



REPUBLIC OF KENYA

**IN THE HIGH COURT OF KENYA AT BUSIA
CIVIL SUIT NO. 13 OF 2000**

MILICENT TERESA ANYANGO.....APPLICANT

-VERSUS

PATRICKJUMA GOMBE.....RESPONDENT

JUDGEMENT

The plaintiff is the legal representative of her deceased husband, one WILLIAM ODONGO ONG'AYO who passed away in a road traffic accident on 18th February, 2000 caused by motor vehicle registration number KAK 433T, Nissan caravan owned or driven by the defendant. Although the defendant was duly served with the proceedings, he did not enter an appearance nor did he file a defence.

At the date of death, the deceased was 41 years of age. He was a civil servant holding the post of Forester Grade II. He was in receipt of a salary of shs.12,688/=. He was married with 4 children aged between 1 ½ years and 8 years. His aged father was also dependant on him. According to the plaintiff, the deceased died instantly and shs.15,000/- was spent on his funeral expenses and shs.20,000/= letter of administration.

Mr. Otanga, the learned counsel for the plaintiff submitted that as the deceased was only 41 years, he could have worked until 55 years of age. Consequently, he should be allowed a multiplier of 14 years. He also submitted that an award should be made under "loss of expectation of life", pain and suffering and lost years. A number of cases were relied upon from which the court has had some guidance.

I agree with the learned counsel that the deceased could have worked upto 55 years. However, due to vagaries of life, he could have perhaps died earlier. I would therefore allow a multiplier of 12 years.

According to the payslip, the gross salary carried by the deceased used to be Kshs.12,688/-. After allowing for statutory deductions, I find the net salary used to be Shs.11,715/= of which as a good father, husband and son, he could have spent 2/3 thereof on his extended family. I am also satisfied that he is entitled to loss of expectation of life as submitted by the learned counsel and cost of obtaining letters of administration and funeral expenses. I would therefore make the following awards:-

(a) Loss dependency under the Fatal Accidents Act 2/3 of nett salary namely Shs.11,715 x 12
x12 x12 3

= Shs.1,124,640/=

(b) Loss of expectation of life

Under Law Reform = Shs. 100,000/=

(c) Pain and Suffering = Shs. 10,000/=

(d) Funeral Expenses = Shs. 15,000/=

(e) Cost of Letters of Administration = Shs. 20,000/=

Total = Shs. 1,269,640/=

Orders accordingly.

Dated and signed at Busia this.....day of.....2003.

G.P. Mbito

JUDGE