



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT NAIROBI**

**CIVIL DIVISION**

**CIV SUIT 628 OF 1996**

**CHARLES WAHOME MUIKIA.....PLAINTIFF**

**-VERSUS**

**JAMES KAMAU MWANGI & 2 OTHERS.....DEFENDANT**

**JUDGEMENT**

The Plaintiff was a passenger in the vehicle registration No. KAC 410B, a Matatu. According to the plaintiff, the driver was competing with another Matatu and attempted to overtake in the wrong side and ran into another stationary Matatu causing the accident. According to the plaintiff, the driver of this Matatu was wholly to blame.

The parties entered into a Consent Order in which the Defendants' were to bear 90% of the blame and the Plaintiff 10%. I fail to see however how the Plaintiff is to blame for the 10% when he was a mere passenger. Be as it may, the only matter to be decided is the damages payable. QUANTUM

The Medical Report by Prof. Sande confirms the Plaintiff's evidence on the injuries. The report gives details of the injuries.

The Plaintiff testified that as a result of the injuries, he had to discontinue his job with Kenya Reinsurance. The Doctor assessed his permanent disability as 25%. In support of his claim for damages the Plaintiff cited a number of cases. I have considered these cases by comparing the injuries with those of the Plaintiff. I have also taken into account the inflationary trend since these cases were decided and in all the circumstances of this case, I consider the sum of Shs.950,000 as a fair compensation for the pain and suffering and loss of amenities.

There will therefore be judgement for the Plaintiff as follows:

(1) General damages Kshs. 950,000

(2) Special damages Kshs. 113,264

Total Kshs.1,063,264

The Plaintiff shall have the cost for the suit and interest. Dated and delivered this 2nd day of October, 2000.

**KASANGA MULWA**

**JUDGE**