Kaikai v Chacha & 2 others (Civil Appeal E028 of 2020)
[2025] KECA 1278 (KLR) (11 July 2025) (Judgment)

Neutral citation: [2025] KECA 1278 (KLR)

REPUBLIC OF KENYA

IN THE COURT OF APPEAL AT NAKURU

CIVIL APPEAL E028 OF 2020

JM MATIVO, PM GACHOKA & GV ODUNGA, JJA

JULY 11, 2025

BETWEEN

LINUS KAIKAI ..... APPELLANT

AND

RICHARD BOKE CHACHA ..... 1ST RESPONDENT

FRIDAH KAIMURI KIREMA ..... 2ND RESPONDENT

EMMANUEL TALAM ..... 3RD RESPONDENT

(An appeal from the judgment and decree of the High Court of Kenya at Naivasha (R. Mwongo, J.) delivered on 28th May 2020 in HCCC No. 15 of 2015)

JUDGMENT

1. On 28th April 2012, the appellant and the respondents embarked on a journey from Nairobi to Kilgoris aboard motor vehicle registration number KAZ 433F, Land Cruiser Prado. It is common ground that the vehicle was owned and being driven by the appellant. It is also common ground that whilst on the Narok – Mai Mahiu road, the rear right-hand tyre of the vehicle burst and as a result the vehicle rolled several times. When the dust settled, the respondents were rescued from the vehicle having sustained serious injuries. The main contentious issues in this appeal are who is to blame for the accident and whether the damages that were awarded by the trial Judge were excessive.

2. By way of background, the respondents instituted Civil Case No. 15 of 2015 against the appellant in the High Court sitting at Naivasha. In the suit, they claimed general damages for pain and suffering, damages for loss of amenities, special damages, costs of the suit, costs of future medical treatment and interest. The appellant filed a defence denying all the particulars of negligence and averred that the accident was inevitable.

3. Upon hearing the parties, the learned Judge (Mwongo, J.) entered judgment for the respondents on 20th May 2015. He apportioned liability at 90% as against the appellant and 10% being attributed to "causation from the tyre burst" and awarded the respondents general damages and special damages in the sum of Kshs. 32,177,212.00. We will revisit the issue of damages awarded to each respondent later in the judgment.

4. Aggrieved by the decision, the respondents filed this appeal. He filed a memorandum of appeal dated 25th November 2020 listing 11 grounds, which were argued on 3 sub-headings as follows: whether the learned judge erred in attributing 90% liability to the appellant; whether the learned judge misdirected himself in finding that the appellant failed to exercise judgment, skill and care of a competent driver; and whether the damages awarded to the respondents were excessive.

5. The appellant has filed written submissions dated 15th March 2023. In them, he consolidates the 11 grounds into 3 subheadings as already stated. On the first broad ground, the appellant submits that the attempt to introduce the doctrine of res ipsa loquitor at the hearing was rightly rejected by the Judge. This meant that the burden of proving the particulars of negligence lay on the respondents. He added that none of the six witnesses who adduced evidence proved any of the particulars of negligence that had been pleaded. It was his submission that none of the witnesses spoke to or gave evidence as to the speed at which the appellant was driving or that he was driving carelessly or negligently. It further submitted that Corporal Kiprono Bett (PW6) testified that what was recorded in the OB was that the accident was caused by a tyre burst and that in his opinion he could not tell who was to blame for the accident. In addition, he submitted that the respondents did not adduce any evidence that the vehicle, including the tyres, was not properly maintained.

6. Citing Sections 107, 108 and 109 of the Evidence Act, he submitted that whoever desires any court to give judgment as to any legal right or liability, or a person wishes to rely on the existence of particular facts, the burden of proof rests on that person. Relying on the case of Kenneth Nyaga Mwige vs. Austin Kaguta and 2 others [2015] eKLR, the appellant submitted that the Judge erred in relying on a document filed by Jubilee Insurance to infer that the appellant was driving at maximum speed when the said document had not been produced in evidence.

7. The appellant further argued that the learned Judge erred in dismissing his defence of an inevitable accident. He submitted that, contrary to the findings by the Judge, the appellant had been driving the vehicle well and was not speeding. Citing the case of Schwan vs. The Albano [1892]419 that was relied upon by the Court in Dewshi vs. Kuldip's Touring Co [1969] EA.189, the appellant stated that the Judge erred in holding that this was not an inevitable accident notwithstanding the fact that he was driving at a reasonable speed and that the vehicle was in a fairly good condition. Finally, the appellant submitted. in the alternative, that he cannot be more than 10% liable.

