



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAIROBI (MILIMANI LAW COURTS)
CIVIL CASE 2844 OF 98

MONICAH NDUTI MWANGANGI & ANO..... PLAINTIFFS

VERSUS

CHRISTOPHER MWANIKI KIRAGU DEFENDANT

JUDGMENT

The defendant being duly served with the “Plaint” and “Summons to Enter Appearance” failed to enter appearance or file his defence. An Interlocutory Judgement was entered against him on the 12.2.99.

The case came up for formal proof.

The plaintiff who brings this case against the defendant does so on behalf of estate of the deceased as a personal representative.

The deceased died a day later as a result of a road traffic accident caused wholly on the negligence of the defendant.

The plaintiff prayed she be compensated under both the Fatal Accidents Act and the Law Reform.

On Quantum I find that under the Fatal Accidents Act an award of Kshs.20,000/- suffice on the loss of dependency.

On General Damages under the Law Reform Act the loss of expectation of life - the salary of an Engineer Manager net at Ksh.10,000/- taken into account with a multiplier of 18 years (The deceased was aged 48 years at the time of death) a sum of Kshs.800,000/- is reasonable. The deceased died the following day and is entitled to pain suffering and loss of amenities. I believe 10,000/- suffice.

I note proof of funeral expenses has not been shown or proved as pleaded. I would grant only 20,000/- for the Lee Funeral Home a receipt being presented.

I hereby, as required, to apportion the head under the Fatal Accidents Act to the defendants. Two of the children are now adults. I apportion the same as follows:

Monicah Ndoti Mwangi Wife - Ksh.5,000/-

Joan Kassiu Mwangi daughter - Ksh.5,000/-

Esther Kahi Mwangi daughter - Ksh.5,000/-

John Mutua Mwangi son - Ksh.5,000/-

- Ksh.20,000

In summary

General Damages

1) Pain suffering & Loss of Amenities Ksh .10,000/-

2) Loss of expectation of Life Ksh.800,000/-

3) Loss of dependency Ksh .20,000/-

Special Damages Ksh.20,000

Total Kshs.850,000

I also award costs of this suit and interest at court rate.

Dated this 16th day of April, 1999 at Nairobi.

M.A. ANG'AWA

JUDGE