

**REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
CIVIL SUIT NO. 37 OF 1992**

**LEONARD KINUTHIA.....PLAINTIFF
-VERSUS-
WILLIAM SIRMA KIBOROS & ANOTHER.....DEFENDANT**

JUDGEMENT

The Plaintiff has sued the Defendants for damages following a road accident which occurred on 13.3.91 along Waiyaki way in Nairobi. The Plaintiff blamed the Defendant for the accident. In his evidence the Plaintiff was driving towards Kangemi. This road is two way but he saw a vehicle coming on towards him driving from the opposite side. He saw it when it was about 60 metres away. He was driving uphill and he was not speeding. The on coming vehicle had its full lights on. He was taken by good samaritans to MP Shah hospital. He produced the doctors report which shows that he sustained the following injuries:

- (1) Fracture of right angle and comminuted fracture of the lateral malleolus
- (2) Soft tissue injury to the chest
- (3) Soft tissue injury to the right hip

The doctor assessed the incapacity at 10%.

The Plaintiff in support of his claim for damages cited a number of cases namely:

- (1) HCCC No. 15 of 1987 James Jimbi Dume vs. Kisauni Youth Village Polytechnic (Mombasa)
- (2) HCCC No. 451 of 1991 George Mwashigadi & Others vs. Paul Musyoka Mutemi & Others (Mombasa)

I have considered these cases comparing the injuries the Plaintiffs suffered and the awards given, with the injuries in the present case. I have also taken into consideration the inflationary trend since the judgments were given. I assess the damages payable for pain and suffering and loss of amenities at Shs.700,000/-

The Plaintiff shall have the cost of the suit and interests.

Dated and delivered this 10th day of November, 2000.

KASANGA MULWA

JUDGE