

**THE REPUBLIC OF UGANDA**  
**IN THE HIGH COURT OF UGANDA AT KAMPALA**  
**(CIVIL DIVISION)**  
**CIVIL SUIT NO.376 OF 2002**

**NULU NAGUJJA :::PLAINTIFF**

**VERSUS**

**ATTORNEY GENERAL :::DEFENDANT**

**BEFORE: THE HONOURABLE JUSTICE STEPHEN MUSOTA**

**JUDGMENT**

The Plaintiff Nulu Nagujja through M/s Sendege, Senyondo & Co. Advocates filed this suit against the Attorney General of Uganda in her representative capacity under Government proceedings Act. The suit has been also brought under the Law Reform (Miscellaneous Provisions) Act for and on behalf of the 13 children and dependants of the Late Umaru Bisaso.

According to the statement of claim as can be deciphered from the Plaint, the facts giving rise to this suit are as follows:

On or about 26<sup>th</sup> November 1994, the Plaintiff and her husband the late Umaru Bisaso and her two brothers called Twaha Sonko and Sulaiman Lutaala were arrested by police on alleged murder charge and taken to Central Police Station, Kampala.

Twaha Sonko was removed from Central Police Station Kampala and taken to Jinja Road Police Station where he was allegedly subjected to torture and as a result he died on remand at Murchson Bay Prison Luzira.

The plaint further claims that as part of the inquiries in the murder, policemen from Central Police Station Kampala seized and retained motor vehicle Registration Number UXO 967 Blue Bird belonging to the deceased. At the time of seizure the said motor vehicle was being used as a special Hire Taxi, earning an average Shs.50,000/= per day i.e. Shs.1,200,000/= for 24 days worked each month.

The Plaintiff herein and her co-accused on the murder charge were detained at various police stations for two weeks before they were taken to Mukono Chief Magistrate's Court. They were remanded in custody until 23<sup>rd</sup> June 1997, when they were discharged. Upon discharge, the deceased went to Central Police Station Kampala to claim for his motor vehicle. A top official at the station made inquiries but failed to trace it though it was confirmed that it had been seized and retained by police.

The deceased was advised by the Police Officer who was making the inquiries to stop going to his office so often but to give him about a week when he hoped to have established the whereabouts of the motor vehicle.

When the plaintiff's husband reported back to that officer after a week he disappeared and his body was later found in the mortuary at Mulago Hospital.

On 30<sup>th</sup> November 1999 after relentless investigations, the Plaintiff learnt that when the deceased reported to Central Police Station after a week as requested, he was re-arrested and kept in the cells until late at night when he was killed by policemen who were acting in the ordinary course of their employment as servants

of government of Uganda. Subsequent inquiries have showed that the vehicle had been unlawfully and fraudulent alienated by policemen.

The plaint gives particulars of fraud in the disposal of a vehicle as:

- i) Treating the motor vehicle as lost and found property whereas it had been seized as an exhibit.
- ii) Treating the vehicle as an abandoned property whereas it was an exhibit.
- iii) Failing to return the vehicle to the deceased despite repeated demands.

The plaint further alleges that particulars relating to the killing of the Plaintiff's husband were fraudulently concealed by the police. The particulars of fraudulent concealing of the death are listed as:

- a) Failing to record the death of the deceased in police records.
- b) Failing to report to the authorities or to inform the Plaintiff and her relatives that the Plaintiff's husband had been killed.
- c) Destroying or concealing records relating to the re-arrest of the deceased.
- d) Fraudulently concealing from the public especially the Plaintiff and her family the fact that the deceased had been killed.

The Plaintiff further avers that at the time of death of her husband, he was spending about Shs.500,000/= (Shillings Five hundred thousand only) per month on his dependants including the Plaintiff. Further that the vehicle at the time of its loss was valued at about Shs.5,000,000/= and that the Plaintiff spent approximately Shs.950,000/= on efforts to trace her husband.

