except that he was bigger. However his physical and mental capacities were still the same and he concluded that the plaintiff would not get better. However, due to improved care he would live to old age though he would require more resources and would benefit if confined to special home for the medically handicapped to be taught special skills and in an enabling environment. Alternatively he would require a minder at Kshs 10,000.00 per month, a wheelchair a Kshs 30,000.00. There was also room for possible surgery to make his bones softer ad straight for free mobilisation on the wheelchair or a frame at between Kshs 550,000.00 and Kshs 600,000.00. He charged Kshs 2,000.00 each for the reports and for the court attendance he claimed Kshs 5,000.00. PW1 produced the reports as exhibits 1(a), 1(b) and (a) respectively. He also produced the receipts as Exhibit 2(b) and 2(c) respectively. According to PW1, the complications are as a result of brain damage and the surgery is just to unhinge the joints to ease the plaintiff's mobility and comfort.
9. In cross examination by **Mr Mituga**, learned counsel for the Defendant PW1 stated that he relied on medical summaries from Kenyatta National Hospital. He however admitted that he overlooked the date of the accident in his report and that he was given the documents close to one year. After that there were no documents produced of the previous medical attention. He was however not provided with the initial medical treatment records from the Hospital. He stated that the medical report dated 1th June 2001 was given to him by the mother though he was unable to say the circumstances under which the mother obtained t same. The report dated 20th April 2006 which was before his medical report however indicated the plaintiff had a disability of 10% which assessment he disagreed with. According to him, he was not made aware of any intervening act. He said that the surgery will however not reduce the percentage but will only help in the mobility so that the plaintiff can be placed in the wheelchair and toilet easily.
10. In re-examination by **Mr Munyundo**, learned counsel for the plaintiff, PW1 stated that the findings of the earlier doctor was that the plaintiff had difficulty in walking, loss of speech, mental retardation, was unable to articulate the words, had contractures and increased muscle ton. In his view the conclusion did not make sense since the CT Scan showed brain atrophy.
11. PW2 was **Rebecca Aseyo**, the plaintiff's mother. He relied on her statements filed in this suit. According to the said statements on 12th May, 2002 she received a call from her husband informing her that the plaintiff had been knocked by a vehicle along Luanda-Majengo road and had been rushed to Mbale Hospital. On arrival there she found the plaintiff in a coma and arranged to have her transferred to Kenyatta National Hospital where it was confirmed that he had suffered

