



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

CIVIL CASE NO. 1187 OF 1999

LUKAS OCHOLA WANGULU PLAINTIFF

VERSUS

SECURICOR KENYA LTD. DEFENDANT

JUDGEMENT

This is a very moving story of a guard attached to the securicor company. He had worked faithfully and diligently for the defendant.

In the course of his duty, on the material day of 9.11.93, the vehicle he was travelling in had an accident. The vehicle belonged to his employer. He and other guards were delivering cash from Kericho to Kisumu. When the accident occurred, the plaintiff and the other guards who were alive, were given medical treatment.

This medical treatment was at the expense of the defendants and was fully paid.

The Plaintiff filed suit. He had been retired under medical grounds but he claims it was for under complaints.

He prayed orally to this court that the he be paid all the salary since the time he had been relieved of his employment. He also prayed that his medical treatment continue to be paid for.

His lawyers had originally filed this suit in Kakamega. As the treatment he was receiving was in Nairobi, he then prayed for the Kakamega file to be transferred to Nairobi. This was done.

It was in the Kakamega file Hccc 186/95 that a consent judgement was entered between the parties on liability. This was at 100%. This was on 18.4.96.

As to Quantum the plaintiff stated that the medical report he had was not in his possession. The reasons being that the doctors holding the report had not been paid. They therefore had not released the report.

The advocate for the defendant commented that not only did the plaintiff not have the medical reports but also his file on this matter. The plaintiff failed to comply with serving her with the documents to the said case. A list had been attempted to be filed.

The defence called no evidence. The advocate stated from the bar that plaintiff had been paid Ksh.75,000/- under the Workman's Compensation. He should be awarded not more than 80,000/-.

I find that the plaintiff has failed to establish that he did sustain injuries and to what extent. The medical report was crucial to this case. The Plaintiff choose not to produce them.

He had been extensively treated by his employee and is said to have been paid his Workman's Compensation. I hereby dismiss this case for lack of proof with costs to the defendants.

If per chance I am required by law to indicate how much I would have awarded, I would have, subject to a medical report of proof of injury award Ksh.100,000/-.

This suit otherwise stands dismissed. Dated this 16th day of February, 2000 at Nairobi.

M. A. ANG'AWA

JUDGE