The Plaintiff therefore claims for special damages to cover the value of the vehicle and the expenses incurred by the Plaintiff on investigations into the loss of the motor vehicle and the murder of her late husband and as well as general damages for loss of expectation of life and loss of dependency on her behalf and on behalf of all the children and other dependants of the deceased under the Law Reform (Miscellaneous Provisions) Act. The total special damages claimed is worth Shs.5,950,000/=, general damages and costs of the suit plus interest on the awards of 20% from the date of judgment till payment in full.

The Defendant made a general denial in their written statement of defence and contends that the alleged acts of the policemen were done in their individual capacity and that it was not liable for the same.

This suit came up for mention on 6<sup>th</sup> November 2012 in the presence of Ms. Rita Sendege for the Plaintiff and Mr. Wanyama a Principle State Attorney with the Defendant. I directed the parties' respective Counsel to file a joint scheduling memorandum ready for hearing commencing on 20<sup>th</sup> November 2012. Both parties were directed to appear with all witnesses.

On the date for hearing, Ms. Sendege informed court and I had no reason to doubt her that on 6<sup>th</sup> November 2012, she forwarded the draft scheduling memorandum notes to the Defendant with a request that it adds its input to the memorandum before retuning it for execution and filing in court. On 19<sup>th</sup> November 2012 the Plaintiff's Counsel formally wrote to the Defendant forwarding three final copies of the joint scheduling memorandum requesting it to execute the same before filing. But by 20<sup>th</sup> November 2012, when the matter came up for hearing Counsel for the Defendant was absent nor had he returned the joint scheduling memorandum for filing.

Learned Counsel for the Plaintiff sought leave of court to file the joint scheduling memorandum as is. Court granted leave upon learned Counsel for the Plaintiff presenting proof of acknowledged receipt of the letters dated 6<sup>th</sup> November 2012 and 19<sup>th</sup> November 2012 and the memorandum by the Defendant.

Ms. Sendege sought leave of court to proceed *ex parte* which was granted because the Defendant was duly notified of the case backlog clearance and the hearing date when they appeared on 6<sup>th</sup> November 2012.

During the hearing of the Plaintiff's case, four witnesses were produced. These were:

1. PW1 Nulu Nagujja, the Plaintiff and widow as well as legal representative of the Estate of the late Umaru Bisaso.
2. PW2 Hawah Kwala a biological daughter to the late Umaru Bisaso.
3. PW3 Paul Patrick Kavuma a retired detective in the Uganda Police force formally attached to the Inspector General of Government Directorate (IGG) as an Investigator.
4. PW4 Mr. Sydney Asubo the Director of Legal Affairs in the IGG Directorate Kampala.

The issues framed for resolution in this suit are:

- i) Whether the Defendant is vicariously liable for the misappropriation of the deceased's motor vehicle registration number UXO 967.
- ii) Whether the Defendant is vicariously liable for the re-arrest and subsequent death of the late Umaru Bisaso.
- iii) What remedies are available.

Before I deal with the issues as outlined above, I will state the general principles governing vicarious liability in the law of Tort. This principle appears to be the bases for this claim.

**According to the EAST AFRICAN CASES ON THE LAW OF TORT By E. VEITCH (1972) P 78** an employer is, in general liable for the acts of his employees or agents while in the course of the employers business or within the scope of employment. This liability lies whether the acts are for the benefit of the employer or for the benefit of the agent. While deciding whether the employer is vicariously liable or not the questions to be determined are:

- a) Whether or not the employee or agent was acting within the scope of his employment.
- b) Whether or not the employee or agent was going about the business of his employer at the time the damage was done to the Plaintiff.

**See: *Mayanja vs Hoima Cotton Co. Ltd* 7 ULR 64**

***Muwonge vs Attorney General of Uganda [1967] EA 17***

***Patel vs Tandree [1936] K.L.R 8***

It is however clear that when the employee or agent goes out to perform his purely private business, the employer will not be liable for any tort committed in the “***diversion***”. But the moment the employee or agent resumes his employment, following the diversion the employer takes on again the onus of responsibility.

***PIOVANO VS Attorney General of Uganda Civil Case No.373 of 1963.***

I will now resolve each of the issues framed separately.

