



1. Running Down Cause/T`ort
2. Motor vehicle collision between two vehicles
3. Driver male adult aged 37½ years old in 2001

4. Injuries

- (a) Fracture of right side ribs

5. Material loss Damage

Pre accident value of motor vehicle Kshs.335,000/=

Less salvage value Kshs.65,000/= - Kshs.270,000/=

6. Liability 100% against the defendant 1 and 2

Jointly and severally with defendant No 2 being vicariously liable.

Defendant No 1 interlocutory judgement DR (20 June 2003)

Defendant No 2 Consent judgement of parties (23 January 2007)

7. Quantum

I General Damages

- (a) Pain and suffering Kshs 100,000/=

II Material loss damage

- (a) Pre accident make Kshs 335,000/=

- (b) Less salvage value Kshs 65,000/=

Kshs 270,000/=

III Special Damages

A Abandoned

- (a) Loss of user Kshs 75,000/=

- (b) Storage charges 12.12.01

to 30.6.02 Kshs 75,000/=

B Stamp Duty now produced proved.

(a) Towing charges Kshs 9,000/= proved

(b) Assessment fee Kshs 2,500/= proved

(c) Medical report Kshs.2,000/= proved

(d) Medical expenses Kshs 119,240.85

only Kshs 98,470 proved

Total proved Kshs 100,970/=

C Police abstract fee Kshs 100/= abandoned

8. Case Law

(a) Hahn v Singh (1985) KLR 716 (KAK)

(b) Eliud Ndegwa Mureithi v Louis Mbau Rukungu (HCCC 1849/99)

Unreported Ang'awa, J.

9. Statute

Stamp Duty Act Cap.480

10. Advocate:

P.Kairaria instructed by P. Kairaria & Co. Advocates for the plaintiff – present

Mbugua Atudo instructed by Mbugwa Atundo & Macharia Co. Advocates for the defendant.- absent

**REPUBLIC OF KENYA**

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

**MILIMANI LAW COURTS**

**CIVIL SUIT NO.1091 OF 2002**

**PATRICK MWENDA BUCHA .....PLAINTIFF**

**VERSUS**

**RAPHAEL MAINKA OLE SEYA .....1<sup>ST</sup> DEFENDANT**

**STIMVAK SERVICES INTERNATIONAL.....2<sup>ND</sup> DEFENDANT**

**FURTHER JUDGEMENT**

I Background

1. This running down cause was finalized on 30 January 2007. It involved a motor vehicle collision

between two vehicles. The plaintiff then aged 37 ½ sustained injuries and judgement was entered in his favour together with damages on material loss to the motor vehicle.

2. The judgement on Special Damages was subject to compliance of the expenses proved on the payment of the required penalties towards the stamp duties as provided for under the Stamp Duty Act Cap 480 Section 20.

3. The plaintiff returns to court and presents to me the receipts duly presented to the collection of Stamp Duty and that had no revenue stamp paid on it.

4. I am satisfied that the following payments are not proved:-

(i) Towing charges Kshs 9,000/=

(ii) Assessment fee Kshs 2,500/=

But (iii) medical report fee not proved Kshs2,000/=

and partial medical expenses were not proved.

The medical expenses was Ksh.119,240.85.

I have only Ksh. 98,470/= receipts

Total Ksh. 18,870/85 not

proved.

I accept medical expenses of Kshs 98,470/= only. The rest is hereby rejected. A third party was paying Nairobi hospital bill and will not be taken into account.

I enter judgement for the plaintiff on the proved further spent damages of

Towing charges Kshs.9,000/=

Assessment fees Kshs.2,5000/=

Proved medical

Expenses Kshs.98,470/=

Kshs.109,970/=

I award the cost to be the costs in the main judgement.

Dated this 26 day of September 2008 at Nairobi.

**M. A. ANG'AWA**

**JUDGE**

P.Kairaria instructed by P. Kairaria & Co. Advocates for the plaintiff – present

Mbugua Atundo instructed by Mbugwa Atundo & Macharia Co. Adovcates for the defendant.- absent