

THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA HOLDEN AT JINJA
CIVIL SUIT NO. 37 OF 2012

BAALI JACKSON:..... PLAINTIFF

VERSUS

MANSONS (U) LTD:..... DEFENDANT

JUDGMENT

BEFORE HONOURABLE LADY JUSTICE EVA K. LUSWATA.

1.0 Introduction and brief background.

1.1 The plaintiff's claim in this suit is for special and general damages, arising from an accident that occurred on 31/8/11 at Magamaga Village along Jinja-Iganga high way between his motor vehicle Toyota Hiace registration No. **UAP 765P** and the defendant's motor vehicle, a trailer Mercedes Benz **No.668 UED/660** and at the material time being driven by one Kalenzi Eddy an employee of defendant.

1.2 It is claimed that the defendant's driver was negligent and that as a result of the accident, the plaintiff's motor vehicle was extensively damaged, and its driver, now the late Isabirye Ali, lost his life. The plaintiff holds the defendant vicariously liable for the negligent and careless acts of his driver who was at the material time driving the defendant's motor vehicle in the course of his employment.

1.3 The defendant comprehensively denied the claim, the stated negligence in particular. They stated that the accident was caused by the recklessness and/or negligence of Isabirye who rammed into the defendant's motor vehicle in spite of the defendant driver's efforts to avoid the accident. They challenged the contents of the police report as being inaccurate. The defendant in addition raised a counter claim claiming special and general damages as a result of the accident which they contend was caused by the plaintiff's driver who was under the influence of alcohol.

2.0 **Preliminary Objection**

2.1 In their submissions, the defendant raised what appears to be a preliminary objection to the suit. It was argued that the plaintiff did not prove that he owns motor vehicle registration No. UAP 765P and that without doing so, he cannot be said to have a cause of action against the defendant. I note that save for submissions on the cost of the motor vehicle, there was no direct response to this objection.

2.2 I am persuaded that for a plaintiff to succeed, they must have a cause of action against the defendant being sued. This may entail the plaintiff proving that they were the legal or beneficial owner of the accident vehicle. That said, the fact of ownership of Motor Vehicle registration No. UAP 765P was never in issue in the suit. It is true that a preliminary objection may be raised at any point in the proceedings (and

there was indication in the defence that one would be raised), it is incumbent that in circumstances such as these, the plaintiff would have been put on notice on the specifics of that objection, so that specific evidence is led to counter it or explain the plaintiff's position. In any case, this was an action based on negligence, which as I will show, entails the plaintiff to prove certain conditions which do not necessarily entail specific proof that they owned the motor vehicle that was damaged in the accident. See **Donoghue Vrs Stevenson (1932) AC 362.**

2.3 That said, part of the plaintiff's evidence is that he purchased the motor vehicle in a car bond in Kampala for a sum of Shs. 30 million. That evidence received no serious challenge, and it would thus be wrong to raise the issue in evidence.

2.4 Again, it was an agreed fact that the accident occurred between the plaintiff's and defendant's motor vehicles on 31/8/2011 and that both drivers (with respect of both vehicles) were in lawful employment. In view of those uncontested facts, it would be contradictory for the defendant to turn round to argue that the plaintiff did not own motor vehicle registration No. UAP 765P which is one of the motor vehicles contemplated in the agreed facts. To say so would also defeat the counter claim for a counter argument can then be raised that the defendant cannot

claim against Baali Jackson who if not the owner of that vehicle, cannot be held liable for an accident in which it was involved.

2.5 I accordingly overrule the objection and proceed to consider the claim and its counterclaim on their merits.

RESOLUTION OF ISSUES.

Two issues that were raised during scheduling formed the basis of counsel's written submissions. They are:-

- 1. Whether the accident was caused by the negligence of the defendant's driver**
- 2. Whether either party is entitled to the remedies sought in their pleadings**

3.0 ISSUE 1

3.1 Citing much authority, plaintiff's counsel argued that the defendant's driver was negligent as he drove on the wrong side of the road which resulted into the accident. He drove at a high speed in total disregard of other road users and evidence showed he caused the collision, and that being so, the plaintiff would be entitled to the remedies sought.

