



**Murono v Murunga (Civil Appeal 102 of 2017)  
[2023] KEHC 3764 (KLR) (28 April 2023) (Judgment)**

Neutral citation: [2023] KEHC 3764 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KAKAMEGA  
CIVIL APPEAL 102 OF 2017**

**WM MUSYOKA, J**

**APRIL 28, 2023**

**BETWEEN**

**EMMANUEL SOLE MURONO ..... APPELLANT**

**AND**

**RODGERS MURUNGA ..... RESPONDENT**

*(Appeal from judgment and decree by Hon. F Makoyo, Senior Resident Magistrate, SRM, in Butere PMCCC No. 225 of 2014, of 31st August 2017)*

**JUDGMENT**

1. The appellant had sued the respondent, at the primary court, for compensation arising out of a traffic road accident on September 17, 2014, along Mumias-Bungoma Road. The appellant was riding along that road, and was knocked down by motor vehicle registration mark and number xxxx, said to have belonged to the respondent, and liability was attributed to the respondent on account of negligence. The respondent filed a defence, denying the accident, and everything else pleaded in the plaint. It was averred that the appellant rode into the main road without stopping at the junction, and without observing road etiquette.
2. The appellant testified that he was not a licensed motorcycle rider, and the motorcycle itself was also not licensed. He called a police officer, who testified that the motor-vehicle knocked the appellant, and did not stop after the accident. The respondent testified that the appellant emerged from a side road, and entered the road, while crossing the road from left to right. The trial court determined liability at 50:50, and general damages at Kshs 300, 000.00.
3. The appellant was aggrieved, hence the appeal. He principally argues that the apportionment of liability at 50:50 was wrongful; and the court erred in awarding general damages at Kshs 300, 000.00.
4. Although directions were given for canvassing of the appeal by way of written submissions, none of the parties filed written submissions.



5. I have carefully gone through the original trial record, and considered the evidence tendered, as against the analysis of the evidence, and the final conclusions made by the court, in its judgment. I am not persuaded that the trial court applied the wrong principles, in coming to the conclusions that it arrived at, on both liability and quantum. I have not found merit in the appeal, and I hereby dismiss the same. Each party shall bear their own costs.

**JUDGMENT IS DELIVERED, DATED AND SIGNED IN OPEN COURT AT KAKAMEGA THIS  
28<sup>TH</sup> DAY OF APRIL 2023**

**W MUSYOKA**

**JUDGE**

Mr. Erick Zalo, Court Assistant.

**Appearances**

Mr. Mwaka, instructed by R. Omar & Company, Advocates for the respondent.

