



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA**  
**AT NAIROBI (NAIROBI LAW COURTS)**  
**Civil Case 513 of 2003**

1 Civil suit – TORT

2. Subject of main suit: Occupiers Liability

- a) Wilderness lodge on private land specializing inter alia on foot safaris.
- b) Three guests go out jogging with Masai guide/employee of lodge.
- c) The four are attacked by an elephant but only plaintiff is gored and injured.

3. Plaintiff, female adult aged 40 years old in 2000.

4. Liability – 100% against the defendant jointly and severally. (Judgment on liability 11 June 2007). (Coenen v Payne & Another) [1974] 2 ALL ER 1109.

5. Hearing on quantum.

Injuries:

- a) Intra-abdominal trauma – kidney and duodenum
- b) Elephant tusks goes through abdomen and lumbar area upper right thigh, lower right calf.
- c) Damage to musculocutaneous nerve left arm.
- d) Fracture pelvis, left side four rami fractures anteriorly, displacement left hemi pelvis, left supra pubic ramus fractures – acetabulum.
- e) Fracture transverse process of L5
- f) Lacerations
- g) Rib fractures
- h) Head injury

i) Dislocation/sterno clavicular joint

j) Fracture of left thigh (fat)

6. Medical treatment.

a) Airlifted from scene of accident to clinic, then to Nairobi Hospital.

b) Operation by DR. J.K.N. Kariuki (MB chB. M. Med Surgery) that stabilized her (other consultant Prof Mbindyo, Dr. Falwa).

c) Airlifted to St. George Hospital England. Mr. M. Bircher consultant orthopedic surgeon.

Robert C. Pearson consultant surgeon.

Dr. J.E. Williams

Dr.J.N. Scurr

Dr. A. E. Searle.

d) Ashteward hospital

Medical records.

7. Evidence of medical treatment.

a) Dr. Kariuki of Nairobi Hospital (2 June 2000).

Multiple bruises on face neck chest and limbs.

Fully conscious and alert

Laceration to back abdomen right thigh and lower leg.

Sigmoid colon protruding through lower lumbar.

Abdominal lacerations right loin laceration contained injured right kidney – right nephrectomy (kidney removed).

Duodenum repaired wounds dressed bilateral fracture of pubic rami and sub luxation of left sacroiliac joint fractures of superior and inferior pubic rami with left superior rami displaced and pelvic ring distorted left hip pain.

b) Mr. Martin Bircher England, Surrey. 14 June 2000 Operated to apply anterior external frame to cover fractures to pelvis for six weeks leg clinically 2.5 short with 35 – 40 degree mal internal rotation.

c) Developed smelling in left loin region.

Paralysis left biceps coracobrachialis muscles lumbar hernia

Persistent nausea and dizziness

Mr. A. Day orthopedic and trauma surgeon 20 July 2000.

d) Pain Management June 2001 – Dr. J.R. Fozard mainly to left thigh and coccyx, left shoulder right

high pain to pelvic sacral and lumbar spine injuries discomfort to site of lumbar hernia repair

e) Psychological consequences

DR. Adrian Gillhem

Post traumatic stress order.

f) Underwent pre-pentoneal mesh repair of complex hermas. Risk of infection. Mesh in situ possible develop late “metastatic.”

**Award of court**

8. Held:

Personal injury sustained.

9. General Damages.

Pain suffering and loss of amenities ..... Ksh.1.5 million.

10. Special Damages

Pleaded Proved

- a) Medical expenses £149,796.52 -
- b) Aids and Equipment £569.50 £569.50
- c) Past care £9,007.10 £5267.10
- d) Traveling expenses £19,074.12 £19,074.12
- e) Loss of earning £62,625.12 -
- f) Miscellaneous costs £1,156.14 - \_\_\_\_\_

£24,910.22

Added

BUPA

Total £138,680.38

Total £231,112.36

11. Pleaded Proved

- a) Future loss of earnings £411,552.00 £411,552.06
- b) Future care and costs £92,563.40 £ 92,563.40
- c) Future medical costs £13,807.80 -

£517,923.20 £504,115.40

Total £529,026.12

12. Case law

a) By the plaintiff

i) Paolo cavinato v Difillipo [1957] EA53

ii) Gibson Kimani v Drangelo Ocunha & Another

iii) Kibet Chelegat v Pear Investment

Hccc261/95 (unreported).

