

THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA AT KAMPALA
HCCS NO. 325 OF 2004

1. STEPHEN SEKANDI
2. ALEX N. TUMUSHABE ::::::::::::::::::::::: PLAINTIFFS

VERSUS

1. DOKORIA EKUNYAT
2. SIMON OCHOM ::::::::::::::::::::::: DEFENDANTS

BEFORE: THE HON. MR. JUSTICE R.O. OKUMU WENGI

JUDGMENT:

The plaintiff brought this suit against the defendant for special and general damages allegedly arising from a traffic motor accident. The accident occurred as the Plaintiff drove in his own car at 10 p.m. in May 2003 along Jinja Road at Kyambogo. It is stated in the plaint that the defendants vehicle was negligently driven so as to cause a crash that extensively damaged the vehicles. The defendants were served by substituted service and did not file or appear to defend the suit and interlocutory judgment was entered by the Registrar on 8th November 2004 and the suit proceed to formal proof.

At the hearing Lt Alex Tumushabe testified as PW1. He told court that as he drove from Kyambogo towards Kampala City along Jinja

Kampala Kampala highly the defendant who came from the opposite side with full lights knocked his vehicle. He stated:-

“My vehicle was badly damaged. It overtuned three times. After the accident I came out. 999 police came, called traffic to take measurements. My sister in law came took me to hospital.”

He told court that the other driver had no driving permit and was subsequently prosecuted and convicted at Nakawa court. A copy of the certified record of the traffic case was produced by counsel with his written submissions. The Plaintiff then said that he spent shs 6.2 million to repair his vehicle and presented exhibit P.1. He also told court that in the meantime he was hiring for alternative means a vehicle at shs 50,000 per day.

Mr. Eriasi Kibirango testified as PW2. He told court that he was a taxi (special hire) driver who was hired by the Plaintiff for 3 months.

I must say this case was not vigorously prosecuted at all as counsel assumed that he had comprehensively led his witnesses whereas not. Even if I were to take it that Exhibit P.1 was genuine the mechanic should have been called to support the plaintiffs testimony and also to explain how he could have taken a whole shs 6 million and more than 3 months to repair a Corona whose

replacement value could well be near these repair costs. The traffic accident report was not exhibited nor was the sketch plan and no police officer or inspector of vehicles testified. Plaintiff was unable to get even the general receipt for the Traffic Accident report.

Having said that however, and considering that an accident did take place and the errant driver was prosecuted and convicted, and he did not have a driving permit, I will say that the defendant is liable on account of negligence of his driver as is his driver. The plaintiff will be entitled to judgment and repair costs met by plaintiff discounted to 1/3rd of shs 6.2 million. This comes to shs 2,070,000. To this add special hire charges for seven (7) days at the rate of shs 50,000 (shs 350,000/=). No other claims have been proved. In the result the defendant is to be ordered to pay to the plaintiff

- (a) Shs 2,420,000/= as above.
- (b) Costs of this suit.

R.O. Okumu Wengi

JUDGE

30/8/2005.

5/10/2005

Parties absent

Mr Yeilangani for Plaintiffs

Defendants absent.

Court:

Judgment delivered.

Sgd by: Roy Byaruhanga

AG. D/REGISTRAR.

5/10/2005.