



IN THE COURT OF APPEAL

AT NAIROBI

(CORAM: GICHERU, LAKHA, JJ.A & BOSIRE Ag. J. A.)

CIVIL APPEAL NO. 34 OF 1996

BETWEEN

BONIFACE MUSYOKA NDOLO.....APPELLANT

AND

PAULINE KATONGE MUSAU.....SPONDENT

**(Appeal from the Judgment and Decree of the High Court of Kenya at Machakos
(Justice Osiemo) delivered on 29th November, 1995**

IN

H. C. C. NO. 494 OF 1994)

JUDGEMENT OF THE COURT

This is an appeal against the quantum of damages awarded by the superior court (Osiemo, J.) to the respondent who was the victim of a motor accident. There is no appeal before us against liability as judgment on liability was entered by Consent and the suit proceeded only on assessment of damages.

On or about November 14, 1993 the respondent was travelling as a passenger in a motor vehicle registration No. KAA 183T when it was involved in an accident along Kangundo – Nairobi road. She sustained concussion of the brain, severe burns on the face, neck, trunk, arms and abdomen, severe scarring and formation of hypertrophic scars all over the body; severe contracture of the left side of the neck severely limiting the neck movements and severe contracture of the right elbow severely limiting movements severe and affected about 25% of the total body surface area –almost the same as in the cases cited.

Giving the best consideration to this aspect of the case, we think that the figure of general damages for pain, suffering and loss of amenities should be reduced by one-half to shillings 600,000/=.

As for damages for future operations Dr. Musyoka estimated those costs at Shillings 1.2 million. We have not been persuaded that this was in any way so high or that it was in any way erroneous. We on our part would not disturb this award.

In the result, the appeal is allowed to the extent that the decree issued by the superior court is varied by reducing the same by a sum of Shs. 600,000/=. The respondent shall pay to the appellant one-half of the costs of this appeal.

Dated and delivered at Nairobi this 7th day of March, 1997.

J. E. GICHERU

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JUDGE OF APPEAL

A. A. LAKHA

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JUDGE OF APPEAL

S.E.O. BOSIRE

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Ag. JUDGE OF APPEAL

I certify that this is a true copy of the original.

DEPUTY REGISTRAR