## **Issue I**

Whether the Defendant is vicariously liable for the misappropriation of the deceased's motor vehicle registration Number UXO 967. In other words did the agents or employees of the Defendant dishonestly take the vehicle they were entrusted to keep safe. Did they convert the said vehicle?

As outlined herein, the Defendant did not deny that the policemen who wronged the Plaintiff were its servants.

In her testimony PWI Nulu Nagujja testified that she is the widow and legal representative of the late Umaru Bisaso. She stated that she was legally married to the deceased under the Islamic laws. See Exhibit PI. That sometime in 1994, she was arrested together with 3 others and charged for murder but was subsequently released in 1998 without trial when the case was dismissed. That upon arrest, one D/IP Buyinza and D/IP Obbo both police officers attached to Central Police Station (CPS) Kampala retained their personal items together with motor vehicle UXO 967 as exhibits in the murder case against them. That during their stay at Luzira prison, her late husband Umaru Bisaso wrote on 17<sup>th</sup> March 1995 to the Chief Magistrate Mukono requesting for the release of the said vehicle and its log Book to his relatives so that it could be used to feud for his young children whom he left home with no one to look after them as his wife had been arrested with him. A copy of the said letter was tendered in to court and marked Exh.P8.

That the vehicle was never released to the deceased's family because the same was being held as an exhibit which would be released upon finalization of the case.

PWI's testimony was minutely corroborated by that of PW3 Mr. Paul Patrick Kavuma whose evidence I found credible. PW3 testified that he is a retired Senior Police Officer who while attached to the IGG office he was detailed to investigate

this matter. He visited the Chief Magistrate's Court Mukono and perused Criminal Case file No. M396 of 1994 and confirmed that the Plaintiff together with her late husband Umaru Bisaso and two others had in fact been charged with murder.

He retrieved Umaru Bisaso's letter dated 17<sup>th</sup> March 1995 to the Chief Magistrate (Exh.P8).

During his investigations PW3 visited the motor vehicle Registry and retrieved the registration details of motor vehicle UXO 967.

He discovered that as of 11<sup>th</sup> June 2000 it was registered in the names of John Birango a police officer attached to Masaka police station (See Exh P4).

Basing on this information PW4 proceeded to Masaka where we met John Birango. The latter was cooperative and provided PW3 with documents of ownership including:

- A receipt from Twidha & Twiza Auctioneers dated 15<sup>th</sup> July 1996 to whom John Birango paid Ug.Shs.1,000,000/= for the vehicle in question (See Exh.P9).
- A press release announcing the public auction in Bukedde Newspaper (Exh P10).
- A list of items released from Central Police Station to the Chief Magistrate's Court Buganda Road labeled as unclaimed items (Exh P5).
- A motor vehicle inspection report describing the motor vehicle in question as scrap (See Exh P6).



- A sale agreement dated 2<sup>nd</sup> March 1998 when John Birango was re-selling the motor vehicle UXO 967 to one Ntale Noordin at Shs.400,000/= (Exh P7).

PW3 further testified that he interviewed Ntale Noordin to whom John Birango sold the motor vehicle and he learnt that the said Ntale Noordin resold the motor vehicle to one Ibrahim Wasswa Ssenabulya who in turn sold it to one Bernard Mutebi at Shs.490,000/= on 25<sup>th</sup> April 2001 (See Exh PII).

Finally PW3 testified that he visited Central Police Station Kampala and perused the Station Diary (SD) and the acknowledgement of personal property (APP) registers but both records did not have the names of the Plaintiff herein, the late Umaru Bisaso's names nor did the records have the names of the other accused persons Twaha Sonko and Suleiman Lutaaya.

The said records did not also have any record of motor vehicle UXO 967 as an exhibit.

From the above evidence, I am in total agreement with Ms. Sendege learned Counsel for the Plaintiff that this evidence is overwhelming and pins the employees of the Defendant who are police officers i.e. Buyinza and Obbo as having had a hand in the misappropriation and conversion of motor vehicle UXO 967.

