



IN THE COURT OF APPEAL

AT NAIROBI

(CORAM: KNELLER, NYARANGI JJA & CHESONI AG JA)

CIVIL APPEAL NO 21 OF 1984

**KEMFRO AFRICA LIMITED T/A “MERU EXPRESS SERVICES
(1976)” & GATHOGO KANINI.....APPELLANTS**

VERSUS

AZIRI KAMU MUDIKA LUBIA & ANOTHER..... RESPONDENTS

(Appeal from the High Court at Nairobi, Cockar J)

JUDGMENT

Myra Minayo (Myra) was driving her husband Aziri Kamu Mudika Lubia (Lubia) in his or their Peugeot 504 Saloon KPT 112 along the Meru Nyeri road towards Nyeri at 1.30 pm on Sunday July 2, 1978 and Gathogo Kanini (Kanini) was driving another vehicle KQR 334, which belonged to Kemfro Africa Limited trading as Meru Express Services (1976) (Kemfro) in the opposite direction and they collided at Kiganjo.

The Lubias had with them in this car their children – Margaret 9 1/2, Norbet 8 1/2, Olive 7 1/2, Peter 5 1/2, Ronald 1 1/2 - their ayah and the daughter of a friend.

Myra, Olive and Lubia were injured and were taken to hospital where Myra died the next morning and Olive and Lubia were treated and recovered. Both vehicles were a write-off.

Lubia brought an action in the High Court in Nairobi on July 24, 1979 under the provisions of the Law Reform Act (Cap 26) and of the Fatal Accidents Act (Cap 32) on behalf of and for the benefit of himself, the dependant of Myra and Myra’s estate against Kemfro and Kanini. The dependants were limited to their five children. He asked for judgment against them for Kshs 16,244.40 special damages, general damages for her pain and suffering and for her loss of expectation of life, for the benefit of Myra’s estate under the Law Reform Act. This was the start of Civil Suit 2381 of 1979.

Olive, through her father, and Lubia himself joined to sue Kemfro and Kanini for special damages of Kshs 49,104.30 and general damages for their serious injuries. This was the basis of Civil Suit 2382 of 1979.

In both complaints it was alleged Kanini was the servant of Kemfro and driving KQR 334 in the course of that employment or agency and it was because he drove it negligently that Myra died, Olive and Lubia were

injured and the Peugeot was wrecked so Kemfro and Kanini were liable.

Kemfro and Kanini in their joint written statements of defence in each suit denied liability and pleaded that the accident was solely caused and substantially contributed by Myra's negligence and in Civil suit 2382 of 1979 they conterclaimed for Kshs 53,757 from Lubia because Myra was his servant or agent at the time.

These matters were listed on December 15, 1981 before Mr Justice Cockar. The suits were, by consent, in effect, consolidated, Kemfro and Kanini admitted liability in each, their counterclaims in each were dismissed with costs, special damages were agreed at Kshs 58,500 to cover both actions and quantum was the only issue that went for trial.

Lubia testified and Olive made a statement (in accordance with the provisions of section 19 of the Oaths and Statutory Declarations Act (Cap 15) and not section 233 of the Criminal Procedure Code as the learned Judge wrote) and both were cross-examined. There was no evidence from or for Kemfro and Kanini.

On March 29, 1982 Mr Justice Cockar made the following awards for these general damages.

Kshs

A. Civil Suit 2381

1. Law Reform Act

a. pain and suffering	Nil
b. Loss of expectation of life	25,000

2. Fatal Accidents

a. Loss of physical services rendered by Myra to the children and home	10,000
b. Loss of her contribution to her husband	150,000

TOTAL 185,000

B. Civil Suit 2382 of 1979

1. Olive's injuries	150,000
2. Lubia's Injuries	17,000

Kemfro and Kanini appealed in each action on October 10, 1983 but in one memorandum.

They asked for the award in Civil Suit 2381 to be reduced by Kshs 25,000 claiming it should be deducted from the other award of Kshs 150,000.

They also asked this Court to set aside the Kshs 150,000 award to Olive in Civil Suit 2382 and assess what they should pay her.

Olive cross-appealed on August 24, 1982 and asked this Court to set aside the award of Kshs 150,000 to her and assess afresh what amount Kemfro and Kanini should pay her but on October 7, 1983 she withdrew it, but so far no award of costs has been made on this.

