



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT MACHAKOS**  
**CIVIL CASE NO. 391 OF 2011**

BENSON MONDA MOUKO AND VERONICAH NYAMUSI MOUKO

**(Suing for and on behalf of the Estate of Dependants of**

MS. MARTHA MOKEIRA MONDA) .....PLAINTIFFS

VERSUS

1. MOHAMMED ABDALLAH ABDO

2. F.F. BUKHET .....DEFENDANTS

**J U D G M E N T**

1. By a consent dated 23/10/2013, liability was agreed at 20% against the Plaintiff and 80% against the Defendant. By further consent, the special damages and general damages were to be assessed by the court.
2. The following documents were produced for the Plaintiff by consent:-
  1. **“Letters of Administration – ‘Colligenda’.** – P/exhibit 1
  2. **Death Certificate** (Martha Mokeira Monda – P/exhibit 2
  3. **Burial Permit** - P/exhibit 3
  4. **Post mortem report** - P/exhibit 4
  5. **Police Abstract** - P/exhibit 5
  6. **Certificate of search from the Registrar of motor vehicles** - P/exhibit 6
  7. **Receipts for:-**
    - i. **Police abstract/postmortem** – P/exhibit 7 (a)
    - ii. **Legal fees for obtaining Letters of Administration** from O.H. Momanyi & Co. Advocate and court – P/exhibit 7 (b)
    - iii. **Funeral expenses** - P/exhibit 7 (c)
    - iv. **Official Search from KRA** – P/exhibit 7 (d)
8. **Deceased’s payslip** - P/exhibit 8
9. **Notice of surrender of National I/D** - P/exhibit 9
10. **Demand Notices**

- Letter dated 30<sup>th</sup> June 2011 - P/exhibit 10 (a)

- Statutory notice dated 30<sup>th</sup> June 2011 – P/exhibit 10 (b)

11. **Deceased's Birth Certificate - P/exhibit 11**
12. **Minor's (Kevin Monda) Birth Certificate - P/exhibit 12".**

3. The following documents were produced for the Defendant by consent:-
  1. **"Motor Accident Report Form – D/exhibit 1**
  2. **Motor Vehicle Inspection Report KAT 993 P – D/exhibit 2**
  3. **Motor Vehicle Inspection Report ZC 0721 – D/exhibit 3**
  4. **Driving License of Thomas Mutuku – D/exhibit 4**
  5. **Police Abstract dated 09/03/2011 – D/exhibit 5".**
4. The 1<sup>st</sup> Plaintiff, **Benson Monda Mouko** (PW1) testified that the deceased, **Martha Muokeira Monda** was his daughter who died on 5/3/11 as a result of a road traffic accident. The deceased was a 24 year old Army Officer who had been blessed with one child. The child's Birth Certificate was produced as an exhibit. The deceased monthly salary was given as Kshs.65,675/= as per the payslip for February 2011. According to PW1, the deceased used to give him Kshs.3,000/= every month and also paid the child's maintenance at Kshs.15,000/=. The child lived with the grandparents. That deceased also used to assist her brothers and sisters.

PW1 produced receipts for the following expenses:-

- a. **Transport – Kshs.50,000/=**
- b. **Kenya Revenue Authority Search Certificate – Kshs. 5,000/=**
- c. **Obtaining grant of Letters of Administration – Kshs. 15,000/=**

During cross examination, PW2 admitted having received Kshs.100,000/= and a further Kshs.200,000/= from the **Kenya Army** and that the deceased's her income in the payslip produced was Kshs.38,655/= and the basic salary Kshs.21,495/=.

5. The 1<sup>st</sup> Plaintiff's evidence established that the deceased was 24 years old and had one child. The basic salary was Kshs.21,495/=. The other allowances reflected in the payslip e.g. Leave Travel Allowance, Meal Allowance, Special clothing items etc were enjoyed by the deceased and were not available to her dependants. Taking into account the evidence of PW1 and further taking their account that the deceased had a family, I will adopt a dependency ratio of 2/3 and apply round figure of Kshs.14,000/= as the multiplicand. Taking into account the vicissitudes of life, I think a multiplier of 30 years is reasonable. The dependency therefore works out as follows:

**Kshs.14,000/= x 12 x 30 x 2/3 = 3,360,000/=.**

6. Taking into account the above figures, I would assess the pain and suffering at the conventional sum of Kshs.10,000/= and loss of expectation of life at Kshs.100,000/=. This brings the total for General Damages to Kshs.3,470,000/=.
7. The special damages specifically pleaded and proved is as follows:-
  - **Police Abstract – Nil**
  - **Fee for Obtaining grant of Letters of Administration – Kshs.15,000/=.**
  - **Obtaining Certificate of Search from KRA – Kshs. 500/=**
  - **Funeral expenses – Kshs.40,000/=**

Total – Kshs. 55,500/=

8. Consequently, subject to apportionment of liability, I enter judgment for the Plaintiff against the Defendant as follows:-
  - a. **General Damages - Kshs. 3,470,000/=**
  - b. **Special Damages – Kshs. 55,000/=**
  - c. **Costs**
  - d. **Interests**

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**B. THURANIRA JADEN**

**JUDGE**

**Dated and delivered at Machakos this 31<sup>st</sup> day of July 2014.**

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**B. THURANIRA JADEN**

**JUDGE**