iv) Mutinda Matheka v Gulam Yusuf

Hccc752/93 (Unreported)

v) Ossumar Dhahir Mohamed & Another V Salaro Berdit Mohamed

CA No.30/97 (unreported)

vi) Millicent Wangai v Stephen Njuguna Gathii

Hccc2357/90 (unreported)

vii) Priscilla Wamaitha & Other v Attorney General

Hccc229/95 (unreported)

viii) Westwood v Secretary of State for Employment

(1984) 1 ALL ER 874

b) By the defendants

a) Ossuman Dhahus Mohamed & Another v Salaro Birdit Mohamed

CA 30/97

(unreported)

b) John Maseno Ngala & Another v Dan Nyanamba Omare (a minor suing through Isaac Oware his next friend).

Ca320 2002 (Nakuru).

By court.

House Craft v Bunnette (1986) I ALL ER 332

11. Text Book

Law of TORT John Cooke (2001) (5<sup>th</sup> edition).

12. Advocates:

Pheroze Nowrojee appearing with A. Kapila Advocate and M. Nagi for the plaintiff for the plaintiff/applicant-

P.M. Njeru holding brief for F. Ojiambo of Fred Ojiambo & Co. Advocates for the defendant/respondent.

**WENDY MARTIN ..... PLAINTIFF**

**VERSUS**

**IL. NGWESI COMPANY LTD.....1<sup>st</sup> DEFENDANT**

**THE LEWA WILDLIFE CONSERVANCY ..... 2<sup>ND</sup> DEFENDANT**

**IAN HAMISHI CRAIG ..... 3<sup>RD</sup> DEFENDANT**

**JUDGMENT**

**ON QUANTUM**

**1: Procedure**

1. On the 11 June 2007, this court delivered its judgment on liability as per the consent letter between the parties of 25 May 2006, that the issue of liability and quantum be heard separately. (Coenen v Payne & Another (1974) 2ALL ER 1109).

2. Wendy Martin, a female adult aged 40 years old in 2000 had been attacked by an elephant whilst at the wilderness lodge situated on a private land, which lodge specialized inter alia on foot safaris. She went out jogging with two other guests together with a Maasai guide/employee of the lodge.

3. This court in its judgment held that the three defendants were liable as a result of their negligence at 100% jointly and severally. I believe the defendants intend to appeal against this decision.

4. On the 5 July 2007, the Daily Nation Newspaper went and

published in its front page headlines the words “Ranchers pained by the Ksh.150 million bill for elephant fury.” This court had not made any decision on the issue of quantum. When the newspapers were asked to explain where they got this story from, they apologized in court in the presence of both advocates for the parties and said they would print an apology. They did so in a very small print news brief hidden in the Saturday nation of July 21 2007 at page 4. This read:-

Story on Ksh.150m damages incorrect

**“In the Daily Nation of July 5 , 2007 we published an article under the Title “Ranchers pained by Ksh.150 million bill for elephant furry”. The title and the content of the story implied incorrectly that the High in Nairobi had awarded a claimant in the case referred to in that articles a sum of either Sh.150 million or sh.105 million as general damages for injuries sustained in an attack by an elephant at IL Ngwesi Ranch. We have since established that the judgment referred to was only a finding on the question of liability and the issue of damages was yet to be determined by court. We take this opportunity to apologise to the honourable judge who presided over the trial of the case, as well as the parties and our readers for any embarrassment, inconvenience and discomfort the publication may have caused.”**

5. The Daily Nation Newspapers did indeed fail to publish this apology in the front page of its

newspapers at the prominence the other first erroneous story was written. This court had by now accepted their apology on condition of the printed apology being made

6. On the 24<sup>th</sup> October 2007 M/s Kaplan and Stratton sought leave to come on record in place of M/s Mwenesi & Co. Advocates for the defendant. This was granted by the Deputy Registrar on 13 December 2007.

7. This court recommended to the parties to hold pre-trial conference under their own supervision on the issue of quantum. As a result the dates agreed on by parties to hold the pretrial conference was on 20 May 2008, 23 June 2008 and 1 August 2008. On 23 September 2008 the parties wanted more time to be given to see if they would come up with some form of settlement. Dates for hearing was set aside for 24,25 and 26 November 2008.

