**Sabani v Uganda**

**Division:** High Court of Uganda at Kampala

**Date of judgment:** 16 April 1974

**Case Number:** 256/1973 (130/74)

**Before:** Wambuzi CJ

**Sourced by:** LawAfrica

*[1] Criminal Practice and Procedure – Compensation – Robbery – Award mandatory and without financial limit – Penal Code*, *s.* 273 (3) (*U.*).

**JUDGMENT**

**Wambuzi CJ:** The appellant was convicted of robbery contrary to ss. 272 and 273 (1) (*a*) of the Penal Code by a magistrate sitting at Jinja. He was sentenced to 3 ½ years’ imprisonment and 12 strokes of the cane. He was also ordered to pay compensation of Shs. 1,437/-and to be subject to police supervision for two years after his imprisonment. He now appeals against the conviction and sentence on the grounds set out in his memorandum of appeal. [The judge considered the evidence, upheld the conviction and continued.] As regards sentence, the maximum penalty for the offence in a magistrate’s court is 10 years’ imprisonment. The trial magistrate gave reasons why he imposed the sentence of 3 ½ years imprisonment, 12 strokes of the cane, payment of compensation and police supervision. He took into account the fact that the appellant was a first offender. I do not think that the sentence is in any way excessive, if anything, it is on the lenient side. Mr. Oriyoh for the respondent argued that the order to pay compensation of Shs. 1,437/- was bad in law in so far as the amount exceeded the Shs. 1,000/- ceiling prescribed by s. 209 (1) of the Magistrates’ Courts Act 1970. I do not subscribe to this view. S. 273 (3) of the Penal Code reads in part: “. . .where a person is convicted of the felony of robbery, the court shall, unless the offender is sentenced to death, order the person convicted to pay such sum by way of compensation to any person to the prejudice of whom the robbery was committed,. . .” This means that unless the convicted person is sentenced to death the court must make an order for compensation. The section is mandatory and the amount of compensation is in the discretion of the court. On the other hand, s. 209 (1) of the Magistrates’ Courts Act is discretionary, the “. . . court may in its discretion and in addition to any other lawful punishment order the convicted person to pay compensation. . .” provided that the person to whom compensation is payable has suffered material loss or personal injury and can, by civil suit, recover substantial compensation. The amount ordered shall not exceed Shs. 1,000/-. In these circumstances I do not think the provisions of s. 209 (1) in any way affect the order made under s. 273 (3) of the Penal Code. In the absence of any other provision to the contrary, it appears to me that the amount of compensation the court can award under s. 273 (3) of the Code is unlimited. I accordingly find that the order made by the magistrate is in accordance with the law. The appeal against the sentence is also dismissed. *Order accordingly*.

The appellant was unrepresented.

For the respondent:

*G Oriyoh*