



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

CIVIL SUIT NO. 163 OF 1996 R.D.

1.WAMWERE KYALO.....1ST PLAINTIFF

2.WAMBUA KYALO.....2ND PLAINTIFF

=V E R S U S=

1.THOMAS MUTUKU KILONZO.....1ST DEFENDANT

2.MUTUKU KILONZO.....2ND DEFENDANT

J U D G M E N T

On 17/4/02 liability was apportioned by consent as follows:-

Plaintiff 35%

Defendant 65%.

When the matter came up for hearing on assessment of damages the Advocates offered submissions which were brief and to the point.

For Plaintiff, one witness was called (his legal representative). The injuries led to amputation of left leg below the knee. The Plaintiff died on 17/7/96 about one year after accident in 1995.

Plaintiff's counsel proposed Kshs.800,000/- while the Defendants' counsel proposed Kshs.600,000/-.

Special Damages Kshs.4001/- was admitted by the Defendant.

Upon perusing the record and seeing that the Plaintiff lived for about 12 months and was hospitalized for 40 days and he lived for that period without the left leg, I am of the view that a sum of Kshs.600,000/- for pain suffering and loss of amenities, plus Special Damages of Kshs.4001/= is adequate compensation.

Judgment is therefore entered in the sum of Kshs.604,001/- with costs and interest.

The amount of decree after apportionment shall be paid to the deceased Personal Representatives.

Dated this 30th day of July, 2004.

JOYCE KHAMINWA

J U D G E

Mr. Pandya

Mr. Mutubia – for Were

Mr. Mutubia for Were – for Defendants

I ask for stay for 45 days to pay.

Mr. Pandya

No objection.

COURT

Execution is stay for a period of 45 days from to-day after which Plaintiff shall be at liberty to execute.

JOYCE KHAMINWA, J.