

REPUBLIC OF KENYA

IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)

CIV CASE 2163 OF 1997

GAVIN BENNET.....PLAINTIFF

-VERSUS-

JOHNSON MWANGI RUHIU.....DEFENDANT

JUDGMENT

The plaintiff has sued the defendant for the recovery of Shs.572,672. In his evidence, the plaintiff explained to the court how the accident occurred and that after the accident the defendant accepted liability and signed an acknowledgement. During the hearing the counsel for the defendant informed the court that liability is admitted. The plaintiff called two witnesses besides himself. He called the Insurance Assessor who explained how he carried out the assessment and produced his report, which gives the pre accident value and the cost of repairs. He explained that after he had made his assessments he received a letter from the Dealers, TOYOTA KENYA LTD indicating that the prices for the spare parts had gone up. When he examined the prices he found that the repair of the vehicle would be uneconomical. He therefore wrote it off. The other witness Mary Kiriga explained that the procedure for disposing of the salvage is done through the tendering system. In this case there were 8 proposals an the highest was by TOYOTA KENYA who bought the salvage for Shs.420 she also explained the assessors fees and the investigation fees. The defence did not call any evidence.

I accept the evidence of the plaintiff. The evidence tendered showed that the owner of the vehicle had asked for the repairs to be carried out by the Dealers who were the TOYOTA KENYA. He was within his rights to do so and the Insurance had no choice but to have the car repaired by then. The other charges for investigation and the assessors fees were adequately explained.

There will be judgment for the plaintiff for:

- a) Shs.572,672
- b) Interest at 14% p.a. on (a) above until payment in full
- c) Costs and interest of this suit.

Dated and delivered at Nairobi this 13th day of June, 2000.

KASANGA MULWA

JUDGE