



**Onderi & another v ESO (A minor suing through next friend and father John Tabu Owade)
(Civil Appeal E538 of 2021) [2024] KEHC 7672 (KLR) (Civ) (25 June 2024) (Ruling)**

Neutral citation: [2024] KEHC 7672 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)**

CIVIL

CIVIL APPEAL E538 OF 2021

WM MUSYOKA, J

JUNE 25, 2024

BETWEEN

KWAME ONDERI 1ST APPELLANT

HENRY ENDEKWA IGAMBI 2ND APPELLANT

AND

**ESO (A MINOR SUING THROUGH NEXT FRIEND AND FATHER JOHN
TABU OWADE) RESPONDENT**

*(An appeal arising from the judgment of Hon. DW Mburu, Senior Principal
Magistrate, SPM, delivered on 30th July 2021, in Milimani CMCCC No. 5042 of 2019)*

RULING

1. I am unable to complete writing judgment in this matter, as the record is incomplete.
2. According to the judgment of 30th July 2021, the trial court assessed quantum of damages based on a medico-legal report, by a Dr. TS Mogire, dated 21st August 2020. That report is not in the undated record of appeal filed herein on 28th November 2021. I have also very closely perused the original trial court records, and I have not come across any such report, or any other medico-legal report for that matter.
3. The appeal herein turns only on the issue of assessment of damages, and an appeal around that issue cannot be determined in the absence of such a medico-legal report.
4. Consequently, I hereby return the file to the registry of the Civil Division, High Court of Kenya, at Milimani Nairobi, to be placed before the Presiding Judge, for further directions. The file may be



returned to me, for completion of the judgment-writing, once the relevant document has been placed on record.

DELIVERED BY EMAIL, DATED AND SIGNED IN CHAMBERS, AT BUSIA, THIS 25TH DAY OF JUNE 2024

W MUSYOKA

JUDGE

