



**REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAKURU
CIVIL SUIT NO. 501 OF 1997**

JOHN MWANGI NJOROGE.....PLAINTIFF

VERSUS

HARRISON WAWERU KARANJA.....1ST DEFENDANT

RICHARD S. KITUR.....2ND DEFENDANT

JUDGMENT

According to the plaintiff, on 7th April, 1997 he was travelling from Molo to Nakuru aboard motor vehicle Registration No. KSR 037 – Station Wagon 504. However, on reaching the junction of Njoro and Kabarak, the lorry that was ahead of them stopped suddenly. The driver of the vehicle that the plaintiff was in, swerved to the right and collided with another lorry, whose registration number, the plaintiff could not recall.

Due to the accident, the plaintiff sustained the following injuries:

- (a) brain concussion and loss of consciousness for several hours.
- (b) fracture of the right mandible.
- (c) fracture of the right acetabulum.
- (d) fracture of the maxilla on both sides.
- (e) loss of six lower incisor teeth.

After the accident, the plaintiff was rushed to the Nakuru Provincial General Hospital where he was admitted for 3 days. Consequently, the plaintiff was transferred to the Kenyatta National Hospital where he was admitted for 51 days. Subsequently, the plaintiff started attending out-patient clinics at the Kenyatta National Hospital. Thereafter, he started attending the out-patient clinics at the Nakuru Provincial General Hospital, Annex for 3 months. Upto the time of the trial, the plaintiff was still complaining of feeling pain on the right leg.

Eventually, the plaintiff was examined by both Dr. Kiamba and Dr. Malik who each prepared a report as can be seen by Exhibits 7 and 8. Prior to the trial, the Counsels for both parties entered a consent judgment on liability. It was agreed that:

- the plaintiff will bear 10% liability while the defendant will bear 90% liability.

It was also agreed that the special damages would be Kshs.4,990. On conclusion of the plaintiff's case,

the defendant opted not to offer any evidence. Consequently, both counsels handed in written submissions.

This Court has carefully perused all the evidence on record. Having analysed the quoted authorities carefully, I hereby find that the injuries that the plaintiff sustained in this case are more serious than the ones sustained by the plaintiff in the case of

Mukesh N. Parmar & Another Vs Kenya Road Transporters Ltd. & Another

NAIROBI HCCC No. 861 of 1985.

On the other hand, the plaintiff in this case did not suffer as much injuries as his counterpart in the case of

Marita Okelo Akiva Vs Sheth Onyango Oloo

Nairobi HCCC No. 3835 of 1987.

Considering the above quoted authorities and the rate of inflation in the country, I hereby award the plaintiff Kshs.700,000 as general damages. The upshot is that I hereby enter final judgment in favour of the plaintiff on the following terms:-

(a) General Damages:

Kshs.700,000.00

Less 10% Kshs.70,000.00

Kshs.630,000.00

(b) Special Damages:

Kshs.4,990.00

(c) Interest on (a) and (b) above. Right of appeal explained.

MUGA APONDI

JUDGE

Judgment read, signed and delivered in open Court in the presence of Mr. Kiburi and Mr. Wamosa.

MUGA APONDI

JUDGE

27TH JANUARY, 2004