- severe brain damage. According to the witness they were advised to be taking him for clinical sessions which he attends to date. He was enrolled at Jacaranda School for the Mentally Handicapped in 2003 but dropped in 2009 due to lack of funds. According to her the plaintiff as a result of the accident is unable to take care of himself and requires a minder since he requires constant attention.
12. The witness stated further that the plaintiff was taken to PW1 for further evaluation and it was confirmed that he was severely handicapped both physically and mentally. The witness reiterated the finding of PW1 with respect to further medical expenses.
 13. In her oral evidence P2 testified that the plaintiff was taken to Vihiga District Hospital where he was admitted for three weeks as he was in coma. He had sustained injuries on the head, hands, neck and shoulder. Thereafter he was taken to Kenyatta National Hospital when still in a coma. Thereafter the plaintiff was undergoing physiotherapy. The accident was reported to Vihiga Police Station and a p3 form filled in. According to her the plaintiff's condition is not good since he cannot walk, feed himself or talk as the brain is severely damaged and he is paralysed. At the time of giving evidence on 14th December, 2012, the plaintiff was 14½ years old. She confirmed that the plaintiff was not born in the present condition but was normal at birth. His present condition was however as a result of the accident. According to her the plaintiff requires a wheelchair at the cost of Kshs 35,000.00 for 10 years and is required to go for operation at Kshs 600,000.00. He also requires a minder at Kshs 10,000.00 per month. In support of her the case PW2 produced the medical reports and the receipts as exhibits in this case.
 14. In cross-examination, she stated that before seeing **Dr Wokabi** the plaintiff saw **Dr Wangai** after leaving Vihiga Hospital. Dr Wangai, according to her wrote the report based on the medical documents from Vihiga Hospital after examining the plaintiff. She stated that she went to **Dr Wokabi**, PW1, with the documents from Vihiga. According to her, she used to have a helper who was looking after the plaintiff when she was at work at the cost of Kshs 8,000.00 per month.
 15. On 27th January, 2014 the medical reports of **Dr Maina Ruga** and **Dr M M Qureshi** were by consent admitted in evidence without calling the makers and the case was closed and the parties filed written submissions.
 16. According to the submissions filed on behalf of the plaintiff, the injuries suffered by the plaintiff rendered him a vegetable for all intents and purposes. According to the plaintiff the injuries were detected at Vihiga District Hospital and were confirmed at Kenyatta National Hospital as well as in **Dr Wokabi's** report. It was submitted that from the plaintiff's medical history it is clear that his condition cannot be alleviated. It was further submitted that the plaintiff produced receipts in support of the pleaded medical expenses amounting to Kshs 30,420.00 as well as the receipts for the medical reports. Since the plaintiff is growing and can no longer be carried by his parents it was submitted that he shall require the sum of Kshs 30,000/= every year to buy a wheelchair. However **Dr Wanyoike** put the cost of wheelchair at Kshs 45,000.00 for 10 years. It was submitted that for the plaintiff to live up to 60 years he would need 5 wheelchairs costing a total of Kshs 225,000.00. Based on **Jane Adhiambo Akwiri vs. Al Husnain Motors & Another [2011] KLR** and **Peris Onduso Omondi vs. Tectura International Ltd & John Musyimi HCCC No. 715 of 2002** it was submitted that the Court ought to rely on the latest report of **Dr Wokabi** and award a total of Kshs 1,350,000.00 at the rate of Kshs 30,000.00 per month for 45 years.
 17. It was further submitted that the plaintiff was based on the evidence of the plaintiff's mother and **Dr Wokabi's** evidence entitled to Kshs 10,000.00 per month for the minder based on the decision in **Nancy Oseko vs. Board of Governors Maasai Girls High School Nairobi HCCC No. 1718 of 2009** where the Court awarded Kshs 20,000.00 per month as costs of a minor who had less severe injuries. According to adopting the age of 60 years, it was submitted that the total award ought to be Kshs 5,400,000.00.
 18. With respect to the cost of future medical expenses it was submitted that applying the principle of restitution in integrum, the court ought to award Kshs 600,000.00 for future surgery and physiotherapy and Kshs 1,510,000/- being cost of back brace, right hand split and foot drop aversion and attendant medical expenses at the rate of Kshs 302,000.00 every ten years up to the age of 60 years.
 19. On General damages the plaintiff based on the decision in **Peris Onduso Omondi vs. Tectura International Limited & Another** (supra) urged the court to grant Kshs 9,000,000.00 for pain and suffering and Kshs 1,000,000.00 in respect of loss of earning capacity.

20. On behalf of the Defendant it was submitted based on **Hahn vs. Singh [1985] KLR 716** that special damages must not only be specifically claimed but proved strictly for they are not the direct natural and probable consequences of the act complained of and may not be inferred from the act.
21. With respect to medical expenses it was submitted that the plaintiff's evidence did not attribute the figure of Kshs 34,420/- claimed to any particular medical expenses but in the unlikely event that the court deems the receipts produced as constituting evidence of the medical expenses pleaded then a total sum of Kshs 19,050/- should be the figure to be awarded. It was further submitted that though Kshs 6,000/- was pleaded for medical re[port only Kshs 4,000/- was proved. As there was no proof for copy of the records and the police abstract, it was submitted that the claim in respect thereof should not be awarded.
22. With respect to the claim for wheelchair, it was submitted that there was no evidence that the plaintiff required the same. However in the event that the Court finds otherwise then the court ought to award the sum of Kshs 30,000/-. Relying on **Clerk & Lindsell on Torts (17th Edn) page 1431, 1432**, and **Kenya Bust Service Limited vs. Gituma, Civil Appeal No. 241 of 2000**, it was submitted that the need for future medical care is itself special damages and is a fact which must be pleaded. It was therefore submitted that the plaintiff is entitled to either a sum of Kshs 600,000.00 or Kshs 347,000.00 both pleaded as future medical expenses, if proved and not both. According to the defendant since the PW1 did not explain the basis for his opinion the Court ought to rely on **Dr Wanyoike's** report and award Kshs 347,000.00 less Kshs 45,000.00 being the cost of the wheelchair to make it Kshs 302,000/=.
23. With respect to the cost of a minder the court was urged to award Kshs 5,000.00 per month based on **Jane Adhiambo Akwiri vs. Al Husnain Motors (supra)**. On the claim for general damages it was submitted that based on the evidence on record the plaintiff ought to be awarded Kshs 1,000,000.00 based on **Jane Adhiambo Akwiri Case**.
24. I have considered the foregoing. A consent on liability having been recorded in this matter the only issue that falls for determination is the quantum of damages.
25. In this case although certain medical reports were produced by consent of the counsel for the parties, the only medical expert who was called to testify in this case was PW1. It is clear that the medical reports produced in this case were not similar and in fact in certain cases there were irreconcilable discrepancies such as with respect to the assessment of the degree of injury. In those circumstances it is my view that there would be no basis for the Court to ignore the evidence of a witness who was called to give evidence and was cross-examined on his evidence.
26. In **Kenya Breweries Limited vs. Abraham Lain Kisii HCCA No. 23 of 2003 Musinga, J** (as he then was) while relying on the Court of Appeal decision in **Mohamed Musa & Another vs. Peter M Mailanyi & Another Civil Appeal No. 243 of 1998** expressed himself as follows:

