



**REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
H.C.CIVIL CASE NO.3873 OF 1993**

LUCY WAITHIRA KIMANI..... PLAINTIFF

VERSUS

CHARLES J. KIARIE KIMANI DEFENDANT

J U D G M E N T

The Plaintiff’s claim arises out of a road accident which occurred on the 18/11/1991 along Limuru-Naivasha Road involving motor vehicles Registration Number **KRZ 781** and **KAB 543V**, which collided in which the deceased **RAPHAEL KIMANI KIARIE** was killed. The deceased was travelling as a lawful passenger in motor vehicle registration No.KRZ 781. The Plaintiff’s have brought this suit in their capacity as Administrators of the estate of the deceased. This claim is brought both under the Law Reform Act Cap 26 and Fatal Accident Act Cap 32. Laws of Kenya.

The defendant was served with the hearing notice but did not appear to defend the suit. The suit proceeded ex-parte under **O IXB R.3**. The deceased passed away at the age of 29 years and left a widow LUCY KIMANI and two children. Denis aged 12 years and Wambui aged 9 years. The accident occurred due to the negligence of the defendants who were the driver and owner of motor vehicle registration NO.KAB 543V.

The deceased was employed by **PRIME CHEMICALS LTD** in Nairobi at a salary of **Shs.5000/=** per month. The Plaintiffs have proved their case on liability. I now proceed to assess quantum.

Counsel for the Plaintiffs in his submission suggested a figure of **Shs.70,000/=** for loss of expectation of life as conventional damages and **Sh.66,407** special damages which were already proved by the widow of the deceased and who produced documents to support the same. For the claim under the Law Reform Act I award **Shs.70,000/=** for loss of expectation of life.

Under the Fatal Accident Act counsel for the Plaintiff suggested a **multiplier of 20**. The deceased was 29 years old when he died. A multiplier of 16 would be suitable.

This would work out as follows:

16 X 5000 x 12=930,000

The figure may be brought forward as follows:-

Loss of dependency **Kshs. 930,000/=**

Loss of expectation of life **Kshs 70,000/=**

TOTAL KSHS.1,000,000/=

The deceased would spend 1/3 of the total sum for himself. This would work on as follows:-

1,000,000 X 2/3=KSHS.670,000/=

Special Damages **66,047/=**

TOTAL KSHS.736,047/=

Accordingly there shall be Judgment for the Plaintiff and against the defendants jointly and severally for Shs.736,047/= plus costs and interest

There are two minors Dannis and Wambui aged 12 years and 9 years respectively . I make the apportionment as follows:-

LUCY WAITHIRA KIMANI – WIDOW **KSHS.336,047/=**

DENISS NGANGA **KSHS.200,000/=**

MARY WAMBUI **KSHS200,000/=**

Dated and delivered at Nairobi this 11th day of February, 2000

J.L.A. OSIEMO

JUDGE