3.2 Conversely, it was submitted for the defence that the plaintiff did not prove ownership of the damaged motor vehicle and the police put forward a fictitious owner. They in addition argued that the sketch plan in respect of the accident scene was suspect, the evidence of the police officers merely hearsay,

unreliable and inaccurate. They challenged allegations of negligence by their driver and instead raised a counter claim stating that infact, it was the plaintiff's driver who caused the accident due to intoxication. That the driver of the trailer did his best to avoid a collision and the position of the three motor vehicles immediately after the accident proved that it was the commuter taxi that rammed into the trailer and not vice versa. They concluded that the plaintiff's driver owed a duty of care to the defendant which duty was breached resulting into injury for which damages should be awarded.

- 3.3 In response to the counter claim, the plaintiff strongly denied the allegation that his driver was intoxicated. It was further submitted that evidence of the sketch plan indicated the defendant's motor vehicle was on the wrong side after the accident and that the defendant cannot hold the plaintiff liable for any loss as a result of the accident, for which their own agent was responsible.

The law

- 3.4 Negligence as a tort has been widely defined and understood. The definition given by the decision in **Blyth Vs Birmingham Water Works (1856) 11 EX.78**, comes to mind. It was held that:-

“Negligence” is the omission to do something which a reasonable man, guided upon those considerations which ordinary regulate conduct of human affairs, would do, or doing something which a prudent and reasonable man would not do.”

The court in the much celebrated decision of **Donoghue V Stevenson (1932) AC 562** provided what I can refer to as the ingredients of negligence, as follows;

- i. The defendant owed the plaintiff, a duty care.
- ii. The defendant breached that duty resulting into damage on or against the plaintiff.
- iii. The defendant and no other, is liable for the breach of duty.

3.5 Closer to home, the High Court in the case of **Paulo Kato Vs Uganda Transport Corporation (1975) HCB** found that:-

A driver of a motor vehicle is under a duty to take reasonable care for the safety of other traffic on the road to avoid a collision. This duty involves taking all measures to avoid a Collision. Once a possibility of danger emerging is reasonably apparent, and no precautions are taken by that driver, then the driver is negligent, notwithstanding that the other driver or road user is in breach of some traffic regulations or even negligent.

3.6 It is evident therefore that where an accident occurs, it is incumbent upon the defendant to show either that there was a probable cause on his part or that the accident was due to circumstances beyond his control. This is because, the law imposes a duty on a person who drives a vehicle on a road to use reasonable care to avoid colliding with other road users.

3.7 It is also the position of our law that in a cause of action based on negligence, the particulars of negligence must be pleaded, and that that is the case even where the doctrine of *res ipsa loquitor* is invoked. See for example **Mukasa Vrs Singh & Ors**

(1969) EA 422. It is a requirement that the plaintiff in their pleadings states the facts upon which the defendant's duty to the plaintiff is founded and also show the precise breach of duty complained of, as well as particulars of the damage sustained. This was satisfied in paragraph 6 of the plaint where it was stated that the defendant's driver drove recklessly and too fast and did nothing to avoid the accident. That he also disregarded road traffic regulations and drove in the wrong lane. It was in addition pleaded that the defendant failed to keep their motor vehicle in fit mechanical condition.

3.8 Again once the facts of negligence are established, the defendant (and in this case, the plaintiff as defendant in counter claim) is duty bound to rebut them. It was the decision of the Court of Appeal in **Embu Public Road Services Ltd Vrs Riimi (1968) EA 22** that *“where the circumstances of the accident give rise to the inference of negligence, then 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”*. It follows therefore that the defendant must show that there was no negligence on their part which contributed to the accident, or that there was a probable cause of the accident which did not connote negligence on their agent's part or that the accident was due to circumstances beyond their control. See for

example **Msuri Muhiddin Vrs Nazzor Bin Seif El Kassaby & Anor (1960) EA 201.**

- 3.9 PW1 Hussein Marinzi and PW2 police officer No. 3847 were the plaintiff's two principle witnesses. Marinzi claimed to be an eyewitnesses having been present at the material time of the accident. He testified that on 31/8/2011 at about 6.30pm, he boarded the plaintiff's vehicle which was headed from Jinja towards Iganga. That between 7.30pm and 8:00pm when they reached Magamaga, a trailer drove towards them prompting their driver to get off the road and park on their side of the highway. That the driver then exclaimed "*we are dying*" and immediately after, the trailer crashed into them destroying the car door and their driver died instantly. He himself did not suffer any injuries and left the scene thirty minutes later after noticing that the trailer had fallen on the same side of their motor vehicle and that the people who had gathered were trying to cut out the driver from the damaged vehicle.
- 3.10 PW2 CPL Chelangat Fatumah the crime scene officer claimed to have arrived at the scene 20 minutes after the accident following notification from the Magamaga Police Post. She explained that once she received the accident scene, she received a brief of the accident from her colleague Corporal Kamurampa and then assisted with removing Isabirye's body. That in doing so, she noted that the defendant's trailer tail which was headed from Tororo to Jinja had overturned and poured cement in the road. That using light from two highway