8. The other combined grounds that were argued together were that the learned Judge misdirected himself in finding that the appellant failed to exercise judgment, skill and care of a competent driver. He argued that the Judge was wrong in holding that he failed to step on the brakes to decelerate or bring the vehicle to a stop. To the appellant, applying the brakes would have thrown the vehicle out of control and thrown it off balance. He stated that he tried to control the vehicle with the steering wheel. He argued that by giving an opinion that stepping on the brakes was the best option, the learned Judge had assumed the role of an expert witness.

9. Finally, the appellant argued that the general damages awarded to the respondents were excessive and failed to follow the trend in the award of damages by other courts. Citing a number of authorities by the High Court and the decision of this Court in Mbaka Nguru &Another vs. James George Rakwar

[1998] eKLR, the appellant submitted that the award of Kshs 2,000,000.00 as general damages for pain and suffering is reasonable in the circumstances.

10. The 1st and 2nd respondents have also filed written submissions dated 6th March 2024. On liability, they submit that the appellant, in an attempt to exonerate himself, pleaded inevitable accident or an act of God. However, according to the respondents, the appellant did not adduce any evidence as required by Section 112 of the Evidence Act to support his contentions. They added that the appellant did not tender any evidence to prove or demonstrate that the car was serviced and if so, when this was done. Further, the appellant did not produce a maintenance tag or receipts to demonstrate the last time the tyres on the vehicle were replaced.

11. The respondents submit that though the appellant testified that he was driving at a reasonable speed on a road that was well known to him, that the vehicle was well serviced, he failed to state the speed at which he was driving and why he lost control of the vehicle, which rolled several times. To the respondents, this was evidence that the appellant was over speeding. Otherwise, he would have been able to mitigate the effects of the tyre burst and bring the vehicle to a safe stop. The respondents added that under Sections 107, 109 & 112 of the Evidence Act, the burden lay on the appellant to prove the defence of inevitable accident. The respondents relied on the decision of this Court in Robert Gathage vs. Cosmas Mutune Ndulu (the Administrator of the estate of Joseph Kyunuve Mutune (deceased) [2020] eKLR to state that the driver or rider of a vehicle must travel at a reasonable speed and in determining what is reasonable, the nature, condition and use of the road in question and the traffic on the road or expected to be on it should be taken into consideration. The respondents further submitted that the payment of the decretal sum by the appellant amounts to an admission of liability, otherwise, he would not have made payment.

12. On the question of whether the learned Judge misdirected himself in relying on the doctrine of res ipsa loquitor, which had not been pleaded, the respondents submitted that the doctrine applies in situations where the surrounding circumstances permit inference or a presumption of negligence. It cited the decision of this Court in Margaret Waithera Maina vs. Michael K.Kimaru [2017] eKLR in support of this proposition. They submitted that in any event, the learned Judge held that this doctrine was not applicable in the circumstances as the appellant had pleaded the defence of inevitable accident.

13. On the question of whether the general damages awarded are excessive, the respondents submit that as a general rule, this Court should not interfere with the award simply because it would have reached a different award. It is submitted that the Court should only interfere only if the award is inordinately low or high, which is not the case in this case. For this proposition, the respondents cited the case of Francis Omari Ogaro vs. JAO (minor suing through a next friend and Father GOD) [2021] eKLR. The respondents cited comparative authorities of the High Court to support the argument that the general damages awarded are not high or excessive. They submit that the judge correctly analyzed the same by taking into account relevant factors, and that he correctly assessed the damages for pain and suffering.

14. We have carefully considered the parties' written submissions, examined the record of appeal and analyzed the law. The predecessor of this Court in Kenya Ports Authority vs. Kuston (Kenya) Limited (2009) 2EA 212 succinctly elucidated our role as a first appellate court as follows:

> "On a first appeal from the High Court, this Court should reconsider the evidence, evaluate it itself and draw its own conclusions though it should always bear in mind that it has neither seen nor heard the witnesses and should make due allowance in that respect. Secondly that the responsibility of the court is to rule on the evidence on record and not to introduce extraneous matters not dealt with by the parties in the evidence."