8. This explains the delay in not hearing this matter earlier. Nonetheless, on 24 November 2008, the advocate for the defendant applied for adjournment on grounds that he needed to amend the defence to plead the doctrine of *volenti non fit injuria*; that means that the plaintiff/claimant voluntarily agreed to undertake the legal risk of harm at her own expenses. Further, the board were meeting to deliberate the matter.

9. The issue of liability had been determined. The advocate for the plaintiff's objected to this application for adjournment as having no basis as the matters was now *res judicata*, relating to what could have been pleaded.

10. This court, noted the time given to the parties to prepare its case between July 2007 to November 2008 and was of the opinion no adjournment be granted. The application for amendment of the defence had not been filed nor done orally as permitted by the law.

## **II: Trial on quantum**

11. The plaintiff was in attendance in court and gave evidence of her treatment. She relied on the agreed bundle of documents that this court and the parties marked Bundle "A", "F" and "E".

12. Bundle "A" and "E" contained the medical reports and medical records of over 10 medical doctors who treated the plaintiff. Bundle "F" contained the claim for Special damages.

13. The trial commenced from 24<sup>th</sup> November 2008 to 26 November 2008. The plaintiff called Dr. Scur from England to give evidence on the medical report. The defendants were served through their advocates with a notice to admit documents under order XII r 2 Civil Procedure Rules.

14. The defendants did not intend nor wish to call evidence. I am made to understand that they did not have an independent doctor to examine the plaintiff as to her injuries.

15. I wish to just state herein that the medical reports pertaining the personal injuries covered a period from the year 2000 and an updated report for the year 2007.

16. During the trial the plaintiff suddenly fell to the ground; as if to faint. This is the second incident witnessed by the court of her condition. She nonetheless would stand during the time she gave evidence and would sit down when tired. She took pain killers or medication during the trial. The court adjourned.

17. Turning to her evidence the plaintiff stated that being a physiotherapist by profession she was aware of the risks taken and of her condition. She had earlier on stated in her first evidence how the elephant had pushed her to the ground. Its tusk went into her body with its full weight on her. The elephant had struck her torso and right leg with its tusks. Her pelvis was crushed and she had been dragged for quite some distance.

18. She asked that her legs be kept straight. A door used as a stretcher was brought to lift her into the plane. She had been flown to a clinic where an Italian Doctor asked she be taken to Nairobi. She arrived at Nairobi hospital at 11.15 am and was attended to by Dr. J.K. N. Kariuki. He had her in the operating room by 11.35 a.m. It was this doctors quick action that saved her life. She was airlifted to England St. Georges hospital.

19 The full injuries sustained and as pleaded in the plaint was outlined by Martin Dr. Burcher, a consultant orthopedic surgeon at the Ashtcad Hospital, Surrey where she had also been attended to.

I: Injuries

- a) Severe intra-abdominal trauma involving the kidney and duodenum.
- b) Through and through wounds to the abdomen and lumber areas in association with the passage of the tusk of the elephant.
- c) Through and through wounds to the upper right thigh and lower right calf. There were no major fractures or major nerve injuries with the said injuries.
- d) Damage to the musculocutaneous nerve left arm.
- e) Extensive fracturing of the pelvis with a transforaneral sacral fracture on the left side four rami fracture anteriorly. Displacement of the left hen pelvis; Left suprapubic ramus fracture just entering the acetabubum.
- f) Fracture traverse process of L5 together with other traverse process fractures
- g) Skin lacertation.
- h) Various rib fractures.

20. Although the plaint pleaded fat fracture of the thigh, the doctor never stated this as an injury. It was during the plaintiffs evidence that it transpired that her thigh had such a deep wound. There was no skin/muscle or fat to repair. The doctor had described problem with the abdominal area and right leg wounds. It was the right leg that had been infected and treated.

21. It was established from the evidence that the plaintiff had lost one kidney whilst in Nairobi, that had to be removed. When she went to England, she had pelvic fractures some which had not been identified through X-rays taken in Nairobi, namely fracture of the left sacrum with significant anterior fracture of the pelvis, left shin pelvis, fracture of the left superior pubic rumi and the traverse process L5 was identified on the x-ray and treated.

22. The plaintiff was fitted with an anterior external frame to cover the fractures to the pelvis for six-weeks. Her leg was clinically 2.5 short with 35.40 degree mal internal rotation.