Clearly, the deceased's motor vehicle was not unclaimed property and should never have been put up for auction to the public as un claimed. From the evidence adduced, these officers retained it with sinister motives but on the pretext that it was an exhibit. If it was at all an exhibit, then upon release of the suspects it ought to have been returned to them.

It is the law that police has a right to lawfully seize and retain property if there is a reasonable ground to believe that:

- a) The thing might be used as an exhibit in relation to an offence which is being investigated and;
- b) That it is necessary to seize that thing in order to prevent it from being concealed lost, tampered with or destroyed.

However, where property is seized the police officer responsible for the seizure shall record the fact and description of the property in duplicate and cause the record to be signed by himself or herself and the owner and copy shall be retained by the owner or occupant (See SS 29 (1) and (2) of the Police Act.

From the evidence adduced for the Plaintiff, there was no record of either the accused person or any of the properties seized from them including motor vehicle UXO 967 at Central Police Station Kampala. PW3 did not also find any police file in respect of the accused persons.

To the contrary what the Defendants agents Buyinza and Obbo, both police officers, did was to merely seize and retain motor vehicle No UXO 967, and its log Book and convert it. The vehicle ended up being sold and/or disposed of as un claimed property yet in actual fact the motor vehicle had an owner who was known and had been vigilant and ready to reclaim it after release from prison.

I agree with learned Counsel for the Plaintiff that Exh P3 which is a report by the IGG on the allegation of misappropriation of motor vehicle UXO 967 shows clearly that the said vehicle was once parked at the yard of Central Police Station Kampala and in sound condition. That before the car owner's case was disposed of

in court, it was vandalized and subsequently it disappeared mysteriously only to be recovered in Masaka in a dangerous mechanical condition after being sold by the Chief Magistrate, Buganda Road as unclaimed property.

On a balance of probabilities the Plaintiff has proved that motor vehicle UXO 967 was misappropriated by the police. This happened in the course of duty of the Defendant's employees. Both Buyinza and Obbo had a hand in this and they did it in the course of their employment using their offices. The Defendant is therefore vicariously liable for their actions. I will answer issue 1 in the affirmative.

**Issue 2:**

**Whether the Defendant is vicariously liable for the re arrest and subsequent death of the late Umaru Bisaso.**

As submitted by learned Counsel for the Plaintiff in reference to Osborn's concise Law Dictionary 9<sup>th</sup> Edition, vicarious liability is defined as:

***“Liability which falls on one person (a) as a result of the actions of another person (b) which has caused injury to the third person (c) liability falls on (a) not because of any breach of duty by (a) but because (b) has breached the duty which he owed to (c).”***

This definition echoes what I have stated herein above quoting E. Veitch (Supra) that an employer is in general liable for acts of his employees or agents while in the course of the employer's business or within the scope of employment.

The court of Appeal for East Africa in **Muwonge vs Attorney General of Uganda [1967] E A 17** held per Newbold P that:

***“An act may be done in the course of a servant’s employment so as to make his master liable even though it is done contrary to the orders of the master; and even if the servant is acting deliberately, wantonly, negligently or criminally, or for his own behalf, nevertheless if what he did is merely a manner of carrying out what he was employed to carry out, then his master is liable.”***

***See Also: Magezi Raphael vs Attorney General HCCS 997 of 2000.***

From the evidence adduced by the Plaintiff it is abundantly clear that after the late Umaru Bisaso was released from prison together with his wife, the deceased went to Central Police Station Kampala on 28<sup>th</sup> January 1997. He had identification from his work place, an LC Letter and a letter dated 23<sup>rd</sup> January 1997 addressed ***To Whom It May Concern*** from the Chief Magistrate’s court of Mukono (Exh P16) stating that the charges against them had been dismissed. He went to Central Police Station to claim his motor vehicle UXO 967 which had been seized and retained by police during their arrest as an exhibit. According to PW1, on that day the deceased returned home and informed her that he had been advised to give police one week to trace the vehicle. He was told to return later. PW1 further testified that when the late Umaru returned to Central Police Station to follow up on the release of his vehicle he did not return home.