patrol cars, she drew a sketch map which was admitted in evidence as **Exhibit P1**. She explained further that from her observation, the impact of the trailer was in the middle of the front head and part of the door of the taxi had remained on the trailer head on the driver's side (driver's door). That after studying the scene and the accident vehicles her observations were that the taxi was not in motion and that the trailer hit the taxi on the driver's side. She further concluded that judging from the trailer's tyre marks, its driver was over speeding.

3.11 DW1 Kadunga Musa claimed to be an eye witness of the accident. He stated that on 31/8/11 at about 8.30pm, he was in his home just near the accident scene when he observed the taxi moving very fast from Jinja to Iganga and that the trailer was approaching from the opposite side. That the trailer gave warning by hooting while at a distance of about 50 meters before the actual accident scene which the taxi driver did not heed but moved from his side towards the trailer and hit the trailer tail, the latter which fell on its side. That the impact was on the taxi driver's door and the taxi fell on its side. That it is him who rung and alerted the police of the accident. He noted that the deceased driver had a polythene of alcohol in his pocket and his blood smelt of alcohol and that he heard DPC Okoyo exclaim "*stop drinking when you are driving people.*" He disputed PW2's evidence that after the accident, the two vehicles ended up on the same side facing Iganga.

3.12 DW2 Ismail Matovu an operator of a breakdown vehicle claimed to have arrived at the scene the next day at 12.30pm and that it is him who towed away the trailer. He stated that when he arrived, he noted that the trailer was on its side of the road with the door of the taxi atop its cabin. He also observed skid marks and broken glass at the scene. DW3 Ibrahim Ansari gave his observations of the defects on the trailer which he saw while it was still at the Magamaga Police Post and took a photograph of it which was admitted as **D. Exhibit 2**. He also claimed that a forged post mortem report was issued with respect to Isabirye's death, a copy was admitted for identification purposes as **D.ID3**.

3.13 It is evident from the above testimonies that either party blamed the other's agent for being negligent and causing the accident that resulted into the death of Isabirye and damages on both vehicles. Each is thus mandated to prove their claim on a preponderance of evidence.

3.14 The direction each of the accident vehicle was headed just before the accident, and the place of the accident were not in dispute. The taxi was headed to Iganga while the trailer was headed in the opposite direction towards Jinja. According to the sketch plan, the point of impact was about 184 meters away from the Magamaga fly-over/railway bridge. However, the account of the two eye witness was in stark contrast. According to PWI, Isabirye was forced to swerve off the road and park the taxi when he saw the trailer headed down upon

them at great speed. Conversely, DW1 claimed that the trailer was travelling relatively slowly and instead it was the taxi that was speeding, swerved from its side of the road into the trailer's side and then rammed into the back of the trailer.

3.15 I am inclined to believe that PW1 was a passenger in the commuter taxi. Both DW1 and PW2 confirmed that there were two passengers and a driver in the taxi before the accident. In support of PW1's testimony that he was only mildly injured, DW1 confirmed that he noted PW1 only had minor injuries and declined an offer to be taken to hospital and instead walked away from the crime scene. I would be persuaded that PW1 then who claimed to have been sitting in the taxi observed the moments before and after the accident very well, and remained emotionally and physically stable enough to give a fairly credible account of what led to the accident.

3.16 I am equally persuaded that DW1 was present at the crime scene. His testimony that his home was a few meters away from the accident or his presence at the scene was never seriously challenged. However, his account (as was the case of the other defence witnesses) was that each of the motor vehicles fell on a different side after the accident. However I note that during cross examination, he stated that just before the accident, he was standing on the side of the motor vehicle (read taxi) and that the accident happened just in front of him and in fact that had he not heard the hooting of the trailer, the taxi would have knocked him. This would mean that he was

standing on what would be the route and side of the taxi and not the trailer. It would lead credence to the testimonies of PW1 and PW2 that on realizing a possible head on collision, Isabirye swerved off the road, and even parked the taxi before being knocked by the trailer. That evidence was well supported.