15. This appeal succeeds or fails on two issues, namely: Firstly, was the appellant to blame for the accident, and if so, to what extent? Secondly, are the damages awarded by the learned Judge excessive?

16. The issue regarding negligence is both a question of fact and law.

The trial court, in instances where parties are blaming each other, is always confronted with a different set of facts which it has to analyze to determine whether the particulars of negligence have been proven and, if so, who is to blame, and in what proportion would they be liable in contributory negligence.

17. We have carefully analyzed the record of the proceedings, the submissions and the authorities cited by the parties. On the question of who was to blame for the accident, we note that the learned Judge held as follows:

> " 20. From the foregoing, it appears clear to me that a tyre burst, on its own, cannot necessarily be deemed to result in inevitable accident. From that standpoint, I can therefore see why the plaintiffs refer to the circumstances as fitting into the parameters that fit the ipsa loquitor doctrine, although I do not think the doctrine applies here.
>
> 40. Piecing all the evidence together, my appreciation of the whole situation is as follows. The defendant's vehicle was loaded with six adults including the driver. It cannot be said for certain that the vehicle was in an unserviceable condition – although no mechanical test was produced as evidence – but it was nevertheless driven at the maximum legal speed limit for that type of vehicle and road. The evidence is that the passengers were all friends and were talking inside; when the right rear tyre burst there was a momentary shock and confusion; PW5 asked what that was; then the vehicle naturally lurched and veered to the right as the punctured side lost traction, slowed, and suddenly dragged the rest of the vehicle rightwards; the driver tried to "control" or guide or direct the vehicle, as he said, by steering it back to the left; the weight of the vehicle and passengers in it shifted as it veered in the opposite direction, and the driver had to correct the veer again by steering in opposite direction; this occurred thrice, the driver concentrating on guiding or controlling the vehicle; finally the vehicle overturned onto the tarmac and rolled thrice.
>
> 41. It appears from the evidence that four of the passengers were in the back seat behind the driver. There is no indication as to whether they were wearing seat belts, but given the number, it is unlikely that the vehicle had that number of seat belts in the rear seating section.
>
> 42. In my view, the combination of the weight of the vehicle and that of its passengers made controlling and guiding the vehicle harder given that it was being driven at the maximum allowed speed. There is no indication by the defendant that he sought to use his brakes to decelerate and bring the vehicle to a stop; from his evidence he appears to have concentrated on controlling the vehicle as best as he could by steering.
>
> 43. In my understanding, basic driving involves the physical skills to be able to control direction, acceleration and deceleration. In most instances the skills include the ability to co- ordinate these multiple actions effectively, safely, and using focused attention and reasonable judgment in different circumstances

and environments such as diverse weather conditions, light and darkness, road terrain, and loading and condition of the vehicle. For motor vehicles, the tasks include: starting the vehicles' engine with the starting system; setting the transmission to the correct gear; steering the direction of the vehicle with the steering wheel; applying brake pressure to slow or stop the vehicle; operating other important auxiliary devices such as the indicators, headlights, parking brake and windshield wipers.

44. I am persuaded from the evidence available, that on a balance of probability, the defendant did not exercise apt judgment by choosing to drive his vehicle, fully loaded with passengers, at the maximum allowable speed and not being able to clearly state he used his brakes to decelerate upon the occurrence of a tyre burst. It is common knowledge to drivers that a tyre burst would cause an unbalanced trajectory of a vehicle, particularly if the burst involves the front tyres; that tyre bursts can occur due to defective tyres whether the defect is latent or patent, or can be caused by an object on the roads or potholes, or by seriously uneven road surfaces; and that a driver must be constantly alert to the many dangers posed by the fact that he is managing a moving vehicle, which is otherwise not dangerous in itself when stationery.

45. There can be no doubt that, as a matter of logic, the slower one's speed, the less the injuries one will have to deal with. Further, that if one is driving at 80Kph or 60kph it reduces the odds of fatally injuring other road users. The slower the speed, the more effective generally will be the actions a driver takes to avoid an accident. The slower the speed the more effectively brakes can be used and a car steered to avoid serious injuries to other road users. Thus, one has a better chance of taking effective evasive action should that option be available. It is common knowledge that to safely break, swerve, or turn while still in control of the car at 60 Kph as compared to 100 Kph is more likely.