The issues in this appeal are, therefore, first, whether or not the award in Civil Suit 2381 should be reduced by Kshs 25,000 and, secondly, this Court should interfere with the award in Civil Suit 2382?

The principles to be observed by an appellate court in deciding whether it is justified in disturbing the quantum of damages awarded by a trial Judge were held by the former Court of Appeal of Eastern Africa to be that it must be satisfied that either that the Judge, in assessing the damages, took into account an irrelevant factor, or left out of account a relevant one, or that, short of this, the amount is so inordinately low or so inordinately high that it must be a wholly erroneous estimate of the damage. See *Ilanga v Manyoka*, [1961] EA 705, 709, 713 (CA-T); *Lukenya Ranching and Farming Co-operative Society Ltd v Kavoloto*, [1979] EA 414, 418, 419 (CA-K). This Court follows the same principles.

Why do Kemfro and Kanini say the damages in Civil Suit 2381 should be reduced by Kshs 25,000? Because the Kshs 25,000 was awarded under the Law Reform Act and it should be subtracted from the amount awarded under the Fatal Accidents Act is their answer.

In England, under the Law Reform Act, it is the deceased's own cause which survives for the benefit of his estate: *Rose v Ford*, [1937] AC 826: so the estate should recover the damages the deceased would have recovered but for this death (and the expenses of his funeral). Damages for pain, suffering, loss of amenities and earnings are for the period he survived: *Rose v Frod (Ibid)*: so if death is more or less instantaneous the only damages recoverable will be for the deceased's loss of expectation of life. *Yorkshire Electricity Board v Naylor*, [1968] AC 529. What has to be valued is the loss of the victims's prospective happiness which Viscount

Simmonds in *Benham v Gambling*, [1941] AC 157 said "might seem more suitable for discussion in an essay on Aristotelian ethics than in a judgment in a court of law" and because it is an unreal arbitrary award it usually is the current conventional sum. *Yorkshire Electricity Board v Naylor*, [*ibid*]. It was UK pounds 200 in 1941 and UK Pounds 500 in 1968.

Then any pecuniary loss suffered by a dependant must be off-set by any pecuniary gain which accrues to him or her. *Grand Trunk Ry v Jennings* (1888), 13 App Cas 800, 804 Lord Watson; *Baker v Dalgleish SS Co Ltd*, [1922] 1 KB 361. Administration expenses and estate duty must be deducted from the sum awarded as damages in assessing the value of the benefit under the Law Reform Act. *Rawlinson v Babcock and Wilco Ltd*, [1967] 1 WLR 481. The net benefit will be inherited by the same dependants under the Law Reform Act and that must then be taken into account in the damages awarded under the Fatal Accidents Act because the loss suffered under the latter Act must be off-set by the gain from the estate under the former Act. *Davies v Powell Duffryn Association Collieries Ltd*, [1942] AC 601.

This is so despite the provisions of section 1(5) of the Law Reform (Miscellaneous Provisions) Act, 1934 which declare that –

"The rights conferred by this Act for the benefit of the estates of deceased persons shall be in addition to and not in derogation of any rights conferred on the dependants of the deceased by the Fatal Accidents Act."

It has been pointed out before that the Law Reform Act (Cap 26) and the Fatal Accidents Act (Cap 32) of this country are almost the same as the English one, word for word, so the decisions of the English courts on their application may be of some help to the application of ours. *Roman Carl Hinz v Mwakima Mwang'ombe* Court of Appeal Civil Appeal 72 of 1983 Mombasa July 26, 1984. Section 1(5) of the English Law Reform (Miscellaneous Provisions) Act, 1934, is repeated in the provisions of section 2(5) of the Kenya Law Reform Act. Anyway, the principle that if a pecuniary gain which accrues to him or her from the same death of a person is logical and appropriate anywhere and, in my judgment, should be applied in Kenya.

No decision of this Court or its predecessors was cited. It was probably assumed to be the law in Kenya, and, therefore, never arose for decision. Simpson, J (as he then was) said in the High Court in Nairobi on July 30, 1979 in *Agnes Rodah Kidede and Ors v Piyush Basiklal Amin*, Nairobi High Court Civil Suit 83

of 1978 (unreported) in which damages were claimed under both Acts.

