

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAIROBI
CIVIL SUIT NO. 5057 OF 1992

JANE MULINGE.....PLAINTIFF

-VERSUS

ANTHONY MAINA NDERE.....1st DEFENDANT

DORCAS KATOKA.....2ND DEFENDANT

FRANK KINAMA MUSYIMI.....3RD DEFENDANT

JUDGEMENT

(a) Liability

The Plaintiff Jane Mulinge has sued the defendant for damages following a road accident. In her evidence the Plaintiff explained how she got into a bus at the bus station to go to Umoja. Along Jogoo road, the driver was speeding and ignored her complaints when she told him he was over speeding. He found a stationary bus registration number KVVU 156 at a bus stage. He attempted to overtake this bus but a lorry which was coming from behind hooted and forced him to ram into the stationary bus. Following this evidence by the plaintiff, I find the driver of the vehicle KTJ 623 wholly to blame for the accident and the 2nd and 3rd defendants are vicariously liable. As a result of this accident the Plaintiff suffered injuries. She was inpatient at Kenyatta Hospital for six weeks. She had to undergo prolonged treatment and as a result she lost her job. She has not been able to get another employment.

(b) Damages

The plaintiff produced 5 medical reports which was in agreement as to the injuries suffered by the Plaintiff as a result of the accident. The reports indicate that the Plaintiff will need to undergo a further operation for replacing the hip which shall cost about kshs.500,000/- The Plaintiff has cited 4 authorities to support her claim for damages. I have considered these authorities comparing the injuries which were considered and the Plaintiffs injuries. I have also taken into account the inflationary trend since these cases were decided. For pain and suffering and loss of amenities I award a sum of Shs.950,000. I further award Shs.500,000/- as recommended by the doctors for future treatment. © Judgment There will therefore be judgment for the Plaintiff as follows:

(a) General damages for pain and suffering and loss of amenities Shs. 950,000

(b) Cost for future treatment Shs. 500,000

(c) Special damages Shs. 35,875

Total Shs.1,485,875

The Plaintiff shall be paid the costs of this suit and interest.

Dated and delivered this 29th day of September, 2000.

KASANGA MULWA

JUDGE