3.17 PW2 claimed to have arrived at the scene 20 minutes after the accident. This would be too short a time for the accident scene to have been tampered with, in particular by changing the positions of the accident vehicles. DW1 admitted he saw PW2 arrive and conceded that she was of a rank competent to draw a sketch plan.

3.18 The sketch plan drawn by PW2 was admitted as PEX1. Defendant's counsel submitted that it was suspect since it reported an accident on 31/9/2011, yet the accident occurred on 31/8/2011. There is no evidence to support those submissions. P.Exh 1 is dated 31/08/2011. Indeed the known calendar does not have the date of 31/9/2011 as the month of September has 30 days only.

3.19 PW2 testified that she drew the sketch plan on 31/8/11 as a technical person and that it was an original document. That the other original sketch plan was handed over to the plaintiff on request. Counsel appears to submit that the dates on the map were tampered with and invites the court to critically examine them. Having done so, I am persuaded that what appear to be deep ink marks in the plan are a superimposition

to emphasize some words and figures which were not properly captured since PEX1 appeared to be a carbon copy. In my view, counsel's submission amounts to a fundamental objection which should have been emphasized at the evidence stage and not during submissions. I note that no questions were put to PW2 to confirm whether indeed she or other police officers tampered with the sketch plan. The submissions would thus be a speculation by counsel made off the bar which is not acceptable. In my view, **PEX 1** is a genuine document, issued by a competent office and thus represents the facts at the accident scene on 31/8/2011.

3.20 Turning again to **PEX1**, I note that the point of impact (**point X**) was premises near the furthest point of the road on the side on which would be the correct side for vehicles headed to Iganga would be. Isabirye's body which by then had been removed was placed on the same side. There would be no reason to carry the body from the opposite side. **Point "C"** is the position of the trailer after the accident. The uncontested evidence is that it was headed to Jinja from Iganga. It was therefore clearly way outside its correct side of the highway. The clear skid marks show that the trailer swerved from its side of the road into the opposite side of oncoming vehicles, including the taxi. It PW2 concluded that it was speeding and it is plausible that the speed marks represent an unsuccessful attempt to brake and avoid hitting the taxi. The trailer which had a head and tail is a huge vehicle, powerful enough to have

hit the taxi and forced it to change direction to face back towards Jinja and cause the serious damages that resulted into its extensive damage and death of its driver. All witnesses noted that the taxi door (driver's side) was completely ripped off and remained entangled in the trailer, a possibility that the moving trailer, continued to move with it until its halt.

3.21 Thus, the evidence of the plaintiff's witness which was buttressed with the sketch plan and accident report ought to be believed. It is inconceivable that DW1 who remained at the accident scene for one hour did not see PW2 and her colleagues measure and draw the sketch plan. The defendant's witnesses disputed the sketch plan, with DW3 referring to it as "dubious" but offered no compelling evidence to confirm that it did not represent the true facts at the accident scene, soon after it happened. It was never noted by the Judge that PW2 was an unreliable witnesses and there was no reason to disbelieve her. She showed no bias in the matter since she only responded to a call as part of her policing duties which she had done in similar other instances for the 12 years that she had been in the force. The fact that Isabirye did not have a valid driving permit at the time of the accident was admitted by PW3 and an explanation given that he had applied for its renewal. It is standard practice that drivers who seek renewal of their permits are allowed to continue driving for as long an application for renewal has been submitted. Therefore,

Isabirye was not illegally on the road as submitted by defendant's counsel.

3.22 In contrast, the defendant's witnesses were not as compelling. Both DW2 and 3 were not present at the time of the accident. DW2 admitted to have arrived over four hours later and his observations were based on an amateur observation of the accident scene. I choose not to believe his account that he towed the trailer from a position opposite to what appears to be the point of impact in the sketch plan. DW3 equally concluded that the taxi was speeding and caused the accident based on the damages on the trailer he saw and photographed while at police. Those observations were wrong and I choose not to believe them.

