

**IN THE DISTRICT COURT HELD AT AFLAO IN THE VOLTA REGION BEFORE
HIS WORSHIP IDDRISU ISSAH ESQ. ON THE 27TH OF JULY 2023.**

A11/08/2023

EMMANUEL ABAYA

VRS

KORSHIE OKADA

LOGOSHIE KENKEY

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.....
JUDGEMENT
.....

The plaintiff herein Emmanuel Abaya instituted this action against the defendant, Korshie Okada and Logoshie Kenkey. The plaintiff claims against the defendants to return his motor tricycle and for the payment of his lost daily sales of GH¢1500.00.

The defendants denied both claims and failed subsequently to appear in court nor file any pleadings in defense of their case.

The plaintiffs case is simply that he is a businessman at Ezukope at Aflao whilst the defendants are motor rider and kenkey seller at Akporkple. On the 15th of June 2022, he

gave his motor- tricycle to the first defendant to sell sacket water for him. On the first say the defendant sold water worth GH¢1500.00.and kept the motor tricycle for three days on the third day the first defendant informed him that the motor tricycle was missing. However later the second defendant informed him that the first defendant stole the motor tricycle.

However, the plaintiff stated in his witness statement that after the days work on the 16th of June 2022 the first defendant came to park the motor tricycle and left the keys with plaintiff's children. Later the day the defendant informed him that he had gone to park the motor tricycle in and handed the keys to his children, on the following say he could not find the motor tricycle. The first defendant helped to look for the motor tricycle GH¢1500.00.

Was in December 2022 that his son, the first defendant stole the motor tricycle.

The plaintiff invited Jane Tsidey as a witness (PW1). According to the PW1 when the motor tricycle got missing, the second defendant informed them that her son the first defendant stole the tricycle .

Since the defendants have failed to put up a define of the matter nor filed any documents after entering appearance, the court can only rely on the evidence before it to establish prime fafacis case against the first defendant on the basis that he had access to the original keys of the motor tricycle before handing same to the plaintiff's children. Since the motor tricycle had been stolen he had the opportunity to dispel any negligence or failure on his part to discharge has duty as the rider in charge of the motor.

However, since the plaintiff was given the keys through his children he also had the responsibility to take care and keep an eye on the motor tricycle.

In the circumstance the court has not found the second defendant liable on the matter.
The court has however found the first defendant liable in part.

The plaintiff is not entitling to any payment in terms of daily sale from the first defendant.

Cost of GH¢500.00. against the first defendant.

..... SGD

H/W IDDRISU ISSAH ESQ.

(THE MAGISTRATE).