



**SBI International Holdings v Oluoch (Civil Appeal E087 of 2022)
[2025] KEHC 8651 (KLR) (20 June 2025) (Ruling)**

Neutral citation: [2025] KEHC 8651 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KISUMU
CIVIL APPEAL E087 OF 2022
BM MUSYOKI, J
JUNE 20, 2025**

BETWEEN

SBI INTERNATIONAL HOLDINGS APPELLANT

AND

CALEB OTIENO OLUOCH RESPONDENT

RULING

1. This matter was slated for judgement today but for reason contained herein, this court will instead deliver a ruling.
2. The cause of action in the lower court was an accident which occurred on 29-09-2018 along Katito-Sondu road involving motor vehicle registration number KAX 192P and the respondent who was riding a motor bike. The motor vehicle was owned by the appellant herein. The trial court entered judgment on liability at the ratio of 50:50, Kshs 1,500,000.00 in general damages for pain and suffering, Kshs 9,314.00 special damages, costs of the suit and interest. The appellant was aggrieved by the award in general damages and preferred this appeal.
3. As I was preparing to write the judgment, I noticed that the lower court file which was placed with this appeal is different from the one to which the appeal relates. The registry placed original file for case number E017 of 2022 in the Senior Principal Magistrate's Court at Winam instead of Nyando Senior Principal Magistrate's civil case number 46 of 2019. I just hope that the mix up has not messed up the Winam court case whose judgment is appealed in this court's civil appeal number 74 of 2020. The correct file for this appeal must also be lying somewhere in the registry and I hope it will be traced and reunited with this file.
4. The above notwithstanding, I would have proceeded to write a judgment in this matter if the record of appeal filed herein had sufficient documents to enable me dispose of the same. To the contrary, the record appeal does not contain the correct exhibits as those which are in it are not for this file



neither are they for the aforesaid Winam court file. The appellant's advocates seem to have mixed up the documents in their offices because the exhibits contained in the record of appeal herein seem to have emanated from the same cause of action as in this appeal.

5. The following are the exhibits the appellant has put in its record of appeal;
 1. Discharge summary for the appellant herein dated 9-10-2018 which is hardly legible.
 2. Burial permit for one Michael Bodo Juma dated 27-09-2018.
 3. Post mortem report for Michael Juma Bodo dated 3-10-2018.
 4. Police abstract dated 5-10-2018 for accident involving Michael Juma Bodo and motor vehicle registration number KAX 192P.
 5. Letter from Odero Okoyo & Co. Advocates dated 5-10-2018 bespeaking accident involving Michael Juma Bodo and motor vehicle registration number KAX 192P.
 6. Certificate of insurance for motor vehicle registration number KAX 192P.
 7. Waiting card for one Irine Anyango Juma.
 8. Letter dated 15-11-2018 from the Ministry of Interior and Coordination of National Government Nyakach Sub County which is hardly legible.
 9. ID card for Edward Juma Bodo.
 10. Death certificate for Michael Bodo Juma.
 11. Grant of limited letters of administration in Nyando Senior Principal Magistrate's succession cause number 37 of 2019.
 12. Treatment notes from Nyakach Sub County Hospital dated 29-09-2018 for the respondent herein.
 13. X-ray report and receipts which are not legible.
6. The judgment of the court and the proceedings show that there were medical reports and P3 forms which were produced as exhibits. These documents are essential in assessing damages and without them this court is handicapped. The record of appeal remains incompetent for lack of essential documents but I do not think that it will be fair to dismiss or strike out the appeal due to the errors by the advocates and the court's registry.
7. In view of the above, I order as follows;
 1. This file is returned to Kisumu High Court station.
 2. The Deputy Registrar and the Court Administrator are ordered to produce or facilitate production of the original file record for Nyando Senior Principal Magistrate's civil case number 46 of 2019; *Caleb Otieno Olouch v SBI International Holdings*.
 3. The appellant shall within 21 days from today prepare and file a fresh and correct record of appeal.
 4. The matter shall be placed before the presiding Judge of this court after compliance with the above orders.



5. If the appellant shall not have filed a proper record of appeal within the stipulated twenty one days, this appeal shall stand dismissed with no orders as to costs without any further reference to this court.

DATED, SIGNED AND DELIVERED AT NAIROBI THIS 20TH DAY OF JUNE 2025.

B.M. MUSYOKI

JUDGE OF THE HIGH COURT

Ruling delivered in presence of Miss Nyangano for the appellant and Miss Odeny for the respondent.