PW2 Kwata Hawah the deceased’s daughter corroborated the evidence of her mother PW1 that she last saw her father alive at 2.00 p.m. on that day when he left home. PW1 further testified that when her husband failed to return home that night, on 6.2.1997, she went to Central Police Station Kampala to inquire about his whereabouts. That while at Central Police Station she made a payment of

Shs.950,000/= to one Police Officer to buy information regarding the whereabouts of her husband.

She was then informed by the said officer that the late Umaru Bisaso had been killed the previous night because the police officers who had seized his vehicle did not have it and were scared of being exposed. PWI was advised to visit the mortuary at Mulago where she found the body of the late Umaru Bisaso. The body had wounds on the head, chest and legs. It also had bruises on the forehead.

The evidence by both PWI and PW2 was corroborated by that of PW3 and Exhibit P3 a report of the IGG.

In his evidence PW3 stated that he investigated the matter and confirmed the arrest and detention of the deceased and 3 others. One of the accused died in prison (Exh P12).

The case was dismissed and the surviving accused persons were released and given a letter headed "***To Whom it May Concern.***" [(Exh 18 (a) and (b))]. PW3 found that the motive for the arrest of these people was that they failed to raise a bribe for Buyinza, the police officer who effected the arrest in order for him to release them.

PW3 was given a note by PW1 which was found attached to the deceased's body after it was retrieved from the Mortuary at Mulago Referral Hospital. This note was tendered in evidence and marked Exh P20. It bore the deceased's names and is numbered postmortem 138/94 and police case file number M396/94 Central Police Station Kampala. Surprisingly upon scrutiny M396/94 is the case file number of the murder charge against the deceased and 3 others at the Chief Magistrate's Court, Mukono!

With exhibit P20, PW3 visited the government chemist where proper postmortem records are kept. When he checked the entry No.138/94, he found that it was in the name of one Abdu Sekyomu and not the late Umaru Bisaso! PW3 however noted that the postmortem showed the deceased had a deep cut wound on his head just as PW1 had testified about the deceased's body (see Exh 6 P19).

When he checked if any other postmortem was carried out around the time Umaru Bisaso died, he found that none had been made.

PW3 concluded that indeed a postmortem was actually done on the deceased but registered in the name of Abdu Sekyomu by the culprits so as to conceal the deceased's death and its cause – It was intended to mislead.

With the above overwhelming evidence, I am in agreement with the submission by learned Counsel for the Plaintiff that on a balance of probabilities it has been proved that Umaru Bisaso was illegally re-arrested and died in the hands of the police at Central Police Station on 5<sup>th</sup> February 1997 when he went to claim his motor vehicle UXO 967.

The deceased's body was callously dumped at Mulago Hospital mortuary.

Exhibit P3 tendered in court by PW4 Mr. Sydney Asubo the IGG's Director Legal Affairs fully exposed D/IP Buyinza and Obbo both of whom were acting in the course of their employment. The report pins and blames them for the untold suffering, injustice and malicious prosecution of *inter alia* Umaru Bisaso and his co-accused.

It also pins these two officers for the misappropriation of motor vehicle No. UXO 967 and the subsequent death of, Umaru Bisaso.

I also agree with learned Counsel for the Plaintiff and from the evidence adduced by the Plaintiff both D/IP Buyinza and Obbo were key players in Umaru Bisaso's death. As police officers of the government of Uganda, who were acting in the course of their duty, the Defendant is vicariously liable for their actions in accordance with Section 10 of the Government Proceedings Act Cap.72. The authority of *Muwonge Vs Attorney General (supra) also refers.*

I will therefore answer issue No. 2 in the affirmative also.

**Issue 3:**

**What remedies are available to the Plaintiff.**

In her pleadings and evidence the Plaintiff prayed for the following remedies:

- a) Special damages equivalent to the value of the misappropriated motor vehicle UXO 967 Nissan Blue Bird put at Shs.5,000,000/= (Five million shillings) at the time. She also claimed for Shs.950,000/= spent on tracing the whereabouts of her husband the late Umaru Bisaso after he had disappeared.
- b) General damages for lost earnings from the misappropriated motor vehicle UXO 967 which the Plaintiff said was earning Shs.50,000/= per day from its special Hire business. That this translated into Shs.1,200,000/= per month of 24 days it worked. PWI also claimed loss of dependency from the deceased who was earning a salary of Ug x 150,000/= per month from UNDP as a driver plus a weekly allowance of Shs.20,000/=. That the deceased used to spend Shs.500,000/= on his family.

