



**REPUBLIC OF KENYA  
IN THE HIGH COURT OF KENYA  
AT KISUMU**

**Civil Case 304 of 1999**

**MOHAMED ADEN ABDI .....**  
**PLAINTIFF**

**VERSUS**

**ABDI N. OMAR .....** 1<sup>ST</sup>  
**DEFENDANT**

**ALI MOHAMED HAJI T/A DELTA HAULAGE SERVICES.....** 2<sup>ND</sup>  
**DEFENDANT**

**JUDGMENT**

According to the amended plaint dated 26<sup>th</sup> November 2002, the plaintiff suffered the following injuries:

- 1) **Blunt injury to the chest causing injury to the ribs.**
- 2) **Laceration wound in the anterior aspect on both legs.**
- 3) **Spinal injury with crush fracture of T12.**
- 4) **Kidney injury.**

The defendant filed defence but did not participate in the proceedings due to the absence of its Advocate. On 24<sup>th</sup> March 2004 I allowed the plaintiff to proceed with the hearing after being satisfied with the return of service filed in Court showing that the defendant was properly served through his Advocate who is on record. The matter proceeded exparte and the plaintiff tendered evidence in support of his claim on the plaint. Mr. P. J. Otieno urged me to award a sum of KSh.367,000/= as special damages and a further sum of KSh. 1 million as general damages for pain, suffering, and loss of amenities.

Having considered the matter I am satisfied that the plaintiff has proved his case against the defendant. The plaintiff presented receipts to show that he has incurred the sum of KSh.367,000/=. And in the circumstances I find the second defendant is wholly liable for the accident that caused the injuries of the plaintiff, therefore I hold the defendants liable jointly and severally for the injuries suffered by the plaintiff.

In the premises I enter judgment for the plaintiff against the defendant the defendant as hereunder

- a) **special damages of KSh.367,005/=.**

**b) General damages of KSh.550,000/=.**

**c) Plus costs and interests at Court rate.**

Delivered and Dated at Kisumu this 29<sup>th</sup> day of April 2005.

M. WARSAME

JUDGE

**29.04.2005**

Mr. Yogo for the plaintiff.

No appearance for the defendants

Collins Court Clerk

Judgment read in Chambers.

M. Warsame

JUDGE