



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA**  
**AT NAIROBI**  
**CIVIL CASE NO. 1066 OF 2004**

**AKHARALI KARIM KURJI.....1ST PLAINTIFF**

**ALMAS KURJI.....2ND PLAINIFF**

**VERSUS**

**BRITISH AIRWAYS PLC LTD.....DEFENDANT**

**JUDGMENT**

The plaintiffs are husband and wife. They have a daughter in Britain who was graduating. They were to attend her graduation. On 10th July 2004 they booked to travel to Manchester for the occasion on Flight Number BA54 from Jomo Kenyatta International Airport but on arrival and after waiting for about 1½ hours the clerk of the defendant refused to clear them. As a result of that refusal and after protracted arguments, they were forced to look for an alternative means to travel to Britain.

They brought this suit against the defendant for an unqualified apology and damages for defamation.

The defendant did not enter appearance nor file defence. The plaintiff applied and obtained interlocutory judgment and the only issue before me is the assessment of damages.

The 1st plaintiff and on behalf of the 2nd plaintiff in his evidence told the court that he is a businessman having interest in hotel business and he owns meridian Court Hotel, banking business – SOUTHERN CREDIT BANKING CORPORATION LTD, Insurance Business – FIDELITY INSURANCE CO. LTD and at present he is fully involved as an Executive Director at SOUTHERN CREDIT BANKING CO. LTD.

The 2nd plaintiff is the manageress of Meridian Court Hotel. He told the court that as a result of the defendant's refusal to clear them, and looking for an alternative flight, they arrived at Manchester late and they missed the graduation ceremony of their daughter. He further told the court that he was frustrated and disappointed by the conduct of the defendant's clerk. He urged the court to award him general damages as well as aggravated damages for defamation,

frustration, and missing their daughter graduation.

Counsel for the plaintiff suggested a figure of Shs.30 million and relied on the following authorities: **K.N. BIWOTT VS. CLAYS LIMITED AND 3 OTHERS – HCCC NO.1067 OF 1999** in which the plaintiff was awarded Shs.30 million. **HCCC NO.1056 OF 2000 G.N. KAGIA T/A & CO. ADVOCATES VS. THE STANDARD LTD** where the plaintiff was awarded Shs.6 million and **HCCC NO.1707 OF 1996 JOHN P. MACHARIA VS. NATION NEWSPAPERS** where the court awarded Shs.10 million damages.

The defendant's clerk portrayed the plaintiffs as people who did not know what they were doing and

irresponsible. This had definitely lowered the plaintiffs in the estimation of the right thinking members of the society generally.

Having considered the authorities cited by counsel for the plaintiffs and the damages awarded, it is my considered opinion that a figure of Shs.50,000/= general damages would be appropriate.

Accordingly. I enter judgment for the plaintiffs for Shs.50,000/= general damages.I also award the plaintiffs the costs of this suit plus interest from the date of judgment until payment in full.

Dated and delivered at Nairobi this 20th day of April 2005.

**J.L.OSIEMO**

**JUDGE**