3.23 DW1 himself turned out not to be a truthful witnesses. He denied making a statement at police but when one was shown to him, he conceded that the signature appearing thereon was his but must have been forged. There would be no reason for him to deny the statement when he admitted he was at the accident scene and that his contact was obtained from the Magamaga Police post as one who witnessed the accident which would indicate that he did make the statement. Further, his allegations that Isabirye had and smelt of alcohol were never substantiated and that fact was not captured in the police report. I do appreciate the fact that the trailer's driver who was deceased (at the time of the trial) could not testify, but his evidence would have been useful to counter the

accounts of PW1 and PW2 or at least, give an explanation why the trailer swerved out of its lane into that of oncoming traffic. In my view, the evidence of PW1 and 2 that he took off after the accident and indeed avoided prosecution would point more to the fact that he was aware he had caused the accident and feared mob intervention or arrest.

3.24 For the above reasons, I believe the testimonies of the plaintiff and his witnesses. The driver of the defendant's motor vehicle was negligent. He drove too fast and on the wrong side of the road in total disregard of traffic regulations. He owed a duty of care to the taxi and its occupants as the other road users at the material time. He failed to look out for the taxi or to brake, stop or swerve so as to avoid colliding with the taxi and as a result, caused the accident.

3.25 It was shown in **PEX 2** that the accident happened on a straight tarmac road in good repair. The driver of the trailer should have been able to see on-coming traffic and as such, his actions can only be explained as negligence. It was an agreed fact that Kalenzi Eddy the trailer's driver was in lawful employment. Indeed it was shown in evidence that he was carrying a large consignment of cement on instructions of the defendant his employer on contract with Tororo Cement. The defendant would accordingly be held vicariously liable for Kalenzi's negligence and would be held accountable for the losses incurred as a result of the accident. See for example

Muwonge v Attorney General, (1967) EA and Ketayomba v Uganda Securiko limited [1977] HCB at 170.

3.26 My findings above would naturally resolve the counter claim. No particulars of the negligence of Isabirye the plaintiff's driver were pleaded, and indeed none were proved by the defendant's witnesses. It was Kalenzi Eddy the defendant's driver who was negligent and since there was no claim for contributory negligence, the entire claim in counter claim would fail, and is hereby dismissed.

4.0 ISSUE NO.2

4.1 I have when resolving the first two issues found that the defendant's driver was negligent and caused the accident. I am persuaded that the defendant's trailer was damaged during the accident and some of the cement on it was looted. However, the Court has no duty to assess the damages the defendant may have incurred thereby as it is not the duty of the plaintiff to meet those damages.

4.2 On the other hand, the plaintiff claimed both special and general damages as a result of the accident. The principle of the law is that "special damages must be specifically pleaded and proved. Strict proof is not restricted to documentary evidence only and in some cases, evidence of a person who received or paid or testimonies of experts conversant with matters of the claim can suffice." See **Stanbic Bank Uganda**

Ltd Vs Sekalega. (Civil Suit No. 18 of 2009). Special damages were pleaded in the plaint as follows:-

Value of the damaged taxi **Ushs 45,000,000/=**, lost earnings **Ushs 14,700,000/=**, Police report **Ushs 14,000/=**, **making a total of Ushs. 59,750,000** and in addition, daily loss of earnings until determination of the suit.

4.3 PW4 Aleti Abele the Regional Inspector of Vehicles testified that he examined the plaintiff's motor vehicle and confirmed that it was not in a dangerous mechanical condition before the accident. It was his opinion that the motor vehicle had been completely written off and it would be uneconomical to repair it. The damages on the motor enumerated in PEX3 were indeed extensive and that testimony would have merit. PW3 the plaintiff testified that he bought the motor vehicle in for Shs. 30,000,000 in 2011. No receipt was adduced to prove that sum. However, this was four years after its purchase and that could be excused. Being the owner and taking estimates of values of a like vehicle at that point, I am prepared to accept that value. However I am not prepared to accept the value of Shs. 48,000,000 being proposed by plaintiff's counsel. This was a commercial vehicle plying its trade probably on a daily basis. Its value was bound to have depreciated. The defendant is bound to compensate to the level that will put the plaintiff back into their original position. Allowing a larger sum than the actual value of the damaged value would be an unfair

aggrandizement. I accordingly allow a figure of Ushs. 30,000,000 as compensation for the damaged vehicle.

