

IN THE HIGH COURT OF KENYA AT NAIROBI

CIVIL SUIT NO. 277 OF 2000

**GEOFFREY KARANJA MUHORO & ANOTHER.....PLAINTIFF
VERSUS
DANIEL MURAYA WAIRAGU & ANOTHER.....DEFENDANT**

JUDGEMENT

LIABILITY:

In this case there is an Interlocutory judgement on liability. The court is asked to assess the damages payable. Quantum The deceased died as a result of injuries received in the accident. He died in the M.P. Shah Intensive Care Unit.

The evidence show that the deceased was a business woman running a shop and at the same time doing farming. There were no accounts of the business or the farming were produced as evidence. There was evidence however that she paid school fees for her children who now have stopped going to school for lack of money. PW1 Esther Wairimu said that the deceased used to earn not less than Ksh.100,000/- per month and paid Shs.30,000/- for her brother in the Day Star University. She produced a receipt to confirm that payment.

To be able to pay the school fees the plaintiff must have had some income which was coming from her business. Without any documents however it is not possible to sustain the income of Shs.100,000 claimed by the witness. Doing the best under the circumstances I assess the income as Kshs.5,000/- per month. The claim for damages is made under both the Fatal Accidents Act and Law reform Act.

I have considered the cases which were cited in support of the claim and have considered the awards given as damages. I make the following award:

- (1) For loss of expectation of life Shs. 100,000/-
- (2) For pain and suffering Shs. 5,000/-
- (3) For loss of dependancy $\frac{2}{3} \times 50,000 \times 12 \times 4$ Shs 160,000/-
- (4) For funeral expenses Shs 73,445/- Total Shs.338,445

There shall be judgement for the plaintiff for the sum of Shs.338,445/- The plaintiff shall have the cost of the suit and interest.

Dated and delivered this 9th day of October, 2000.

**KASANGA MULWA
JUDGE**