“I cannot properly make an award for loss of expectation of life under the Law Reform Act as no administrator appears to have been appointed but as any such award must be taken into account in assessing damages to be awarded under the Fatal Accidents Act the total award will be unaffected.” which underlines this principle, and that it was applied in Kenya then.

It must be remembered, however, that the widow or widower will usually be entitled to the whole of the estate of the deceased intestate spouse but their children will not benefit financially by the death of that parent who died but later through the estate of the surviving parent when he or she dies. This where a husband died and his wife as administrator of his estate sued for damages under both Acts but died before the trial when her administrators continued the actions the damages due to the husband’s estate were assessed at UK Pounds 1,000 and those to his widow under the Fatal Accidents Act at UK Pounds 700 so the total that went to her estate was UK Pounds 1,000 and not UK Pounds 1,700. The UK Pound 1,000 that went to the husband’s estate was ignored, however, when damages under the Acts were assessed for his daughter. *Rawlinson v Babcock & Wilcox Ltd (ibid)*.

The Law Commission in England proposed that (a) damages for loss of expectation of life should be abolished and (b) there should be no deduction from the damages under the Fatal Accidents Act in respect of benefits received from the deceased’s estate. The Courts there await any consequent changes that Parliament may make in the law. We have a Law Reform Commission in Kenya and it has not made such a recommendation and nor has our Parliament changed the law so, in my view, it would not be right for this Court to do so.

It is appropriate to recall here that Mr Justice Cockar in Civil Suit 2381 of 1979 made the following assessments for the pecuniary loss suffered on account of the death of Myra for the estate of Myra and for the benefit of Lubia and for the benefit of the children.

A. Myra’s estate

1. for her pain and suffering	Kshs Nil
2. her loss of expectation of life	Kshs 25,000
Lubia	Kshs 150,000
Their children	Kshs 10,000

Now, as I understand it, Kemfro and Kanini do not cavil at any of those assessments but only complain that the judge did not make Lubia’s Kshs 125,000 because the Kshs 25,000 for the estate of Myra would be inherited by him.

The answer to this is as follows. Although Lubia in the plaint in that suit describes himself as the executor of Myra’s estate, she died intestate and Lubia was authorized by the Public Trustee to administer it summarily and it was not clear he will inherit that Kshs 25,000 or what part of it since these details were not revealed to the Judge. And, if he does benefit from her estate that sum or part of it the Judge in my view accounted for it because he wrote this in his judgment –

“Mr Kwach said that the claim on behalf of the deceased’s wife dependants was under the Fatal Accidents Act and the claim on behalf of the estate of the deceased was under the Law Reform Act. Mr Barassa for the dependants, however, addressed the court at length and laid the particular emphasis on the need to see that the damages that were awarded under the different claims did not over-lap or that would result in the plaintiff being compensated twice in respect of one claim. I agree with Mr Barassa on that issue. Being fully mindful of what both the learned advocates had put forward and the provisions of the two Acts I would divide the claims arising out of the deceased’s death

This adequately covers the principles though it is not in the words that the authorities I have cited have it but he does not have to use them.

And did the Judge take account of the assessment for the estate under the Law Reform Act when it came to that for Lubia under the Fatal Accidents Act? He added all the assessments together, it is true, but, in my judgment, an arithmetical deduction need not be set out as for an examination answer. The test is whether or not this Court can be satisfied the Judge remembered before he assessed the loss for Lubia at Kshs 150,000 that Lubia would inherit the Kshs 25,000 from Myra's estate? In my view he did and I base that on the way in which he directed himself and the sum he awarded Lubia under the Fatal Accidents Act which even if the Kshs 25,000 under the Law Reform Act were not taken into account was not manifestly excessive.

Thus, I would dismiss the appeal from the award in Civil Suit 2381 of 1979.

And now I turn to the appeal in Civil Suit 2382 of 1979. The real basis of this one is that the award of Kshs 150,000 of Mr Justice Cockar is out of step with awards in parallel cases in Kenya.

Kemfro and Kanini are quick to cite this Court's decision in *Bundi Malube v Joseph Onkoba Nyamuro*, Civil Appeal 8 of 1983 at Kisumu on March 29, 1983 at Kisumu in which Law, JA and Hancox, Ag JA agreed that Kshs 30,000 damages for Bundi Malube for his injuries due to the tort of assault and battery committed against him by Nyamuro was an appropriate award but I dissented saying that Kshs 60,000 was what I would have assessed it at. I added that even though it was double what the majority had chosen I thought my figure was on the low side.