It is trite law that special damages, sometimes called actual or particular damage are items which the Plaintiff is required to strictly prove and may not be presumed to follow from the event.

**A. B Sindano vs Ankole District Administration Civil Suit 463 of 1969.**

General damages are damages which the law implies or presumes naturally to flow or accrue from the wrongful act and may be recovered without proof of any amount but they must not be so remote having no link with the wrongful act.

General damages are incapable of exact proof in terms of money and their assessment is normally left to the trial court.

From the evidence adduced by the Plaintiff (PW1) and her witnesses, it has been proved on a balance of probabilities that her late husband's motor vehicle and its log Book were retained by the police. It was seized allegedly as an exhibit. It was in a good state of repair but was auctioned off at a paltry Shs.100,000/= as a scrap moreover before the case under which it was allegedly seized had been finalized. Although PW1 was unable to trace the purchase agreement due to the period this litigation has taken plus the time spent in Luzira prison of over 2 years, I was satisfied and I believed her evidence that the misappropriated motor vehicle cost them Shs.5,000,000/=.

I also believed her that she indeed spent Shs.950,000/= to pay and trace the whereabouts of her late husband and indeed the expenditure proved it.

Whereas special damages must strictly be proved by production of documentary evidence, cogent verbal evidence can be used to prove such a claim. It would be unjust to deprive the Plaintiff herein for failure to adduce documentary evidence after she and others were maliciously charged in court with murder and detained



without trial for sometime leaving all their worldly belongings without due care.  
**In GAPCO (U) LTD VS A. S TRANSPORTERS LIMITED SCCA NO 7/2007.**

It was held *inter alia* that oral evidence is generally acceptable to prove special damages. The claim for special damages above has been proved on a balance of probabilities.

Regarding general damages for loss of dependency, it has been revealed that the deceased left 13 children and dependants as follows:

1. Sarah Nabawanga
2. Salim Musisi
3. Janat Nankya
4. Hawa Kwata
5. Manisula Nassuna
6. Mariam Bulabya
7. Nakyo Fatuma and;
8. Ssali Farouk – all children and;
9. Wamala Alex
10. Godfrey Kayiza
11. Twaha Sonko (Junior)
12. Nakirijja and;
13. Jowelia Nabawanuka, all as dependant relatives.

Both PW1 and PW2 gave evidence describing all children and dependants and they corroborated each other in material particulars. PW2 stated that she was 11 years old in 1997 when her father Umaru Bisaso died. That prior to his death, the deceased was the one catering for her needs, such as shelter, food, clothing and school fees etc. That after his death PW1 took over that role and with hardship provided for that large family. PW1 testified that Umaru Bisaso was earning a salary of Shs.150,000/= per month plus a weekly allowance of Shs.20,000/= and was spending over Shs.500,000/= on the family. That the deceased's documents including his identify card and LC letter were lost because he went with them to police.

Whereas I was convinced that the deceased could have spent over Shs.500,000/= on the family per month which could be within the knowledge of the surviving spouse, I was unable to be persuaded that he earned Shs.150,000/= form UNDP and a weekly allowance of Shs.20,000/=. Despite the authority of **GAPCO (U) VS AS TRANSPORTERS LTD (Supra)**, evidence ought to have been produced from UNDP to prove this assertion.