46. In this case, I find from the evidence that the defendant did not exercise the level of judgment, skill and care required of a competent driver in the circumstances. In particular, it is clear that he did not appear to use the deceleration ability of the vehicle once the rear tyre burst occurred, relying instead only on his control or steering ability. Knowing he was driving at about 100kph he must be understood to have been aware that his instant and instinctive reaction time in event of a sudden emergency would have to be that much faster given that the movement or pace of his vehicle was proceeding at over twenty-seven (27) metres per second. Further, there is no indication from the evidence that there were other vehicles on the opposite side of the road that made it more difficult for the driver to exercise corrective action to avoid an accident.

47. From the facts in the present case, the defendant did not demonstrate that he took all reasonable steps to ascertain that the tyre was fit for use and properly serviceable as posited in Barkway v South Wales Transport Co.(supra), or that the vehicle was otherwise in proper condition.

48. Accordingly, I find that despite the rear right tyre burst being an inevitable event that in itself contributed to triggering the swerving that led to loss of control and ultimately to the accident, the defendant also carried blame for the

accident. I do not embrace the view that, generally, rear tyre bursts in a vehicle driven at a safe speed and managed by a competent driver, would result in an inevitable accident, involving multiple rolling wrecks.

49. Ultimately, I would say that the defendant's level of blame was at least 90% negligence, given that: he was, admittedly, travelling at the maximum statutory speed for the type of road; that the vehicle was fully loaded; and that his reaction in taking corrective action to avoid an accident did not include deceleration. I attribute 10% blame to causation from the tyre burst. I so find and hold."

18. We note that in paragraph 10A the amended defence, the appellant admits that he was the driver of the vehicle but denies all the particulars of negligence attributed to him by the respondents. In paragraph 12 he pleaded in the alternative that the accident was inevitable and he could not be blamed for what could not reasonably be avoided. In paragraph 12A, he stated that: "he maintained the vehicle in a reasonable proper condition and that in no way did he contribute to the occurrence of the accident." The appellant took a two-pronged line of defence: that he was not negligent, putting the respondents to strict proof and that the accident was an inevitable one.

19. On the questions of whether the appellant was driving negligently, the learned Judge took into account the evidence of Fridah (PW5) that he heard the sound noise that she suspected was a tyre burst and that the vehicle swerved from side to side before overturning and then rolling several times. In his written statement of defence dated 10th February 2016, the appellant only denies that he was negligent and further states that the accident was an inevitable one. He does not deny that the vehicle swerved from side to side before overturning and rolling several times.

20. We note that in his evidence in chief, the appellant adopted his written statement. He did not deny that the vehicle rolled several times after the accident. Just like the trial Judge, we ask ourselves, would a vehicle that is being driven reasonably on a straight road swerve violently after an accident from one side of the road to the other and then roll several times? Certainly not. The appellant admits that it is the rear tyre that burst. In such a scenario, a driver driving at a reasonable speed should be able to control the vehicle. We agree with the appellant that the vehicle may swerve and may tip over, but rolling several times on a straight road is evidence that the vehicle was speeding or that the driver was negligent. The appellant admits that he was carrying 5 passengers. He was under a duty to drive at a reasonable speed and with care. Just like the trial Judge, we agree that taking into account the nature of the road, which we must add was straight, and the nature of the traffic on the road, the probability that the vehicle was being driven at a very high speed is very high and this is supported by the number of times the vehicle rolled.

21. The second line of defence taken by the appellant was that this was an inevitable accident. When a defendant pleads that an accident was an inevitable a he or she brings himself within the provisions of Section 109 of the Evidence Act which states that:

> " the burden of proof as to any particular fact lies on the person who wishes the court to believe in its existence, unless provided by law that the proof of that fact shall lie on a particular person."

22. In his written statement, the appellant stated that the vehicle was well-maintained. However, we note that the bare statement remained so even in his evidence in chief. The defendant didn't adduce any evidence on the maintenance of the vehicle or the condition of the tyres. The appellant never adduced evidence to persuade the court that he "exercised due care," which is a defence in cases of negligence.

Such evidence centers on demonstrating that he/she took reasonable steps to prevent harm, even if an accident occurred. This defense essentially argues that he/she acted as a reasonable person would under the circumstances, thereby negating the element of negligence. We must emphasize that the standard is not perfection, but rather the conduct of a reasonably prudent person faced with similar circumstances.