Bundi was a youth of 14 when his school master, Nyamuro, injured his right eye and he lost his sight in it there and then. Nothing could be done to restore his sight in that eye. When he reads his left eye waters. He could mitigate the damages by having treatment and or spectacles with an appropriate lens for the remaining eye. Law, JA added.

"As regards damages, it was not proved that the appellant's schooling came to an end because of his injury. He was apparently normally occupied as a herdsman, and there is no evidence that the loss of sight in one eye will interfere with that or other agricultural pursuits."

Hancox, Ag JA noted that Bundi was not a female and his injury did not leave him with a deformity which would occasion loss of earning power or diminish his marriage prospects. I dealt with awards for boys and girls for the loss of an eye between 1961 and 1971 in a digest of decisions of the High Court in Uganda called *Quantum of Damages for Personal Injuries* by Michael Wilkinson, 3rd edn, 1973 pp 49 to 54 which even during that period of over nearly a decade and a half ago ranged from Kshs 35,000 to Kshs 50,000. It has been said, however, that awards in Uganda were always higher than in Kenya.

Another local authority of this Court was also put before this Court in this Appeal. It was *Mohamed Juma v Kenya Glass Works Limited* Court of Appeal Civil Appeal 1 of 1980 at Mombasa on March 3, 1980 in which Madan and Miller, JJ A raised my award in the High Court of Kshs 50,000 for general damages to Kshs 70,000 while Law, JA dissented saying he was not persuaded that the award was so manifestly inadequate it required enhancement. Mohamed Juma was 42, married and had 8 children. He made a living plaiting palm leave baskets after an accident in a glass bottle factory where he worked in which he lost the use of his left eye. This was not removed and an operation on it did not leave him with any cosmetic trouble. There was some possibility of his right eye being affected by sympathetic ophthalmitis.

This one was not considered by the court at Kisumu in *Bundi's* appeal probably because it was decided 3 years before, the official reports here are 7 years in arrears and what is an appropriate sum for a 42 year old man has little or no relevance to one for an 8 year old girl which is what Mr Justice Cockar had to assess for Olive on March 29, 1982.

He took note of English awards in comparable cases between 1974 and 1980 for girls of about the same age for the loss of one eye and they varied between Kshs 90,000 to Kshs 200,000 sterling. Awards by

foreign courts do not necessarily represent the standards which should prevail in Kenya where the relevant conditions for such assessment are very different. *Kimothia v Bhamra Tyre Retreaders*, [1971] EA (CA-K). They are, however, what Madan, JA called 'helpful indicators' in *Mohamed Juma v Kenya Glass Works Limited (Ibid)*.

Olive was in and out of hospital from about July 2, 1978 to July 15, 1979. She had her right eye removed and a glass one inserted which was smaller than the left, uncontrollable and uncomfortable. The result was she squinted and her right eye watered so the cosmetic effect was disturbing for her and others. She is, according to the Judge, a pretty child whose chances in the matrimonial and employment market have been reduced by this injury. At one time her progress in school was also hindered by it but that had been overcome by the date of the judgment. It must also be remembered that the accident deprived her of her mother though compensation for some aspects of that loss has been provided for in the other suit. An award of Kshs 150,000 (UK Pound 7,500) at the end of March 1982, which is about 3 years ago, cannot, in my view, be held to be manifestly excessive. Each award is made on its own facts and this probably accounts for the one in *Bundi*. I would, therefore, dismiss the appeal in Civil Suit 2382 of 1979.

I propose that this appeal be dismissed with costs and that Kemfro and Kanini should have the costs of the cross-appeal by Olive. Nyarangi JA and Chesoni Ag JA agree so those are the orders of the court.

