

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
CIVIL SUIT NO. 220 OF 1991

PHILOMENA KITHOME.....PLAINTIFF
-VERSUS-
AKAMBA PUBLIC BUS SERVICE.....DEFENDANT

JUDGEMENT

LIABILITY:

The Plaintiff has sued the Defendant for damages following a road accident. In her evidence the Plaintiff told the court that on 17.12.88 she was in the bus owned by the Defendant travelling from Machakos to Makueni. At Kola the driver so badly managed the vehicle that it hit a wall and overturned.

The Plaintiff sustained injuries. The defendant in its Defence simply denied all the claims made by the Plaintiff in other words the Defence amounts to mere denials. I accept the Plaintiff's evidence that the driver was guilty of negligence and therefore the Defendant was vicariously liable.

DAMAGES

The Plaintiff produced a medical report by Dr. Njoroge which gave the details of the injuries suffered by the Plaintiff as a result of the accident.

The Plaintiff through her counsel submitted several cases, which I have considered by comparing the injuries with those of the Plaintiff. I have also considered the elements of inflation taking into account the difference in time, from the time those cases were decided. In all the circumstances of this case, I would consider the sum of Shs.300,000/- as adequate.

There will be judgment for the Plaintiff as follows:

(1) For pain and suffering and loss of amenities Shs.300,000

(2) For future medical care Shs. 80,000

Total Shs. 380,000

The Plaintiff shall have the costs of the suit and interest.

Dated and delivered this 6th day of October, 2000.

KASANGA MULWA

JUDGE