



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA
AT NAIROBI

CIVIL CASE NO.1527 OF 1988

JANE AKINYI OKINYI PLAINTIFF

VERSUS

KENYA BUS SERVICES LTD. DEFENDANTS

JUDGMENT

On the 10th of January 1987, a Kenya Bus motor vehicle registration KSP 337, driven by the defendants servant crushed into the deceased who was walking along Landies Road.

The widow and plaintiff in this brings a claim under the Fatal Accidents Act. She does so as a dependent and or behalf of her eight children.

She informed the court that she was totally dependant on the deceased.

She filed suit on 25.4.88.

On the 30th of January 1996 the parties entered into a consent on liability before Juma J. Judgment on liability against the defendant at 70% and the plaintiff to bear 30%.

On the 4th of May 1999 when the case came up for hearing Special Damages was agreed at Kshs.10,150/- being funeral expenses, Death Certificate and abstract report expenses.

The issue before me for determination was that of the multiplier (The deceased income had been agreed at Kshs.3,788.50).

The advocate for the plaintiff through his witness stated that the deceased would have worked up to the age of 60 years. He was a locomotive driver. The retirement age is normally 55 years with the Kenya Railways but they normally would have a contract renewed till 60 years.

The advocate thus recommended a multiplier of 10 years.

The witness indicated that her husband was aged between 45 to 46 years old.

The advocate for the defendant stated that the plaint specifically pleaded that the age of the deceased was 48 years (see para 5 of the Plaintiff).

He recommended a multiplier of 6 years.

Thus $6 \times 12 \times 3,788.50 \times \frac{2}{3} = \text{Ksh.}394,601/10$ (not accurate).

I find that the deceased was aged 48 years as per the pleadings of the plaint. he would have worked up to the age of 55 years. This gives a multiplier of 7 years.

I shall accept this figure as being he multiplier.

Therefore

$$7 \times 12 \times 3,788.50 \times \frac{2}{3} = \text{Kshs.}212,184 \text{ /-}.$$

The ratio of 70%:30% amounts Kshs.148,642/- being made liable to he defendant.

Apportionment:

1. Jane A. Okinyi - widow 45 years - Ksh28,642/-
2. Millicent Anyango daughter 16 years - ksh20,000/-
3. Eveline Achieng' daughter 15 years - Ksh20,000/-
4. Christine Ngwono daughter 12 years - Ksh20,000/-
5. Sofia Adhiambo daughter 11 years - Ksh20,000/-

Adult Children

6. Susan Atieno daughter -Ksh10,000/-
7. Reuben Omulo -Ksh10,000/-
8. Florence Auma daughter -Ksh10,000/-
9. Caroline Awuor daughter -Ksh10,000/-

In summary

General Damages

Fatal Accident Act for Loss of Dependency	-Ksh212,184/-
Special damages	-Ksh 10,150/-
	-Ksh.222,334/-
70% ratio -	<u>-Ksh148,642/-</u>

I award interest on General Damages from the date of this case.

Interest on Special Damages from the date of filing suit.

Dated this 5th day of May 1999 at Nairobi at Nairobi.

M. ANG'AWA

JUDGE