4.4 In his testimony the plaintiff claimed to have made earnings ranging between Ushs 100,000 to 150,000 day. In their submissions, plaintiff's counsel made a claim of Ushs. 100,000 per day, I believe a sum giving the average earnings and then stating a claim for lost earnings for 147 days, making a total sum of Shs. 14,700,000. Indeed, no documentary evidence was produced as the plaintiff claimed he had none. I take judicial notice of the fact that ordinarily, the business of commuter taxis on most roads in Uganda is never receipted. The Court having ever been a user of such means of transport is prepared to exonerate the need for documentary evidence. The plaintiff being the owner of the motor vehicle and thus of his business gave what I believe was credible evidence of its earnings. Taking into account the size of the commuter taxi and the route it plied on a daily basis (less one day in the week), I will allow the sum of Ushs100,000 per day for 147 days lost in earnings. I in addition allow Shs. 85,000 as the cost of procuring an accident report and sketch plan.

4.5 That said, the claim for lost daily earnings until determination in the suit would be stretching an award for special damages too far. Plaintiff's counsel omitted to take into account eventualities and depreciation of the motor vehicle. In my

opinion, an award of general damages should cover this loss. It is thereby denied.

- 4.6 Giving reasons and citing authority, plaintiff's counsel claimed for Shs. 300,000,000 in general damages to cover post trial loss of income and non-pecuniary loss at suffering, inconvenience and anguish that the plaintiff suffered.
- 4.7 General damages are damages which the law implies or presumes naturally to flow or accrue from a wrongful act and may be recovered without proof of any amount. **(See *Trail v Bowker, (1947) 14 EACA 20* and *Patel and Amin (1955) 11 EACA 1 post 258*, cited in East African cases on the law of Tort by Veitchat page 253. They are meant to put the victim back into the position they would have been had they not suffered the loss by the other party. See for example *Kibimba Rice Ltd Vrs Umar Salim SCCA No.17/1992*.**
- 4.8 Measurement of quantum of damages is a matter for the discretion of the individual judge which of course has to be exercised judicially. It would be helpful, as was the case here, for one claiming damages to guide court on the quantum and how it is arrived at. In addition to such guidance, the Court's decision on a fair award may be aided by many considerations which could include, the nature of the business of the plaintiff and extent of the injury to their operations and prior decisions that are relevant to the case in question. **See for example, *Moses Ssali a.k.a Bebe Cool & Others Vs A.G and Others HCCS 86 2010. The decision of the Court in Uganda***

Commercial Bank Vs Deo Kigozi 2002 EA 293, gave useful guidance on what to follow. It was held that:-

“.....in assessment of the quantum of damages, courts are mainly guided by the value of the subject matter, the economic inconvenience the party may have been put through and the nature and extent of the breach or injury suffered.” General damages are those that the law presumes to arise from the direct, natural or probable consequences of the act complained of by the victim; they follow the ordinary course and relate to all other terms of damage, whether pecuniary or non-pecuniary. General damages would include future loss as well as damages for past loss and suffering.

- 4.9 When making my decision on the appropriate damages to award, I take into consideration the proved evidence that the defendant’s agent was inexplicably negligent and caused a terrible accident which resulted into a fatality. In addition to losing his motor vehicle and income, the plaintiff had to contend with loss of his employee. He was faced with his own anguish and the anguish of the driver’s family. The plaintiff who was in the transport business, could not carry out repairs of his motor vehicle to resume work because it was extensively damaged. Evidence that he continued to incur a loss up to date should be considered. I do take into consideration that this case has taken nearly eight years to resolve but that in my decision, an award for special damages for replacement of the damaged vehicle has been made. In the circumstances, I find an award of Shs. UGX 60,000,000/= (Uganda Shillings sixty Million) as appropriate in the circumstances. The award of

damages shall attract an annual interest at 15% from the date of judgment until payment in full. The plaintiff is in addition awarded costs of the suit.

4.10 For the avoidance of doubt, judgment is entered against the defendant in the following terms:

a) The claim in negligence against the defendant in respect of a motor accident that occurred on 31/8/2011 succeeds.

The plaintiff is awarded Ushs. **44,785,000** in special damages

b) The plaintiff is awarded Ug shs. **60,000,000** in general damages.

c) The award of damages attracts interest at 15% per annum from the date of judgment until payment in full.

d) The counter claim is dismissed.

e) The plaintiff is awarded costs of the main suit and counter claim.

Signed

EVA K. LUSWATA

JUDGE

23/1/2020