“Under section 35(b) of the Evidence Act the medical report ought to have been produced by the maker thereof. The plaintiff cannot expect the court to make an award without any basis. The court can only award a sum of money and, in justice to the defendant as well as to the plaintiffs, that sum must be commensurate with the injuries suffered. The onus lies on the plaintiff to adduce the evidence to enable the court make calculations or to reach a conclusion thereon otherwise the award cannot stand..... In this case the finding of the trial court cannot stand as the respondent, having failed to call the doctor who wrote the medical report, did not prove his case. He presented his case with a lot of assumption simply because the other side was not represented. Litigants must bear in mind that even in prosecuting cases *ex parte*, the required standards of proof must be observed, particularly where there is denial of material pleadings by any opposing party.”

27. Similarly, **Ringera, J** (as he then was) in **David Ndun'gu Macharia vs. Samuel K Muturi & Another Nairobi HCCC No. 125 of 1989** expressed himself as follows:

“The second issue is that it is only an agreed report that can properly be admitted in evidence without calling the maker. The mere exchange of medical reports does not render such report or reports admissible without calling the maker(s) unless one or both of them have been agreed. A direction that medical reports be exchanged is no more than an order

in the nature of mutual discovery of medical evidence. It must be understood that orders that a medical report be agreed and the same be admitted in evidence without calling the maker are made for the purpose, not of hindering the administration of justice, but of assisting it. If a judge is confronted with two or more medical reports which are inconsistent with one another and the doctors are not called, he is immediately embarrassed between the two views and the two statements. The whole object of the type of order is to ensure that matters of medical fact, and matters of medical opinion shall if possible be agreed by the medical men and that is the object and the sole object of orders of this kind, and indeed no order could achieve anything more. The practice was certainly never intended to admit of inconsistency and differing medical points of view being put before the judge and described as agreed medical reports. You cannot have an agreement on two inconsistent statements of fact, and the phrase “agreed medical report” means, and means only a report where the facts stated are agreed as true medical opinions expressed and accepted as correct. In the normal case in pursuance of an order of this kind, the doctors on the two sides would meet and embody their views in a document which they both may sign and that is very convenient, and would save a great deal of trouble and expense in many cases, but it is not to be understood that orders of this kind are to be made as a matter of course. It would depend very much on the nature of the case and the nature of the injuries, and whether it will save trouble and expense and in the long run by dispensing with the doctors at the hearing. On an interlocutory application some discretion must be exercised by the master who is making the order as to whether it will be a saving of expenses to make this type of order, but it must not be taken that is all that is necessary. The case may be one where the report of the first doctor is accepted by the other doctor. If on the other hand there are likely to be points of controversy, then if the agreement is to be completed they can only solve them by coming to an agreement, and if they cannot come to an agreement, there can never be an agreed report and that is the object of this procedure..... In short it is for the parties’ doctors (and not the parties themselves, or their advocates) to agree on a medical report and if the doctors have not agreed by either adopting one report or jointly authorising a single report there is no agreed report.”

28. It follows that the only competent evidence before me is the evidence of PW1 which was tested in cross examination. As was held by Warsame, J in Theodore Otieno Kambogo vs. Norwegian People’s Aid Nairobi (Milimani) HCCC NO. 774 of 2000:

“The fact that the defendant would not get an opportunity to cross examine the deponent greatly reduces the value and weight of that evidence. The court is not in any way saying that affidavit evidence is not good but is saying that the failure to test that evidence through cross examination may reduce its relevance or probative value to the person relying on the same.”

