



REPUBLIC OF KENYA
IN THE COURT OF APPEAL
AT NAIROBI
(CORAM: OMOLO & LAKHA JJ.A & BOSIRE AG. JA)
CIVIL APPEAL NO.35 of 1997

BETWEEN

JEDIDA ALUMASA

CALEB MWASHI

SELINA MUDUYA.....APPELLANTS

SAMWEL ALUDA

AND

S.S. KOSITANY.....RESPONDENT

(Being an appeal from the judgement of the High Court of
Kenya at Nairobi (Mr Justice J. Mwera) dated the 3rd
December, 1992

in

H.C.C.C. NO.4831 OF 1988)

JUDGEMENT OF THE COURT

The appellants are dismayed by the paucity of damages which were awarded to them on 3rd December, 1992, by Mwera, J. in High Court Civil Case No.4831 of 1988. The learned Judge considered the medical evidence which was tendered before him and the appellants' respective oral evidence but was of the view that the appellants were grossly exaggerating the degree of their respective injuries.

The appellants now complain that the learned trial Judge misapprehended the evidence and thereby arrived at an inordinately low estimate of damages.

It is trite law that this court will not interfere with an award of damages by the trial court unless he has either misapprehended the evidence, or omitted to take into account a relevant factor in assessing damages or took into account irrelevant factors.

We have considered all the evidence which was before the learned Judge as we are supposed to as a first

