

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT EMBU

Miscellaneous Civil Application 75 of 2011

DIONESIA WANJUKI NJUE.....APPLICANT

VERSUS

JOSPHAT MUTEMBEI NJUE.....1ST RESPONDENT

JOHN MURIITHI MBOGO.....2ND RESPONDENT

RULING

This is the Applicant's Originating Summons dated 13/7/2011 brought under Section 27 and 28 of the Limitation of Actions Act and Order 37 Rule 6 of the Civil Procedure Rules for an order extending time for filing suit to claim compensation for fatal injuries sustained by Martin Mwaniki Muriithi in a road traffic accident that occurred on 1/12/2007 along Kivue – Kithimu road involving motor vehicle Registration No. KAP 449S.

And that the Applicant be granted leave to file suit out of time in respect of the estate of the deceased Martin Mwaniki Muriithi. It's supported by the Supporting Affidavit of the Applicant.

She explains that the motor vehicle which caused the death of her son was insured by Blue Shield Insurance. And that there had been an order stopping any suits being filed against those insured by Blue Shield vide Nairobi High Court Misc. Application No. 199/09 (DWN3).

The said order was only lifted on 20/5/2011 (DWN4). Her time for filing suit expired on 1/12/2010. The Applicant has been issued with limited letters of Administration Ad Litem (DWN1).

Being an ex parte application there is no evidence to contradict what the Applicant has stated in her Supporting Affidavit. The leave sought is therefore granted. The Applicant is to file suit within 30 days.

DATED, DELIVERED AND SIGNED AT EMBU THIS 18TH DAY OF NOVEMBER 2011.

**H. I. ONG'UDI
JUDGE**