In assessing damages for loss of dependency, I am in agreement with the decision quoted by learned Counsel for the Plaintiff for my assistance of **SAULO MAWANDA SEMPA & 3 ORS VS THE ATTORNEY GENERAL CIVIL SUITS NOS. 1330, 1332, 1331 and 1294 of 1998** where MUSOKE – KIBUUKA J gave an extensive guide in assessing damages for loss of dependency. When court is assessing these damages it should do the following:

- Take into account the lost earnings of the deceased person as the starting point. Out of these earnings is assessed the pecuniary benefit regularly accruing to the dependants.
- The court should determine the appropriate multiplier. That is the number of years during which the benefit of the dependency would have continued to be available to the dependants if the deceased had lived beyond the date of death and continued making earnings.
- The determination of the multiplier is guided by the age at which the deceased died and what his or her working life expectancy would have been had he not met his/her demise in the circumstances.
- The total lost dependency or benefit is obtained by multiplying the annual lost benefit by the multiplier.
- The total lost dependency is then apportioned among the dependants. If the deceased was a husband, the wife is entitled to a more substantial share of the damages in recognition of the fact that her dependency upon her husband's support would ordinarily continue longer than that of the children.
- It is also a recognized principle that in apportioning damages, court would award the younger children relatively larger portions in recognition of the fact that their dependency upon the deceased would have lasted longer than the older children.

Applying the above principle and considering the evidence adduced by PWI, the deceased owned a motor vehicle which was being used for special Hire business earning Shs.50,000/= per day for 24 days a month which translates into Shs.1,200,000/= per month. Therefore the lost income will be calculated at that

rate per month with effect from November 1994. For the month of November and December 1994, the total income would be Shs.2,400,000/=. For the subsequent years, the income would have been Shs.14,400,000/=.

Given that the deceased was 37 years old at the time of his death yet the life expectancy for men in Uganda is now 57 years, it means that the deceased ***most probably had 15 years to live***. Therefore the multiplier would be approximately 15 years. This would translate into a gross total income of Shs.14,400,000/= x 15 years = Shs.216,000,000/= + Two months income of 1994 of Shs.2,400,000/= which would total to Shs.218,400,000/=. The deceased's income would be subject to taxation.

Considering that a person with a large family spends  $\frac{2}{3}$  of his/her income on his family  $\frac{2}{3}$  of Shs.218,400,000/= would be equivalent to Shs.145,600,000/= as dependency on the deceased's entire life's earnings. This figure will be subject to taxation.

Regarding interest the Plaintiff prayed for a rate of 20% on the amount of damages awarded from the date of judgment until payment in full plus the costs of the suit under Section 26 (2) of the Civil Procedure Act it is enacted that:

***“(2) where and in so far as a decree is for the court may, in the decree order interest as such rate as the court deems reasonable to be paid on the principle sum “adjudged from the date of the suit to the date of the decree, in addition to any interest adjudged on such principal sum for any period prior to the institution of the suit, with further interest at such rate as the court deems reasonable on the aggregate***

*sum so adjudged from the date of the decree to the date of payment or to such earlier date as the court thinks fit.”*

An order for payment of interest therefore has within the discretion of court.

In the circumstances of this suit, I will not award a 20% interest on the adjudged amount as prayed. I will instead award the Plaintiffs 8% interest on the decretal amount from the date of judgment till payment in full.

In summary judgment is entered for the Plaintiff as follows:

1. Special damages of shs.5,950,000/= (Nine million nine hundred and fifty thousand shillings) is awarded.
2. General damages for the unlawful death of the deceased and loss of dependency of Shs.145,600,000/= (One hundred forty five million six hundred thousand shillings) subject to taxation; and
3. Interest at the rate of 8% per annum on (1) and (2) above from the date of judgment till payment in full.
4. Costs of the suit.

I so order.

**STEPHEN MUSOTA**  
**JUDGE**

**29.11.2012:**

Sendege for the Plaintiff

Namutebi Court Clerk

**Sendege:**

We had electricity shortage.

I filed late.

**Court:**

Judgment will be on 18.12.2012 at 9.00 a.m.

**STEPHEN MUSOTA**

**JUDGE**

**18.12.2012:**

Plaintiff in court.

Richard Lubaale holding brief for Rita Sendege for the Plaintiff

None for Defence

**Lubaale:**

Matter is for judgment.

**Court:**

Judgment delivered.

**STEPHEN MUSOTA**

**JUDGE**

**18.12.2012**