23. She further had a swelling paralysis of her left biceps coracobrachiabs muscles. She had developed lumbar hernia and persistant nausea and dizziness (20 July 2000)

24. By June 2001 she had been referred to Dr. J.R. Fozard for pain management. This was mainly felt on her left thigh, coccyx, left shoulder, right thigh, Pelvic, saral and lumber spine injuries. She had discomfort on the lumbar hernia repair site.

25. The plaintiff described her pain and fears of thinking that she would die. She developed the hernia that had to be operated on and a mesh inserted around her organs to stop the swelling. Despite this, there was a risk that she may develop infection to the mesh inserted in her body.

26. She was referred to the psychologist specialist one Dr. Adrian Gilhen who assessed her as having post traumatic stress disorder.

27. The witness described how she would have flash backs of what occurred. She would wake up at night and not be able to sleep. If frightened it would effect her to recall he incident.

28. The court require to look at the latest reports. The incident occurred in 2000. The plaintiff was indeed re-examined again to see what her latest condition was. This was accordingly so done by Dr. Robert C. Peason, a consultant surgeon who prepared his report of 10 July 2007, Dr. John E. Williams consultant anesthesia and pain medicine consultant prepared a report of 20 June 2007. Dr. John H. Scurr (PW2) consultant surgeon and senior lecturer prepared a report of 26 June 2007 and Dr. Adan E. Secrule, a plastic surgeon prepared a report of 28 June 2007.

29. The latest condition thereof of the plaintiff, according to Robert C. Peason who dealt with the hernia procedure fitting her with three repairs to the bilateral lumba and anterior abdominal incision was sound. A year later he stated there was discomfort to the regions that had been repaired. The pain on the left side was better than the pre operative pain. By 2002 she was able to do more physically. The right side was pain free but here left side was uncomfortable. The abdominal wall was sound. There were scars. In his latest report he went to conclude that she will continue to experience discomfort. The hernia had a 1% chance of reoccurring.

30. Mr. John H. Scur was of the opinion that the 1% was too low. That this percentage should have been higher. When he examined the plaintiffs the changes of the occurrence of the hernia was becoming visible again.

31. Mr. Robert Peason stated in his report that the said meshes

*IN situ* should be treated like the heart valves.

32. Dr. John E. Williams dealt with the chronic pain following the said injuries. He recognized that continuous and constant pain in the left hip, left groin left side of the coccyx area, left leg and calf are there due being exacelated by movement.

33. She experiences more pain when tired her to here left leg. In her lumbar back area she experience pain together to her shoulder.

34. As a result, she is limited to what she can do and unable to adequately cope with bringing up children. Her chronic pain is an on going problem.

35. Adan E Searle the plastic surgeon examined the plaintiff on

4 July 2007.

a) "On her head and neck he found on the right superior arterior hairline a 3.3. cm linear scar running from the middle to the right side.

i) On the anterior neck, particular in the sub mental region, there are number of linear pace scars site of superficial laceration."

b) "On her upper limbs – were found 30 linear scars on the head and all surfaces of the lower and upper parts of the right upper limbs. The right forearm is 2.6 cm hypertrophic scar.

The left upper limb are 30 linear scars all pale. The apex of the left shoulder is found a circular 4 cm. scare of pale constuent."

iii) On her chest and abdomen was found the right latissnus dorsii zone – 8.5 cm linear scar characterized

by significant deep tethering and a restricted skin movement.

- iv) He confirmed that there was an over hang of skin and faint from above to below.
- v) Left lateral lumbar zone:- 10.5 cm irregular linear scar with deep tethering contour deformity. Upper sacral zone – 13 cm well healed lineal scar, with cross balancing from suture mark with significant deep tethering.”
- vi) The anterior wall (abdominal) a number of scars. 9 cm in length 2 cm long.”
- vii) “Anterior middle of anterior abdominal wall. Linear scar of more than 26 cm runs from epigastrium to supra public zone.”
- viii) On the left anterior abdominal wall inferiorly 8 cm linear scars with marked cross hatching and a second 5.5 cm superficial abrasion.”
- ix) Overlying the right hip lineal scars measuring 3 cm Similar lesion injury towards the groin.”
- x) “On left groin area – scars 3cm lie in an oblique direction.
- xi) “. . . contour irregularly persists above and to the left of the umbilicus.”

c) Lower limbs.

- i) A significant continues deformity of the right thigh series of scars dominated by a 27 cm linear scars from upper mid third of thigh across the mid zone of the medial thigh. “Significant soft tissue loss” swelling of knee due to the extention of the scar.

