

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI
CIVIL CASE NO 2199 OF 1985

SAMUUEL MUTHEKA ILIA PLAINTIFF
versus
JIMMY KABETE SPEKE DEFENDANT

JUDGMENT

The deceased at the time of her death was aged 34 years. Her only dependants within the meaning of the Fatal Accidents Act (cap 32) were her parents, her brothers children were not dependants within the meaning of the Act.

Her father the plaintiff (who is described as her widower in the plaint) is said in the plaint to be aged 80, but in the evidence his age is said to be 74. His wife (who is not referred to in the particulars pursuant to statute in the plaint) is said to be the same age. The evidence establishes (in the absence of cross-examination or contradiction from the defendant) that the deceased contributed Kshs 300 per month to her aged parents. I accordingly find that the annual value of the dependency was Kshs 3,600.

Continuation of life after one has attained three score years and ten is very uncertain and precarious. I feel I should find that the plaintiff and his wife might have continued to live for another five or six years during which the deceased would have continued to support them.

Taking into account the far from remote possibility that one or other or both of them may have died much earlier, I apply a multiplier of 3 to the annual dependence and award Kshs 10,800 under the Fatal Accident Act together with funeral expenses and hospital expenses of Kshs 5,800 and I award a further sum of Kshs 8,000 under the Law Reform Act (cap 26) and costs.

There will accordingly be judgment for Kshs 21,600 together with costs to be taxed.

Delivered at Nairobi this 30th day of September 1986.

J F SHIELDS

JUDGE