



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT NAIROBI**

**CIVIL SUIT NO.2028 OF 1999**

**MONICAH GAKENYE WAWERU (Suing as the Administrator of the  
Estate of  
PETER KANYOKO WAWERU ) ..... PLAINTIFF**

**VERSUS**

**THE HON. THE ATTORNEY GENERAL ..... DEFENDANT**

**JUDGMENT**

On the 6.3.96, the deceased herein was along the Thika- Muranga road. Pw2 an eye witness was also along that road. A motor vehicle ambulance owned by the Ministry of Health Muranga District came at such a high speed that it knocked down the deceased Peter Kanyoko Waweru who died instantly. The crowd wanted to beat up the driver but was restrained when the driver explained that an ambulance is permitted to travel at a high speed.

The deceased mother, Monicah Gakenye Waweru aged 75 years or thereabout filed suit as the administratrix to the said estate. She prayed for damages under the Law Reform Act and the Fatal Accidents Act.

The state called no evidence but submitted that this suit was time barred.

**A) LIABILITY**

There is sufficient evidence to show that the deceased was knocked by a vehicle that was an ambulance. The defendants required to show that they had authority at that particular time to travel at more than the high speed given, namely, was the driver of the ambulance on official duty?.

Regardless of this, if he is permitted to travel at a high speed, he must in all circumstances take reasonable and due care to the said public on the road and other users.

I would find the defendants vicariously liable at 100%.

**B) QUANTUM**

The deceased died instantly I find that an award for pain and suffering would not be awarded. I would though award Ksh.70,000/- for loss of expectation of life under the Law Reform Act being the conventional figure or sum given by these courts. I find the plaintiff holds letters of administration. I will

not award any damages under the Fatal Accidents Act as there has been no proof that the deceased earned any income.

### **C) JURISIDCITON**

The state says this suit is time barred. The suit was filed out of time. Patel J 1.10.99 granted these orders.

The plaintiff said she was old and ailing and is the reason why she filed the suit late.

I would accept this explanation.

I hereby would find that the suit is properly filed I accordingly enter judgment for the plaintiff

### **In Summary**

- 1) Running down action
- 2) Pedestrian/motor vehicle ambulance accident
- 3) Male adult aged 48 years old in 1996
- 4) Injuries: Fatal
- 5) Liability 100%
- 6) Quantum: General Damages
  - A) Law Reform Act
    - i. Pain and suffering – Nil
    - ii. Loss of expectation of life Ksh.70,000/- B) Fatal Accidents Act – Nil
- 7) Jurisdiction: Late filing explained and Accepted. \_\_\_\_\_ Total Ksh.70,000/-

I award costs of this suit to the plaintiff. I award interest on General Damages from the date of this suit.

Dated this 6th day of February, 2002 at Nairobi.

**M.A. ANG'AWA**

**JUDGE**