



**REPUBLIC OF KENYA  
IN THE HIGH COURT OF KENYA AT NAIROBI  
MILIMANI COMMERCIAL COURTS  
CIVIL CASE NO. 2115 OF 2001**

**JOSEPH MUNYASYA MATOLO ..... PLAINTIFF  
VERSUS  
UNITED INSURANCE CO. LTD. .... 1ST DEFENDANT  
WHITESTONE AUCTIONEERS (K) LTD. .... 2ND DEFENDANT**

**JUDGMENT**

The plaintiff who is a businessman based at Kangundo took out a third party insurance policy with the 1st defendant to cover his motor vehicle registration number KAD 480C. The policy which was taken on 9.9.1997 was for one year but it was later extended up to 21.6.1999.

On 13.6.1999, the insured motor vehicle was involved in an accident and the plaintiff made the usual report to the 1st defendant. He later forwarded a claim form in connection with the accident and paid to the 1st defendant the relevant excess in the sum of Shs.30,000/= required on the policy before his claim could be processed. Subsequent to the accident, several suits, particulars of which are shown in the plaint and further details of which he gave during the hearing of this matter, were filed against the plaintiff and in respect of some, the 1st defendant appointed advocates to represent the plaintiff. Despite the efforts of the plaintiff as well as those of the 1st defendant to defend them, the suits were decided against the plaintiff and decrees subsequently issued for the payment by him of various amounts, some of which were partly paid by the 1st defendant.

In the trial of this suit, the plaintiff tendered in evidence (see Exh. 13) several cheques issued by the 1st defendant in settlement of some of the decrees. However it did not effect payment in respect of all the claims and as a result several decrees have been executed and amongst other actions, the plaintiff's personal motor vehicle has been attached. The plaintiff now claims in this suit that he is entitled to be indemnified by the 1st defendant against all loss and liability arising from the accident.

Interlocutory judgment was entered in this matter on 26.1.2001 at the request of the plaintiff on account of the two defendants herein having failed to enter appearance and consequently the matter came before me for formal proof.

On the basis of the evidence tendered by the plaintiff, as summarised above, I am satisfied that the plaintiff has established his case against the defendants on a balance of probability. Accordingly, judgment is entered in his favour as prayed in the plaint.

**Dated at Nairobi this 31st day of May, 2001.**

**T. MBALUTO  
JUDGE**