**Chokwe v Railways Corporation**

**Division:** High Court of Kenya at Mombasa

**Date of judgment:** 27 February 1973

**Case Number:** 22/1969 (109/74)

**Before:** Sir Dermot Sheridan J

**Sourced by:** LawAfrica

*[1] Negligence – Res ipsa loquitur – Railway passenger thrown out of berth – Negligence not shown.*

*[2] Damages – Personal injuries – Quantum – Injury to hand – Shs.* 35,000*/-.*

**Editor’s Summary**

The plaintiff claimed damages for injuries suffered when he fell out of a berth on a train on the

Nairobi-Mombasa line. The full facts are set out in the judgment. He claimed that the doctrine of res ipsa loquitur applied.

**Held –**

(i) the fall resulted from the normal swaying of the railway carriage;

( ii) the defendant had proved that everything had been done with skill and care;

(iii) damages of Shs. 35,000/- would have been awarded for the hand injury.

Case dismissed.

**Cases referred to Judgment:**

(1) *Ford v. London and South Western Railway Co.* (1862), F. & F. 730; 175 E.R. 1260.

(2) *Readhead v. Midland Railway* (1868 – 9), L.R. 4 Q.B. 379.

(3) *Angus v. London Tilbury and Southern Railway* (1906), 22 T.L.R. 222.

(4) *Newberry v. Bristol Tramways and Carriage Co.*, [1911 –