



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT NAIROBI**  
**CIVIL SUIT NO. 1750 OF 1999**

**JOSEPH KITHEKA.....PLAINTIFF**  
**-VERSUS-**  
**STEPHEN MATHUKA PIUS ..... DEFENDANT**

**JUDGEMENT**

In this case Interlocutory Judgement on liability was entered on 3/12/99 when the Defendant failed to enter appearance. On 4-7-2000 the case came for hearing for assessment of damages. The Plaintiff gave evidence as to how the accident occurred. He was walking going home near Safari Park Hotel on the pavement when the vehicle driven by the Defendant veered off the road, the defendant apparently having lost control of the vehicle. It knocked him down. He sustained injuries and the Defendant rushed him to Guru Nanak Hospital where he was given first aid but later transferred to Kenyatta National Hospital where he remained for two weeks. He said he lost his job as a result of the accident.

He produced the medical reports which show that he suffered:

- (1) Fracture (L) radius and ulna
- (2) Fracture of the (R) tibia and fibula
- (3) Blunt head injury, confusion and bruises on the scalp.

The reports add further that the leg deformity will be permanent and the deformity is 15% permanent. He is now asking for general damages for these injuries. The Plaintiff cited a number of cases in support of his case. I have considered each of these cases and compared the awards under each item. I have also taken into consideration the inflationary trend. I make the following award of damages:

- (1) For fracture of ® tibia and fibula = Shs.700,000/-
- (2) For fracture (L) radius and ulna = Shs. 180,000/-
- (3) Blunt head injury confusion and bruises on the scalp =Shs.400,000/-
- (4) Specials = Shs. 16,000/-

Total = Shs1,296,000/-

There will be Judgement for the Plaintiff for the sum of Shs. 1,296,000/- The Defendant shall pay the costs of the suit and interests.

**Dated and Delivered at Nairobi this 29th day of September, 2000.**

**KASANGA MULWA**

**JUDGE**