



**REPUBLIC OF KENYA**

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

**CIVIL SUIT NO. 94 OF 1998**

**EUNICE WANGUI ..... PLAINTIFF**

**VERSUS**

**WILSON THAMBO ..... DEFENDANT**

**JUDGMENT**

The Plaintiff EUNICE WANGUI was involved in a road accident when the matatu she was travelling in overturned. It was her evidence that the matatu did not collide with any other motor vehicle. It was however being driven at a very high speed when it overturned. The Defendant filed a defence but did not attend court during the hearing, although he had been served with a hearing notice. The case therefore proceeded for hearing ex parte. On the issue of liability, there was no evidence from the Defendant's side to contradict the Plaintiff's assertion that the motor vehicle overturned due to the high speed in which it was being driven. I am satisfied that the Plaintiff has proved her case against the Defendant on the required standard. I hold him liable.

After the accident the Plaintiff was taken to Kerugoya Hospital where she was treated and discharged. She was not admitted. She suffered injuries on the face, shoulder and the right elbow. She was examined by Dr. Ndirangu and the Defendants doctor Dr. R.P. Shah Consultant Surgeon. Both medical reports indicated that the Plaintiff suffered soft tissue injuries and recovered well without any permanent disabilities. I assess general damages for pain and suffering at Kshs.100,000/-. The Plaintiff produced a bundle of receipts to show the expenses she incurred when she bought the medicines amounting to Kshs.9260/-. I award the same. I award Kshs.100/- for police abstract but disallow the claim for Kshs.1500/- for the medical report for lack of proof. I also award Kshs.1190/- in respect of bus fare that the Plaintiff used in going to hospital for X-ray and medical attention.

I therefore enter judgment for the Plaintiff against the Defendant as follows:-

- a) General damages for pain and suffering at Kshs.100,000/-.
- b) Special damages at Kshs10,550/-.

Total Kshs.110,550/-.

The plaintiff shall also have the cost of this suit and interest.

Dated this day of 2002.

**J.V.O. JUMA**

**JUDGE**