29. In Charles Agoi Sakwa vs. Fanuel Kifuna Angote & Another Civil Appeal No. 34 of 1997 the Court of Appeal held *inter alia* that a medical report cannot be impeached by evidence from the bar. Again in Arrow Car Limited vs. Elijah Shamalla Bimomo & 2 Others Civil Appeal No. 344 of 2001 [2004] 2 KLR 101 the same Court held that while a party is bound by his own pleadings, what the parties agree by consent to go on record cannot be ignored such as medical reports as there is no element of surprise. That statement however is subject to the qualification that the medical reports admitted by the parties are consistent or that a common medical report is agreed to be admitted by the parties. It does not in my view apply to situations where more than one medical report is produced without calling the maker(s) and there are glaring inconsistencies therein since there would be no basis upon which the Court would justifiably rely on one report while ignoring another report. Whereas it is appreciated that medical reports are like any expert opinion not binding on the Court it was held by the Court of Appeal in Juliet Karisa vs. Joseph Barawa & Another Civil Appeal No. 108 of 1988, that while medical evidence is entitled to the highest possible regard, the Court is not bound to accept and follow it as it must form its own independent opinion based on the entire evidence before it, such evidence like other expert evidence must not be rejected except on firm grounds.

30. According to the medical report dated 11th June, 2007 by PW1, the plaintiff sustained a major severe head injury and was in a deep coma subsequently for three months. After regaining consciousness he remained severely handicapped both mentally and physically. He also sustained a fracture of the right collarbone and fracture of the right humerus. As a result, he lost ability to speak walk and hold objects with his right upper limb. He also developed severe incoordination of his limbs both upper and lower.
31. According to PW1's findings the plaintiff was conscious but appeared handicapped and could not walk or stand unsupported. He had hemiparesis of the upper limb more severe on the right side and the joints on the right upper limb were stiff and spastic and had severe incoordination on the limbs. In his opinion the plaintiff was severely mentally handicapped and though he seemed aware of his surroundings he could neither speak nor verbalise and had no vocabulary though could see and hear. The doctor noticed signs of healed fractures of the right collar bone and right humerus.
32. In his opinion the head injury suffered caused very severe brain damage to an extent that he has been left with very severe mental and physical handicaps. In his view further improvement from the present status will not alter his general well being by much and that he will remain forever severely handicapped depending on others for his day to day needs with neither marital nor independent life. At the time of the said report although the plaintiff had not developed epilepsy the chances of developing the same were higher than normal. However the fractures of the right collar bone and right humerus had healed well without any deformity or disability. In the doctor's opinion the plaintiff's disability was assessed at 100%.
33. On 29th July, 2010 PW1 carried out a further examination of the plaintiff. By that time the plaintiff had stopped going to school due to inability to afford a wheelchair and instead had to be taken care of by a minder since he could not do anything by himself such as feeding, dressing and going to the toilet. According to the doctor the plaintiff had not changed except that he had grown in size. In his opinion the plaintiff's condition was likely to remain the same though due to improved health care he would be able to live to old age. He recommended that the plaintiff be under home care for the disabled where he could learn some skills. In his view the plaintiff would require a minder at Kshs 10,000.00 monthly and a wheelchair at the cost of Kshs 30,000.00. The surgery for spastic knees and elbows would require Kshs 550,000.00 to 600,000.00.
34. Accordingly I find that the plaintiff sustained the foregoing injuries.
35. The principles guiding the award of damages in these kind of cases are now well settled. In **Rahima Tayab & Others vs. Anna Mary Kinanu Civil Appeal No. 29 of 1982 [1983] KLR 114; 1 KAR 90**, the Court of Appeal stated that whereas in awarding damages, the general picture, the whole circumstances, and the effect of injuries on the particular person concerned must be looked at, some degree of uniformity must be sought, and the best guide in this respect is to have regard to recent awards in comparable cases in the local courts. It is eminently desirable that so far as possible comparable injuries should be compensated by comparable awards. The court has to strike a balance between endeavouring to award the plaintiff a just amount, so far as money can ever compensate, and entering the realms of very high awards, which can only in the end have a deleterious effect.
36. There is no doubt from the foregoing that the plaintiff sustained serious injuries to the head apart from the fracture of the collarbone and the humerus. In **Peris Onduso Omondi vs. Tectura International Ltd & John Musyimi HCCC No. 715 of 2002** I on 19th July, 2012 based on **Susan Wanjiru Njuguna vs. Keringet Flowers Ltd & 2 Others Nakuru HCCC No. 64 of 2001** awarded the plaintiff a sum of Kshs 3,000,000.00 in general damages for pain suffering and loss of amenities. In that case the plaintiff sustained a fracture of the tibia and suffered head injury resulting into loss of consciousness, blunt injury to the right hand and the loss of three upper frontal teeth, bruises. She was admitted at M P Shah Hospital for 3 weeks 3 days of which were spent in the Intensive Care Unit followed by further treatment at Kenyatta National Hospital. As a result the plaintiff has become very forgetful and absent-minded, and developed a staggering walk with inability to write properly coupled with an abnormal behaviour. She has also developed a slurred and incoherent speech with very poor co-ordination of the movements of the right hand hence inability to write as well as poor gait. As a result the plaintiff developed convulsions and was unable to take care of herself her education having been completely ruined.
37. In **Susan Wanjiru Njuguna vs. Keringet Flowers Ltd & Others** (Supra) the plaintiff sustained severe head injuries resulting in permanent brain damage, severe dislocation of the elbow joint,

