



- 1) Motor vehicle accident
- 2) Passenger
- 3) Male adult aged 45 in 1996
- 4) Fatal Accident
- 5) Liability – nil not proved
- 6) Suit dismissed
- 7) Possible awards:

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

CIVIL CASE NO.2104 OF 1998

ALICE NJOKI WACHICHI (Suing as next of kin and

Administrix of the estate of the late

WAWERU KARIUKI (Deceased)

VERSUS

LANG'T KOECH ----- 1ST DEFENDANT

BAXTON MUTHAMA MUYA ----- 2ND DEFENDANT

PAULINE MUTHONI KIIRU ----- 3RD DEFENDANT

PETER KARIUKI NDURU ----- 4TH DEFENDANT

HARJIT SINGH ----- 5TH DEFENDANT

ABDU KIKOMENI ----- 6TH DEFENDANT

JUDGMENT

Alice Njoki Wachichi, filed this suit for the wrongful death of her husband against the defendant No. 1 and 2 being the owner and driver of a motor vehicle that is said to have been involved in an accident whereby her husband died.

The claim has been brought under the Law Reform Act and under the Fatal Accidents Act.

Originally there were four other defendants in this case. The plaintiff discontinued the suit against them in March, 23rd, 2001.

Alice stated that she has four children. She did not produce a birth certificate as the said certificates were lost and or stolen. The children are all in secondary school except for the last born.

Apart from the evidence given the plaintiff did not mention how the accident occurred, nor was there any witness called to prove liability.

I had mentioned earlier in some of my decision and those of the Court of Appeal that where interlocutory judgment has not been entered liability must be proved. In this case it has not. As such this suit is hereby dismissed.

In the event that the plaintiff would have been successful. I would have awarded the following.

Under the Law Reform Act.

Loss of expectation of life Kshs.70,000/-.

Under the Fatal Accidents Act.

I note that the deceased was a lecturer earning Ksh.26,000/-

per month inclusive of house allowance. That he was aged 45-44 years in 1996. A multiplier of 10 years is fair in the circumstances.

The basic salary by 14,000/- (exclusive of house allowance) my calculation would have been $14,000 \times 10 \times 12 \times \frac{2}{3} = \text{Ksh.1.130,000/-}$

I would have discounted Ksh.130,000/- for accumulated payment and possible remarriage by the plaintiff.

I would have appointed the sum as follows:-

Wife Ksh.200,000/-

1st Child Ksh.200,000/-

2nd Child Ksh.200,000/-

3rd Child Ksh.200,000/-

4th Child Ksh.200,000/-

The minors share would have been invested.

I would otherwise dismiss this suit with costs.

Dated this 7th day of November, 2001 at Nairobi.

M.A. ANG'AWA

JUDGE