



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT NAIROBI**  
**H.C. CIVIL CASE NO. 159 OF 1994**

**DAVID G. NJOROGE ..... PLAINTIFF**

**V E R S U S**

**ATTORNEY GENERAL..... DEFENDANT**

**J U D G M E N T**

The plaintiff suffered injuries as a result of assault perpetrated against him by some police officers on the night of 15th/16th January, 1993 at Nyamakima/River Road, Nairobi.

I shall adopt my reasoning and observations made in Judgment in H.C.C.S No. 158 of 1994 Nairobi which was one of the cases consolidated including the present case, so far as, the issues on competence of this suit and validity of statutory notice under Section 13A of the Government Proceedings Act (Cap 40) on behalf of the plaintiff, are concerned. It shall be sufficient for me to state that this suit is properly before this court.

The plaintiff was working with University of Nairobi as a clerk. On the material date he was walking back home which is situate at Nduruma Road.

As per the evidence on record the plaintiff has satisfied me that he was at the place of the incident as an ordinary citizen and sustained physical injuries due to beatings from the police officers who were out to take vengeance over the death of one of their colleagues.

He was also beaten at Central Police Station where he was taken around 3 a.m. and was released on 16th January at 6.30 p.m.

He sustained following injuries as confirmed by Dr. Samwel Gichoni Kuria P.W. 2.

(1) Blunt injuries to the chest.

(2) Blunt injuries to the lower back.

(3) Blunt injuries to the abdomen.

(4) Blunt injuries to the lower limb.

He was placed in below-knee plaster to immobilize the fractured ankle joint for eight weeks.

His wounds are healed without much residual effects.

It is contended on his behalf that a sum of Kshs.400,000 should be awarded to him and reliance was placed on the two cases.

In my view, apart from necessity of consistency in the awards of damages by this court, the facts of every case has to be looked at to decide the appropriate quantum of damages.

In my considered opinion a sum of Kshs.300,000/= is adequate damages for pain, sufferings and loss of amenities for injuries suffered by this plaintiff.

For obvious reasons, except for Kshs.5000/= for attendance of medical witness (P.W. 2) I shall not award any special damages.

To sum up, there shall be judgment for the plaintiff against the Defendant in the sum of Kshs.305,000/= with costs and interest.

**Dated and delivered at Nairobi this 21st day of January, 2003.**

**K. H. RAWAL**

**JUDGE.**