“The posterior right thigh a 23cm curved scar from the upper lateral thigh passing 4 cm below the gluteal crease and extending towards medial upper thigh. The right lower leg area scar injury laterally and measuring 10 cm.”

An irregular circular scar above the malleouls, pale in colour mid zone of the left thigh significant contour deformity relating to a post blunt trauma fat neurosis

36. He concluded that with aging some of the scars, particularly the canton deformities may become more of a problem.

37. John H. Scur was involved in the management of the swelling of the legs and the development of varicose veins. On examining the plaintiff, he found she had gross scarring requiring plastic surgical procedures to reconstruct her body limb. She lost her right kidney. The remaining kidney would increase in size and may be at risk of damage. If this occurs she may require renal transplantation or dialysis for life. He found that she had under gone intra abdominal surgery that may develop multiple ultra abdominal absesions. Possibility of none intra abdominal surgery may occur. He further confirmed that she developed extensive herniation over both lumbar regions and will be permanently weak on the left and right side restricting her from carrying or lifting [objects]. Her legs would always remain swollen with permanent varicose veins. The scarring to her legs would cause a problem. She would require repeated surgical procedure to both legs and abdomen. She suffered from mental strain. The plaintiff made available photographs disclosing the scarring.

39. The plaintiff stated that she used to enjoy sports and was fairly active. Her body is now full of scars that had made her self consciousness. She is, in her condition, not able to work.

40. The doctors herein confirmed that the plaintiff suffered 100% permanent disability due to the pelvic fracture, soft tissue injuries, injuries associated to her abdominal and injuries associated to her right leg.

41. She is unable to work as a physiotherapist nor is she able to be engaged in active employment. She prayed for General damages for pain suffering and loss of amenities.

A) General Damages for pain suffering and loss of amenities.

42. This is a non-pecuniary damage that concerns loss of physical amenity, pain shock and suffering. This court is required to take into account any pain and suffering which can be “attributed the injury and to any consequential surgical operations.” It is an award that must cover past and future pain.

43. Loss of amenities are damages that include the consequential inability to enjoy life. This means, the inability to enjoy sports or other past time which the plaintiff may have enjoyed before the injury, including the inability of playing with one’s children and diminution of marriage prospects (Law of tort John Cooke 2001 5<sup>th</sup> edition).

44. I am satisfied from the evidence before court that the plaintiff herein sustained personal injuries that has caused her enormous pain and suffering. That she sustained such injuries that she is unable to under go her normal day today activities as she used to, losing the loss of amenities.

45. Both advocates did not suggest to this court how much award should be given. The advocate for the defendant submitted that the awards ought not to be large. He relied on the plaintiffs case of **Ossuman Dhahus Mohamed & Another v Salaro Birdit Mohamed CA 30/97** unreported and

The case law of:-

**John Masero Ngala & Another V Da Nyanamba Oamer**

(a minor suing through Issac James Oware his next of friend).

46. The authorities relied on by the plaintiff suggests awards of Ksh. 1 million to 1.5 million average. These authorities are over ten years old. I would in the circumstance award Ksh.1.5 million for the head of damages of General Damages pain suffering and loss of amenities.

B. Special damages

47. Special Damages must not only be pleaded but must be particularized. The plaintiff is entitled to claim special damages for any expenses incurred as a result of the treatment she incurred.

48. In her pleading the plaintiff claimed the following loss.

- i) Medical expenses    £149,716.52
- ii) Aids and Equipment    £569.50
- iii) Past care    £9,007.10
- iv) Traveling expenses    £19,074.12
- v) Loss of earning    £62,625.12
- vi) Miscellaneous    £1,156.14
  
- Total    £242,228.50

49. She also pleaded for

- i) Future loss of earning    £411,552.00

ii) Future care and costs £92,563.40

iii) Future miscellaneous costs £13,807.80

Total £ 517,923.20

A grand total of £760,151.70

50. i) Medical Expenses

The plaintiff in her schedule bundle “F” tabulated the expenses that ought to be paid to her. She admitted that the medical expenses so incurred was met by BUPA International, an insurance company dealing with health.

51. I perused the said document and noted that there were some payments not made, such as plastic surgery and were rejected. Nonetheless the payments as a whole was incurred by BUPA International.