Nyarangi JA. The two grounds of appeal are

1. That the learned Judge erred in law in making an award of Kshs 25,000 to the Plaintiff for loss of expectation of life (HCCC No 2381/79).
2. That the award of Kshs 150,000 to the Plaintiff was manifestly excessive (HCCC No 2382 of 1979). This court will not interfere with the question of damages awarded by the trial court unless it is satisfied that the award was based on some wrong principle or is so manifestly excessive or inadequate that a wrong principle may be inferred: *Obongo v Municipal Council of Kisumu* [1971] E A 91 at page 96, Letter H – I. *Witu v Peake*, (1913/1914) 5 EALR 17, and *Marumba v Clark* (1952) 19 EACA 60. The Judge said that he was anxious that the awards do not overlap and that there would be no double compensation. That was a correct direction having regard to the Law Reform Act, to the Fatal Accident Act, and to the facts. There can be no question of this court disturbing the award, which in the circumstances is modest. If A suffers a pecuniary loss, the same may properly and fairly be made good by a similar gain accruing to A from the same death: *Rodah Kidede & Others v Piyush B Amoi* Nairobi HCCC 85 of 1978 (unreported).

The appeal from the award in HCCC 2381 of 1979 is without merit and should be dismissed.

Olive Lubia, the minor plaintiff in HCCC 2382 of 1979, sustained a fracture of the right side of frontal bone and suffered 100% loss of right eye. She was above average at her school, of good behaviour and a deputy prefect. She was aged 8 years at the time of the accident. The total loss of the eye had affected her class work and no doubt very substantially eroded her prospects of getting married or of getting married to a man in a comfortable station of life. It is generally difficult if not impossible for the girls with serious physical disability to contract happy normal marriages. In *Bundi Marube v Nyamiro* CA No 8 of 1983, the appellant, a male boy, lost his right eye. There was no evidence to what extent the loss of the eye had affected his schooling and his occupation as a herdsman. Of course his prospects of getting married to a normal girl of good education and good standing had virtually vanished. But, *Olive*, unlike *Bundi* will in all probability have to look after a child or children or even a family. *Bundi*'s occupation and pursuit were not interfered with to the extent *Olive*'s were. Mr Barasa overlooked these relevant and crucial factors in urging that the court should reduce the award for *Olive* to the level of that of *Bundi*. To my mind, the two cases are so clearly distinguishable that the trial Judge's award of Kshs 150,000, which is not, in the peculiar circumstances too generous, should not be interfered with. The award the subject of this appeal is not out of step bearing in mind the award in *Mohamed Juma v Kenya Glass Works Ltd*, CA No 1 of 1980 at Mombasa and not forgetting the potential total blindness if *Olive* should lose the sight of the remaining eye: *Quin v JW Green (Painters) Ltd*. [1965] 3 All ER 785 at page 786.

Lords held in *Davies v Powell Duffryn Collieries* [1942] AC 601 that any benefit accruing, or likely to accrue to a dependant from an award to the deceased's estate under the Law Reform (Miscellaneous Provisions) Act 1934 falls to be deducted from the damages under the Fatal Accidents Act. The cases of *Goodburn v Thomas Cotton* [1968] IQ.B 845 (C.A); *Mallett v Mcmonagle* [1970] AC 116 and *Murray v Shutter* [1976] QB 972 (CA) further illustrate this practice. Nevertheless, it appears that only that part of the Law Reform Act award which represents the non-pecuniary loss e.g the award for the loss of expectation of life is deductible: see *McGregor On Damages* 14th Edn P. 919 para. 1352. Account is taken of the award under the Law Reform Act when assessing damages under the Fatal Accidents Act only when the persons entitled to the deceased's estate are the same persons for whose benefit the action under the Fatal Accidents Act is brought and not otherwise. Mr Barasa argued that since under the Luhya customary law Myra having died intestate Lubia, her husband, was entitled to inherit the whole of her estate, there was duplication and so Kshs 25,000 should have been deducted from the Kshs 150,000. The Luhya Customary law may be so, but we cannot tell because customary law has to be proved as a fact and there is no evidence of proof of the relevant Luhya Customary Law. It was clear that the suit under the Fatal Accidents Act was brought for the benefit of Lubia and Myra's children, but the appellants had to prove that the same person Lubia was entitled to the deceased's estate for any deduction of the sum awarded under the Law Reform Act to be effected from the award under the Fatal Accidents Act. The burden of proof lies on the party alleging the accruing of pecuniary benefits to the dependants which he / she seeks to be set against the dependants' loss to prove that the pecuniary benefit was accrued or will accrue to the dependants as a result of the death. As I have already said *Kemfro Africa Ltd* and *Kanini* did not prove this fact.

