



**REPUBLIC OF KENYA  
IN THE HIGH COURT OF KENYA AT NAIROBI  
CIVIL SUIT NO. 3690 OF 1994**

**JOSEPH KIMANI MUGAYA.....PLAINTIFF  
-VERSUS-  
JOHN KIBAGIO NJIRU  
CATHERINE MUSIMBI GIDALI.....DEFENDANTS**

**JUDGEMENT**

In this case the Plaintiff is suing the defendants as the father of the deceased. Judgment on liability and special damages has been entered so that the only issue to be determined is the General Damages payable. The Plaintiff gave evidence that the deceased was married and had two children. His wife was not working and the family depended on him for maintenance. He was earning 500/- per day. He spend out of his salary the sum of Ksh.10,800/- per month supporting the family. The deceased was aged 31 years old at the time of his death.

I have considered the evidence by the plaintiff and the only witness the widow of the deceased. I have also read the cases cited. The deceased was said to have been working as a driver. Although the defendants challenge this evidence on the grounds that no evidence was given to support that the deceased was so employed. The defendant challenged the salary of the deceased as no payslip was produced.

I have however accepted the evidence of the Plaintiff that the Plaintiff was employed as a driver at the salary of Shs.500/- per day. I will also take into account that the deceased was so employed on part time basis. I will therefore adopt a multiplicand of Shs.5,000/- and a multiplier of 15 years so that General damages for loss of dependence shall be  $5,000 \times 15 \times 12 = 900,000/-$

For Pain and suffering I award shs.10,000/- because the deceased died on the same day of the accident.

There will be judgement for the Plaintiff as follows:

1. General damages for loss of dependency  $5,000 \times 15 \times 12 = \text{Shs.}900,000$
2. Special damages = Shs. 34,873
3. Pain and Suffering = Shs. 10,000 Total = Shs.944,873

The Plaintiff shall be paid the costs and interest.

Dated and delivered at Nairobi this 20th day of September 2000.

**KASANGA MULWA**

**JUDGE**