

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT MOMBASA
CIVIL SUIT NO.147 OF 1998 (RD)

SAMIRA DORI RAMADHAN.....PLAINTIFF
=V E R S U S=
SHABIR REHMAN
AKBAR HAJI KANA.....DEFENDANTS

J U D G M E N T

SAMIRA DORI RAMADHAN, the Plaintiff herein instituted proceedings against **SHABIR REHMAN** and **AKBAR HAJI KANA**, the Defendants on 7th May, 2001 for General Damages, Special Damages, Costs and interest for injuries the Plaintiff suffered in a road traffic accident involving motor vehicle, Toyota Registration No.KAJ 539E owned by the 1st Defendant and which was at the time driven by the 2nd Defendant as his authorized driver or agent/servant on the 30th day of August, 1998. The accident occurred along Nyerere Avenue, Mombasa at about 8.00 p.m.

The judgment was, by consent, entered against the Defendants jointly and severally at 75% and at 25% against the Plaintiff and a sum of Kshs.31,850/- was agreed as Special Damages on 3/7/02. The issue now before me is on quantum of general damages. Submissions have been made by both advocates for Plaintiff and Defendants, ranging for Kshs.700,000/- for the Plaintiff and down to Kshs.200,000/- for the Defendants.

Briefly, the facts are that the Plaintiff Samira Dori Remadhan was walking along Nyerere Avenue near Islamic Centre. She was standing on the pavement on the left hand side of the road towards the City when the said motor vehicle KAJ 539E came at a high speed and out of control, climbed over the pavement and hit the Plaintiff and her other 2 companions that were standing on the pavement near to a wall. She could not have avoided the accident.

Special Damages were agreed on 3/7/02 at Kshs.31,850. I award a sum of Kshs.450,000/- general damages as reasonable having perused the Medical Report and considered authorities submitted.

I enter judgment for the Plaintiff in the sum of Kshs.450,000/- general damages, special damages of Kshs.31,850/- as agreed. She now gets a final judgment of Kshs.481,850/-. Interest at court rates from to-day. She also gets the costs of the suit.

That is the order of the court.

Dated Mombasa this 3rd day of April, 2003.

L. P. OUNA

J U D G E