S.4(2) of the Fatal Accidents Act Provides that:

“In assessing damages, under the provisions of subsection (1), the court shall not take into account –

- (a) any sum paid or payable on the death of the deceased under any contract of assurance or insurance, whether made before or after the passing of this Act;
- (b) any widows or orphan's pension or allowance payable or any sum payable under any contributory pension or other scheme declared by the Minister; by notice published in the Gazette, to be a scheme for the purpose of this paragraph”

An award under the Law Reform Act is not one of the benefits excluded from being taken into account when assessing damages under the Fatal Accidents Act and so it appears the Legislature intended that it should be considered.

Section 2(5) of the Law Reform Act says this:

“(5) The rights conferred by this part for the benefit of the estates of deceased persons shall be in addition to and not in derogation of any rights conferred on the dependants of the deceased persons by the Fatal Accidents Act” (emphasis is mine).

It has been argued in some English cases that this provision affects the right and not the benefits. Indeed the legislation can be looked at narrowly or in a wide sense. Narrowly it means rights and no more; widely it means the rights and benefits accruing from those rights are in addition and not in derogation to the rights and benefits resulting from them under the Fatal Accidents Act. In my view what section 2(5) of the Law Reform Act means is that a party entitled to sue under the Fatal Accidents Act still has the right to sue under the Law Reform Act in respect of the same death.

To be taken into account and to be deducted are two different things. The words used in s. 4(2) of the Fatal Accidents Act are “taken into account”. The section says what should not be taken into account and not necessarily deducted. For me it is enough if the judgment of the lower Court shows that in reaching the figure awarded under the Fatal Accidents Act the trial judge bore in mind or considered what he had awarded under the Law Reform Act for the non-pecuniary loss. There is no requirement in law or otherwise for him to engage in a mathematical deduction as suggested by Mr Barasa.

I agree with Mr Kwach that the award under the Law Reform Act, if any, is one of the factors to be taken into account, and the learned Judge took it into account. Had he not taken into account the Kshs 25,000 he had awarded under the Law Reform Act he might have awarded more than Kshs 150,000 under the Fatal Accidents Act: The Judge did what he was required to do and as I do not agree with the English authorities that suggest or say that there should be a mathematical deduction as opposed to mere taking into account the award under the Law Reform Act. I do not find any error in the approach by the learned Judge.

Was the award of Kshs 150,000 for Olive's loss of her right eye manifestly excessive? It is true in age the case of *Bundi Makube v Joseph Onkoba Nyamuro* Civil Appeal No 8 of 1983 is the nearest to this case. Bundi was a boy and Olive is a girl. Olive has to live with the artificial glass eye that is smaller than her natural eye on the left. The injury affects her physical appearance, a fact more relevant to a girl than a boy. I agree with what Kneller, JA said in Bundi's case that even Kshs 60,000 for loss of an eye was still on the low side. The case of Olive was decided before Bundi's case and was brought to the court's attention so *Bundi* cannot be used in the argument seeking to reverse the award in this case.

This court is often persuaded by English decisions, although in awards of damages we have said that English decisions are of little assistance because of differing circumstances, conditions and standard of living. I am inclined to be more persuaded by Ugandan decisions than English in this case as the conditions and mode of life in Uganda are similar to those in Kenya. In *Visensiyo Kyohbera v West Mengo District Association* Uganda HCCC No 697 of 1970 Yonds J awarded a school girl aged 15 Shs 50,000 for loss of an eye. The eye was not removed and replaced with an artificial one. That award was in 1971. The same award in 1982 March when Olive's award was made would be approximately Kshs 223,500. As Kneller JA observed in *Bundi* in English awards for a similar injury by girls of the same age between 1974 and 1980 have ranged from Kshs 90,000 to Kshs 200,0000. The highest figure is more than Olive's Kshs 150,000. I do not find that the award is manifestly excessive nor has it emanated from erroneous application of the law and the learned Judge did not take into account matters he ought not to have taken into account nor did he fail to consider matters he ought to have taken into account in assessing the damages.

For the reasons given I agree with Kneller JA that the appeals in both HCCC No 2381 and 2382 of 1979 should be dismissed with costs, and that as the cross-appeal by Olive was withdrawn the respondents/appellants have the costs of the cross-appeal.

Dated and Delivered at Nairobi this 27th February, 1985

A.A.KNELLER

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JUDGE OF APPEAL

J.O. NYARANGI

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JUDGE OF APPEAL

Z.R. CHESONI

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Ag JUDGE OF APPEAL