



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT KISII
CIVIL CASE NO. 132 OF 1998

DEBORA OMARI PLAINTIFF

VERSUS

KENYA WOODFUEL & AGROFORESTRY

PROGRAMME LIMITED DEFENDANT

JUDGMENT:

The plaintiff's claim against the defendant is for special and general damages for injuries suffered in a road accident.

The plaintiff was on 26/11/96 a passenger in motor vehicle Reg.No.KAE 642B along Kisii-Keroka road. When the vehicle reached Nyansira area it collided with motor vehicle Reg. KAC 070 P which is owned by the defendant company.

The plaintiff suffered a fracture and displacement of end of the right radius, bilateral posterior dislocation of the left hip, dislocation of the right hip and soft tissue injuries.

She alleged that the plaintiff driver was negligent in the manner of his driving and hence this suit.

Judgment on liability was entered by court on the basis of 70% to 30% in favour of plaintiff and case proceeded on hearing for quantum. The plaintiff gave evidence and narrated the injuries she suffered. DR. PETER OWOUR (PW2) who examined her on 6/10/99 also gave evidence as to the injuries suffered. The defendant did not tender any evidence and through Mr. Kasamani crossexamined the doctor thoroughly his evidence on the injuries suffered was not shaken.

The injuries are as tabulated above.

I have considered these injuries in the light of the authorities referred to by both counsels in their submissions. These were not slight injuries. The plaintiff suffered fracture and displacement of right and of right radius this led to deformed wrist as there was mal-union of the fractured radius. She also suffered dislocation of left hip, which left her walking in a limping gait. She had other soft tissue injuries.

Though the injuries may have healed there are residual effects such as the deformed wrist and the limping walking gait. She had him admitted in hospital for a whole month. A figure of shs.650,000/= is fair and just sum to compensate her for pain and suffering. I award the same as general damages.

Shs.2000/- was proved as special damages. I award the same.

I therefore enter judgment for the plaintiff as follows:-

General damages shs.650,000
Special damages 2,000
Total shs.652,000
Less 30% contribution 185,600
Total shs.466,400/=

The plaintiff will also have costs and interest.

It is so ordered.

Dated this 26th October 2004

KABURU BAUNI

JUDGE

26/10/04

Mr. Obaga for plaintiff

N/A for defendant