23. When a judge is determining the question of negligence, it is an evaluation of the circumstances in which the accident occurred and taking into account all relevant facts. By pleading an inevitable accident, one must demonstrate that something happened that he could not have controlled and which could not be avoided even with the greatest care and skill. While it is true that a tyre burst may occur in the course of a journey, if the one is claiming that the tryes were in good condition, the least that is expected that one ought to furnish evidence of the age of the tyres, the last time the vehicle underwent service, the last time the tyre pressure was checked together with wheel alignment and wheel balancing. The predecessor to this Court (per De Lestang, AP) in Dewshi vs. Kuldip's Touring Co. [1969] EA 189 expressed itself as hereunder:

> "The defendants, in order to avoid liability, must prove to the satisfaction of the court that they took all reasonable steps to ascertain that the tyre was fit for use. It may have been fit or not but the mere external examination of a tyre which has run for tens of thousands of miles part of which on bad roads driven by drivers who had no instructions to report an unusual and heavy blow to the tyre, and without examination of its surface during the whole of that time, seems to leave the defendants with the burden un-discharged of satisfying the court that they had taken all reasonable steps to avoid this accident."

24. On his part, Duffus, AVP stated:

> " There was no evidence of the condition of the tyre in this case and there was no evidence to show why the burst occurred to the side wall and the driver of the car did not even suggest a reason. There was also no evidence at all to show that either the owner of the hired car or the driver ever inspected or even looked at the tyres to see if they were in good condition yet there is clearly a duty imposed on the owner or operator of a hired car to at least make a visual inspection of the treads and walls of the tyres of the car to ensure that they were fit for use. Accordingly, the presumption of negligence was not rebutted, in this case."

25. Throwing a general statement that the accident was inevitable is not enough and if the courts were to accept such a general statement, this would amount to a blank cheque for careless and negligent driving. As was held by the Supreme Court of Uganda in Interfreight Forwarders (U) Ltd vs. East African Development Bank [1990-1994] EA 117:

> " Inevitable accident can be a defence to a charge of negligence, but it cannot succeed unless the defendant can prove that something happened, over which he had no control and the effect of which could not have been avoided by the exercise of care and skill; indeed, the defence cannot be relied upon where the risk is reasonably foreseeable and the burden lies on the defendant setting it up. To succeed, the defendant must show two things, namely either what was the cause of the accident and show that the result of that cause was inevitable, or he must show all the possible causes, one or the other of which produced the effect, and must show further with regard to every one of those possible causes that the result could not have been avoided."

26. The appellant never adduced evidence to persuade the court that he "exercised due care," which is a defence in cases of negligence. Such evidence centers on demonstrating that he/she took reasonable

steps to prevent harm, even if an accident occurred. This defense essentially argues that he/she acted as a reasonable person would under the circumstances, thereby negating the element of negligence. We must emphasize that the standard is not perfection, but rather the conduct of a reasonably prudent person faced with similar circumstances

27. This Court has pronounced itself severally on the question of negligence as follows. In Anne Wambui Ndiritu vs. Joseph Kiprono Ropkoi & another [2004] eKLR the Court held as

follows:

> " As a general proposition the legal burden of proof lies upon the party who invokes the aid of the law and substantially asserts the affirmative of the issue... There is however the evidential burden that is cast upon any party, the burden of proving any particular fact which he desires the court to believe in its existence. That is captured in sections 109 and 112 of the Act."

28. In the case of Rahab Micere Murage (Estate of Esther Wakiini Murage) vs. Attorney General & 2 others [2012] eKLR the Court stated that:

> " Well driven motor vehicles do not just get involved in accidents...." As stated earlier vehicles driven on public roads in a proper manner do not without cause become involved in accidents."

29. In the case of Embu Public Road Service Ltd. vs. Riimi (1968) EA 22, the Court pronounced itself as follows:

> "The doctrine of res ipsa loquitor is one which a plaintiff, by providing that an accident occurred in circumstances in which an accident should not have occurred, thereby discharges, in the absence of any explanation by the defendant, the original burden of showing negligence on the part of the person who caused the accident. The plaintiff, in those circumstances does not have to show any specific negligence but merely shows that an accident of that nature should not have occurred in those circumstances, which leads to the inference, the only inference, that the only reason for the accident must therefore be the negligence of the defendant. The defendant can avoid liability if he can show either that there was no negligence on his part which contributed to the accident; or that there was a probable cause of the accident which does not connote negligence of his part; or that the accident was due to the circumstances not within his control .....Where the circumstances of the accident give rise to the inference of negligence, the defendant in order to escape liability has to show that "there was a probable cause of the accident which does not connote negligence" or "that the explanation for the accident was consistent only with an absence of negligence."

