

IN THE HIGH COURT OF UGANDA AT KAMPALA

CIVIL SUIT NO. 70 OF 2013

NALWENDO BRENDA.....PLAINTIFF

V

ATTORNEY GENERAL.....DEFENDANT

BEFORE HON. LADY JUSTICE H. WOLAYO

JUDGMENT ON QUANTUM FOR TREATMENT ABROAD

The plaintiff sued the defendant for negligence.

It was the plaintiff's claim that on 14.4.2011 at Kajjansi while she was seven months pregnant and lawfully travelling, she was shot at by policemen and injured in the abdomen and shot again causing her intestines to pour out as she fell. It was further her claim that as she was on the ground, policemen released a tear gas canister on her body which burnt her from the neck to the knees sustaining serious injuries.

She was taken to Mulago hospital for treatment but that to date, the hospital has declined to give her a medical report .

In defence the defendant denied liability and averred that the Uganda Police Force paid for antenatal services and medication until her recovery and discharge from Mulago hospital after delivery of her baby.

On 8.2.2017, Mr. Madete for the Attorney General informed court that the Attorney General had communicated its proposal to the Plaintiff to which counsel for the plaintiff , Ms. Nalunkuma responded that she accepted the proposal .

The terms of the proposal dated 6.2.2017 were:

1. General damages.....80,000,000/
2. Exemplary damages.....20,000,000/
3. Further treatmentcourt to determine
4. Costs.....to be taxed.

I therefore entered partial judgment on admission on the following terms:

1. General damages.....80,000,000/
2. Exemplary damages.....20,000,000/

I set down for hearing the contested issue of quantum of damages for further treatment.

After hearing from the plaintiff and her expert witness and upon cross examination by counsel for the defendant, both counsel filed written submissions that i have carefully considered.

It was counsel for the plaintiff's submission that they failed to get a medical report from Mulago hospital but Dr. Makobore who attended to her testified that he attended to the plaintiff in 2011 whose intestines were severely damaged , the wounds on the abdomen and right hand were cleaned and skin grafting done.

It was his testimony that after discharge, the plaintiff returned for review of her condition and that she still suffers pain from the wounds except that the witness later stated in para. 10 that the plaintiff suffers from itching scars on the abdomen and thighs and complications as a result of intestinal damage from gun shot wounds.

He recommended that the plaintiff be taken to BLK Super Specialty Hospital in New Delhi for treatment. In cross examination, the testimony of this witness is that he referred her to India because they have pin hole surgery not available in Uganda.

The plaintiff claimed for USD 6500 for surgery as billed by BLK India.

she also claimed for the following expenses:

USD 200 for two visas

USD 1760 for two tickets to India

3,600,000/ for twelve days stay

5,000,000/ for attendant's expenses

30,000,000/ over and above cost of treatment

While I agree with the plaintiff that she requires further treatment for the itching scars, I find the sums claimed on the high side.

I will therefore allow the claim for treatment in India as follows:

- a) USD 6500 for surgery
- b) USD 880 One air ticket
- c) 5, 000,000/ for upkeep while in India.
- d) costs of the suit to the plaintiff

DATED AT KAMPALA THIS 13th DAY OF JULY 2017.

HON. LADY JUSTICE H. WOLAYO