52. The advocate for the plaintiff implied that BUPA International was putting in a subrogation claim. The plaintiff in cross examination did not understand what this was.

53. In a subrogation claim, it is brought through the plaintiff/claimant and not BUPA International. What in effect is required is that is BUPA International must come to court and lead evidence that they indeed incurred the debt producing their various payments to various service providers. The court would thereafter award a subrogation claim to them.

54. In this case this claim was not pleaded. What is more important is that no persons from BUPA International came to give evidence to substantiate their claim.

55. The plaintiff is not entitled to this claim as it would mean double enrichment. I accordingly reject the claim for medical expenses of £149,796.52 and or £138,680.38.

ii) Aids and Equipment

56. The Insurance Company did not pay for the wheel chair hired and other equipments herein for the plaintiff. This amounted to £569.50. I accordingly allow this claim.

iii) Past care

57. The plaintiff is entitled to past care but the defendant took issue with this claim as it was not supported by receipts. The plaintiff admitted that the claims were prepared by solicitors and therefore she was unaware of the figures. This claim includes where friends and relatives assisted in picking up the children and had not been particularized.

58. I would award under this claim the particularized past held being the cares.

Jean Smith £1647.80

Aston care & Muggy £98.40

Trinity Home care Ltd £219.50

21<sup>st</sup> century care £301.40

Julias stress £600.00

Imicy clingham £2400.20

£5,267.10

iv) Traveling expenses £1,907.12

59. The advocates, for the defendant took issue with this claim on grounds that it related to the relatives and friends who visited the plaintiff. That this be disallowed in total.

60. What should remain are the plaintiffs own travel.

61. In the case law of House Croft v Barnett (1986) I ALL 7R 332

It was held if a friend or relative have incurred financial loss in caring for the claimant, then the claimant may recover this amount and hold it in trust for the person providing the service. I would allow this costs at £19,074.12.

v) Loss of earning £62,625.12

62. The plaintiff was not working whilst she was being in Kenya. She had no work permit to do so.

63. I would agree with the defendant on this claim, not being allowed on further grounds that the proof of earning of employment in England (past) was not tendered.

64. I reject this claim.

vi) Miscellaneous cost £1,156.14

65. The miscellaneous costs herein refers to a gardener and other hospital expenses said not to be covered by BUPA.

66. I reject this claim.

67. Under this head of Special damages, I allow the sum of £24,910.72.

c) Future claims

i) Future loss of earnings

67. The plaintiff is entitled to future loss of earning. That I would accept the Ogder Tables as provided at the rate of £40.00 x 30 hours x 30 weeks x working life multiplier of 14.2. £514.440

Less tax 20%

Total £411.552

ii) Future career/House keeping cost

I would accept this claim being £79,776.40

I would allow family care £12,278.20

Total £92,563.40

iii) Future miscellaneous costs £13,807.80

I decline to award this costs that includes the garden and increase premiums. Latter not spoken of.

68. In summary

I enter judgment for the plaintiff on quantum jointly and severally as follows against the three defendants:-

I: General Damages

I: Pain suffering and loss of amenities Ksh.1.5 million

II: Special Damages

Pleaded      Proved

- a) Medical expenses    £149,796.52
- b) Aids and Equipment    £569.50    £569.50
- c) Past care    £9,007.10    £5,267.10
- d) Traveling expenses    £19,074.12    £190,074.12
- e) Loss of earning    £62,625.12    \_\_\_\_\_
- f) Miscellaneous costs    £1,156.14    \_\_\_\_\_

Added

BUPA    £138,680.38

Total    £1,231,112.36

Future Costs

- a) Future loss of earning    £411,552.00    £411,552.00
- b) Future care and costs    £92,563.40    £92,563.40
- c) Future miscellaneous costs    £13,807.80    \_\_\_\_\_

\_\_\_\_\_

Total    £517,923.20    £529,026.12

Thus: Total Ksh.1.5 million for General Damages

Add    £529,026.12 for special and other damages

69. I award interest on Special Damages from the date of filing suit. Interest on General damages from the date of this judgment jointly and severally against the defendants.

70. The costs of this whole suit is awarded to the plaintiff on both liability and quantum to be borne by the three defendants jointly and severally.

**DATED THIS 28<sup>TH</sup> DAY NOVEMBER 2008 AT NAIROBI.**

**M.A. ANG'AWA**

**JUDGE**