30. In an accident case as the one before us, the question of negligence is a factual one and the respective party's position will stand or fall on the determination of the trial court on which version of evidence is more credible and probable. The appellant has submitted that the doctrine of res ipsa loquitor was not pleaded. However, it is a presumption of law and in any event, the respondents had already pleaded that the accident occurred in circumstances that it should not have occurred. However, this is not an issue that requires determination in this appeal having held that the appellant's main defence that the accident was an inevitable one has no merit.

31. On the question of whether the damages awarded are excessive, we agree with the appellant that as held in the never aging judgement of Butt vs. Khan [1981] KLR 349, an appellate court will only interfere with the award of damages where it is shown that the trial court took into consideration an irrelevant

fact or that the sum awarded is inordinately low or high that it must be an erroneous estimate of the damages or that a wrong principle of law was applied in awarding the damages. The question that arises and which we shall now examine is whether the appellant has met this test. (See Chanan Singh vs. Vhanan Singh & Handa [1955], 22 EACA 125, 129 (CA-K).

32. The appellant cited the case of Mbaka Nguru and Another vs. James George Rakwa [1998] eKLR and submitted that the award of the general damages was high and did not reflect the trend in previous, recent and comparable awards. In particular, the appellant complained that the learned Judge relied on the case of Brian Muchiri Waihenya vs. Jubilee Hauliers Ltd & 2 others [2017] eKLR. He submitted that in that case, the plaintiff had suffered 100% permanent disability, whereas the 2nd respondent had suffered 85% permanent disability.

33. On this issue, we note in his submissions at paragraphs 37 to 45, the appellant has only taken issue with two items: Kshs. 5,000,000.00 general damages to the 1st respondent and Kshs. 7,000,000.00 general damages to the 2nd respondent. The is no mention of the special damages to the 2nd respondent of Kshs. 500,000.00 for wheelchairs and Kshs. 1,707,120.00 for the driver. We treat that claim as abandoned but in any event having looked at the evidence, the documents that were adduced in evidence and the analysis by the learned Judge, it is our finding that the special damages were properly awarded.

34. On the issue of the general damages awarded to the 1st and 2nd respondents, we note that the learned Judge started by warning himself that in assessing damages a court should as far as possible be guided by comparable awards as held by this Court, differently constituted in Simon Taveta vs. Mercy Mutitu Njeru [2014] eKLR. The record shows that in paragraphs 50-121, the learned Judge analyzed every head of claim and cited comparable authorities. He considered the medical reports that were not disputed and the long-term effects of the injuries on earning capacity and future medical expenses.

35. It is trite that each case must be determined on its circumstances as injuries suffered cannot be 100% identical. The award of general damages is not a mathematical exercise in which a court takes a calculator to add or subtract from previous awards. Each case depends on its own facts, and the award of damages is just an estimate that should be as close as possible for similar injuries. This means that unless an award is inordinately low or high, an appellate court should be slow to interfere with an award of damages by the trial court. This is because, unlike an appellate court that only relies on what is written on paper, the trial Judge has the advantage of seeing the victim of the accident assess the impact of the injuries, even as they consider the medical reports.

36. In this appeal, we note that the respondents' lives were shattered and in addition to the scars that they will carry for the rest of their lives, their future earning capacity was seriously diminished. Taking all factors into consideration, we find no basis to interfere with the damages that the learned Judge awarded.

37. The upshot of the foregoing is that this appeal has no merit both on the question of liability and quantum. We dismiss it in its entirety. We further order that the costs of this appeal and in the High Court shall be borne by the appellant.

DATED AND DELIVERED AT NAKURU THIS 11TH DAY OF JULY 2025.

J. MATIVO

.....

JUDGE OF APPEAL

M. GACHOKA C.Arb, FCIArb.

.....

JUDGE OF APPEAL

G.V. ODUNGA

.....

JUDGE OF APPEAL

I certify that this is a True copy of the original

Signed

DEPUTY REGISTRAR