- multiple lacerations on the dorsal surface of the right hand and bruises to the forehead. As a result of the severe brain damage the plaintiff in that case suffered loss of speech and hemiplegia or weakness of the right upper limbs. Although the plaintiff had been discharged from clinic he could not improve. The Court on 3rd July 2008 awarded Kshs. 3,000,000.00 in general damages for pain and suffering and loss of amenities.
38. Taking into account the injuries sustained herein and the inflationary tendencies and doing the best I can in the circumstances I award the plaintiff a sum of Kshs 3,500,000.00 as general damages for pain, suffering and loss of amenities.
39. Similarly based on **Peris Onduso Omondi vs. Tectura International Limited & Another** (supra) I award the plaintiff Kshs 500,000.00 for loss of earning capacity. Following in the footsteps of the decision in **Sosphinaf Company Limited & Another vs. Daniel Ng'ang'a Kanyi Civil Appeal No. 315 of 2001** I am satisfied that the plaintiff is entitled to an award of Kshs 550,000.00 for future surgery. With respect to the wheelchair neither in his report nor in his evidence did PW1 allude to the lifespan of a wheelchair. In my view 2 years is the more reasonable period based on **Jane Adhiambo Akwiri vs. Al Husnain Motors & Another** (supra). I however assess the cost of the wheelchair at the Kshs 30,000.00 and apply a multiplier of 50 years lifespan taking into account the fact that the payment would be in lumpsum which give the plaintiff a period of 35 years. Accordingly the plaintiff would be entitled to Kshs 30,000 x 17.5 = 525,000.00.
40. I find no difficulty in awarding Kshs 10,000.00 per month as the cost of a minder hence the plaintiff is entitled to Kshs 10,000.00 x 12 x 35 = 4,200,000.00. To this sum ought to be awarded Kshs 30,120.00 proved treatment expenses and Kshs 4,000.00 for the two medical reports making a total of Kshs 34,120.00. On the claim for court attendance by the doctor and police abstract it has been held that the Doctor's fees for attending court cannot be regarded as an item of special damages as it is more in the nature of the witness expenses to be considered in the bill of costs while Police abstract fee is a cost incurred in gathering evidence and as such is inappropriate for consideration as special damages. See **Joseph Mbiria vs. Jamlic Fredrick Kirimi Nairobi (Milimani) HCCC No. 866 of 2001.**
41. In the final analysis I enter judgement for the plaintiff against the defendant as follows:
- a. **General Damages for pain, suffering and loss of amenities....Kshs 3,500,000.00.**
 - b. **General Damages for loss of future earning capacity...Kshs 500,000.00.**
 - c. **Costs of future surgery Kshs. 550,000.00.**
 - d. **Special damages Kshs. 34,120.00.**
 - e. **Cost of the wheelchair Kshs 525,000.00**
 - f. **Cost of minder Ksh 4,200,000.00**
 - g. **Costs of the suit.**
 - h. **Interests on (a), (b), (c), (e) and (f) above at court rates from the date of judgement till payment in full. Interests on (d) at the same rate from the date of filing suit till payment in full.**
42. For avoidance of doubt this sum is to be discounted by 20% pursuant to the consent on liability entered herein.

Judgment read, signed and delivered in court this 10th day of April 2014.

G.V. ODUNGA

JUDGE

Delivered in the presence of Mr A Wasuna for Mr Munyundo for the plaintiff: