



**Wanjiru v Karanja & another (Suing as the Personal Representative of the Estate of Joseph Karanja Mwangi (Deceased)) (Civil Appeal E016 of 2021) [2025] KEHC 8204 (KLR) (5 June 2025) (Judgment)**

Neutral citation: [2025] KEHC 8204 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KERUGOYA  
CIVIL APPEAL E016 OF 2021  
JK NG'ARNG'AR, J  
JUNE 5, 2025**

**BETWEEN**

**EDWIN NJERU WANJIRU ..... APPELLANT**

**AND**

**CATHERINE NYAGUTHII KARANJA ..... 1<sup>ST</sup> RESPONDENT**

**PATRICK WACHIRA KARANJA ..... 2<sup>ND</sup> RESPONDENT**

**SUING AS THE PERSONAL REPRESENTATIVE OF THE ESTATE OF JOSEPH  
KARANJA MWANGI (DECEASED)**

*(Being an appeal from the judgment and decree of the Senior Principal Magistrate's Court at Baricho (Hon. Kivuti, SPM.) delivered on 25th February 2021 in SPMCC NO. 57 of 2019)*

**JUDGMENT**

1. This is an appeal against the judgment of the Baricho Senior Principal Magistrate's Court in SPMCC No. 57 of 2019. By plaint dated 2<sup>nd</sup> May 2019, the respondents sued the appellant under the *Fatal Accidents Act* and the *Law Reform Act*. The respondents averred that the appellant was the insured and/or registered owner of motor vehicle registration number KBR 784A. On 2<sup>nd</sup> November 2018, the said vehicle was driven by the appellant's authorized agent along the Sagana – Karatina road. The deceased person Joseph Karanja Mwangi was a passenger aboard that vehicle.
2. On approaching Kibiringwi area, the vehicle was driven so negligently and dangerously that it lost control, veered off its lawful lane and caused an accident. The deceased was fatally injured resultantly. Particulars of negligence were set out in paragraph 4 of the plaint. The appellants averred that the deceased was 66 years at the time of his death. He was a painter, farmer and businessman. He was in good health and a source of income to the family bringing in Kshs. 30,000.00 monthly. He was survived by 9 children namely Kennedy Mugo Karanja, Hellen Wambui Karanja, Catherine Nyaguthii Karanja,



Jane Wanjiku Karanja, Patrick Wachira Karanja, Charles Maina Karanja, Mary Waithera Karanja, Musa Muchoki Karanja and Joseph Muriuki Karanja. The respondents claimed general damages, special damages of Kshs. 610,700.00 together with costs and interest of the suit.

3. In its judgment dated 25<sup>th</sup> February 2021, the trial court found that the respondents' claim was merited. Judgment was entered against the appellant in the sum of Kshs. 1,550,000.00. The respondents were further awarded costs of the suit and interest therein.
4. It is those findings that precipitated the appellant to file his memorandum of appeal dated 16<sup>th</sup> March 2021 on 31<sup>st</sup> March 2021. The appellant raised 10 grounds disputing those findings that are summarized as follows: the trial court misapplied and misdirected itself on the principles applicable in awarding quantum as follows: adopted a multiplier approach, rather than a global sum approach when the monthly income of the deceased was unknown; misapplied and misinterpreted the principles constituent to the multiplicand method; erroneously applied a multiplier of 6 years instead of 4 years when she had set 70 years as the age limit; loss of dependency was not backed by any justifiable basis; the trial court failed to consider the appellant's pleadings and submissions and as a result, arrived at an erroneous conclusion in apportioning 100% liability against the appellant.
5. In the premised circumstances, the appellant prayed that the appeal be allowed, the judgment delivered on 25<sup>th</sup> February 2021 be set aside and/or reversed in its entirety and that costs of the appeal be awarded to the appellant.
6. The appeal was canvassed by way of written submissions. Dated 22<sup>nd</sup> November 2023, the appellant submitted that the trial court erroneously aggregated the deceased's earnings at Kshs. 30,000.00 from the deceased's petty cash vouchers ranging between Kshs. 1,00500 and Kshs. 82,500.00. Since the deceased's earnings were not proved to the required standard, the appellant opined that the court ought to have preferred a global sum approach rather than a multiplier approach.
7. On the award of loss of dependency, the appellant submitted that an award of Kshs. 300,000.00 was sufficient in line with the authorities in *John Wamae & 2 others v Jane Kituku Nziva & another* [2017] eKLR, *Peter Wainaina & another v Lucia Ndulu Muindi & another* [2021] eKLR and *Dora Mwawandu Samuel (suing on her behalf and on behalf of the estate of Samuel Muweliani Jumamosi (deceased) v Shabir M. Hassan* [2021] eKLR.
8. Abandoning his appeal on liability, the appellant urged this court to award compensation as follows: pain and suffering – Kshs. 10,000.00, loss of expectation of life – Kshs. 80,000.00, loss of dependency Kshs. 300,000.00 and special damages – Kshs. 20,000.00 totaling Kshs. 410,000.00. He prayed that the appeal be allowed with costs and further sought costs of the suit at trial.
9. The respondents filed their written submissions dated 20<sup>th</sup> January 2024. They submitted that the trial magistrate correctly applied his discretion in awarding the sums encapsulated in the judgment. They relied on the decisions in *Cornelia Elaine Wamba v Shreeji Enterprises Limited & others* [2012] eKLR, *Isaack Kimani Kinyangi & Catherine Njeri Mugo (suing as the legal representative of the estate of Loise Gathoni Mugo (deceased) v Hellena Wanjiru Rukanga (sic), John Muchiri Njoroge & another v Monicah Asami* [2021] eKLR and *Kemfro Africa Limited t/a Meru Express Service Gathogo Kanini v A.M.M. Lubia & another* [1982-88] 1KAR 777 to submit that the judgment was bereft of fault as it was based on the facts, evidence and the law. They urged this court to dismiss the appeal with costs.
10. I have considered the memorandum of appeal, examined the submissions of the parties as well as record of appeal and analyzed the law. As a first appellate court, my role is to reassess, reevaluate and reanalyze the evidence on record and make my own independent conclusions bearing in mind that I had no



advantage of seeing or hearing the witnesses and make due allowance for that. [See *Selle & another v Associated Motion Boat Co. Ltd & others* [1968] EA 123.]

11. From the record, liability was determined in Baricho SPMCC No. 58 of 2019 at 100% against the appellant. Since no appeal has been preferred against that decision, I find that the present appeal on liability is untenable and is accordingly dismissed.
12. In determining the question on quantum, PW1 Catherine Nyaguthii Karanja gave evidence on behalf of the respondents. She was the daughter of the deceased. Adopting her witness statement filed on 3<sup>rd</sup> May 2019, her salient evidence was that the burial of the deceased incurred funeral arrangement costs in the sum of Kshs. 590,150.000. In seeking to obtain letters of administration, PW1 testified that she incurred a sum of Kshs. 20,00.00 (receipt produced) and Kshs. 550.00 (receipt produced) for conducting a search at the motor vehicle registry.
13. PW1's evidence was that during his lifetime, the deceased was the sole breadwinner of the family. He enjoyed good health and lived a vigorous life. He used to earn Kshs. 30,000.00 monthly from painting, farming and business. She relied on a bundle of petty cash vouchers in support of this assertion. That he singlehandedly took care of five of her siblings namely Joseph Muriuki Karanja aged 12 years, Musa Muchoki Karanja aged 15 years, Mary Waithera Karanja aged 18 years, Kennedy Mugo Karanja aged 21 years and Patrick Wachira Karanja aged 24 years. They were all school going children. She produced a bundle of receipts in relation to payment of Mary Waithira's school fees. She also produced the birth certificates of four children. She further clarified that she assisted the deceased in paying school fees for her siblings.
14. The appellant elected not to call any witnesses. At the close of evidence, parties filed their written submissions which the trial magistrate was invited to consider. The law is settled when a first appellate court is invited to interfere with an award on quantum. The Court of Appeal in the case of *Gitobu Imanyara & 2 others v Attorney General* [2016] eKLR set down the following principles:

“...it is firmly established that this Court will be disinclined to disturb the finding of a trial Judge as to the amount of damages merely because they think that if they had tried the case in the first instance they would have given a larger sum. In order to justify reversing the trial Judge on the question of the amount of damages it will generally be necessary that this Court should be convinced either that the Judge acted upon some wrong principle of law, or that the amount awarded was so extremely high or so very low as to make it, in the judgment of this Court, an entirely erroneous estimate of the damage to which the plaintiff is entitled. This is the principle enunciated in *Rook v Rairrie* [1941] 1 All ER 297. It was echoed with approval by this Court in *Butt v Khan* [1981] KLR 349 when it held as per Law, J.A that: “An appellate court will not disturb an award of damages unless it is so inordinately high or low as to represent an entirely erroneous estimate. It must be shown that the Judge proceeded on wrong principles, or that he misapprehended the evidence in some material respect, and so arrived at a figure which was either inordinately high or low.”
15. On pain and suffering, the trial court awarded Kshs. 10,000.00 on account of the fact that the deceased died on the spot. That award is commensurate to awards made under this head and I see no reason to depart from that finding. On loss of expectation of life, the court awarded the respondents Kshs. 80,000.00 which I similarly find is fair and the trial magistrate properly exercised her discretion under this head.



16. Taking into account the award on damages for pain and suffering and loss of expectation of life, we now move to lost of dependency. The trial court considered the submissions of the appellant and respondents to arrive at the following conclusion:

“The plaintiff stated that the deceased’s monthly income was Kshs. 30,000.00 and produced a bundle of the deceased’s petty cash vouchers in support. The said vouchers contain various figures ranging between Kshs. 1,500.00 to Kshs. 82,500.00 for work done. The oldest is dated 14<sup>th</sup> December 2017. It is not in contention that the deceased was engaged in farming business and was also a painter. It would appear that the plaintiff aggregated his earnings at Kshs. 30,000.00 per month which is in my view reasonable. The multiplier approach shall therefore be adopted. In the case of *Chunibhai J. Patel & another v PF Hayes & others* [1957] EA 748, 749, the Court of Appeal held as follows with regard to dependency...

The deceased died at the age of 66 and since he was not in formal employment, and in the absence of any evidence that he was battling any illness, he would have continued to work to fend for his family beyond the biblical age of 70 years. Counsel for the plaintiff adopted a multiplier of 6 years which I find reasonable.

The deceased was a widower who was educating 5 out of his 9 children. In all probability, he expended the larger part of his income to the extent of two thirds towards his family upkeep and a third for his own use. Dependency ratio of 2/3 is therefore adopted. Dependency is calculated thus:  $30,000 \times 12 \times 6 \times 2/3 = 1,440,000.00$ .”

17. The trial court indeed applied the multiplier approach. In determining whether the global sum approach or multiplier sum approach is suitable for a particular case, *Ringera, J. (as he then was) in Albert Odawa v Gichimu Githenji; Nakuru HCCA No. 15 of 2003* expressed himself in the following terms and which this court shall adopt:

“The multiplier approach is just a method of assessing damages. It is not a principle of law or a dogma. It can, and must be abandoned, where the facts do not facilitate its application. It is plain that it is a useful and practical method where factors such as the age of the deceased, the amount of annual or monthly dependency, and the expected length of the dependency are known or are knowable without undue speculation where that is not possible, to insist on the multiplier approach would be to sacrifice justice on the altar of methodology, something a Court of Justice should never do.”

18. Was this the correct approach? In assessing the multiplier, the trial court applied an aggregate sum of Kshs. 30,000.00 monthly from various vouchers adduced in evidence with figures ranging between Kshs. 1,500.00 to Kshs. 82,500.00. Looking at the vouchers, I note that indeed they bore inconsistent figures with a range of services from painting to tent hire, utensils public address and firewood. I do not think those vouchers proved that the deceased was taking a monthly income of Kshs. 30,000.00. In my view, those sums were a revelation of a service rendered or goods delivered rather than a constant source of income. In the circumstances, I find that the trial magistrate erred in adopting the multiplier approach since the deceased’s earnings were not proved on a balance of probabilities.
19. Having said that, I find that a global sums approach was sufficient given the facts and circumstances of this case. The respondents did not submit on this issue since they urged this court to uphold the trial court’s findings. The appellant on the other hand urged this court to award a global sum of Kshs. the appellant submitted that an award of Kshs. 300,000.00 was sufficient in line with the decisions in *John Wamae & 2 others v Jane Kituku Nziva & another* [2017] eKLR, *Peter Wainaina & another v Lucia*



Ndulu Muindi & another [2021] eKLR and Dora Mwawandu Samuel (suing on her behalf and on behalf of the estate of Samuel Muweliani Jumamosi (deceased) v Shabir M. Hassan [2021] eKLR.

20. In John Wamae & 2 Others v Jane Kituku Nziva & Others (supra), the High Court while sitting on appeal, awarded a global sum of Kshs. 400,000/- for a 61-year-old deceased, as the court found that there was conflicting evidence about his income. In Peter Wainaina & another v Lucia Ndulu Muindi & another (supra), the High Court upheld the findings of the trial magistrate court awarding a global sum of Kshs. 500,000.00 where the deceased was 65 years at death and that the lastborn child was 18 years in awarding loss of dependency. In Dora Mwawandu Samuel (suing on her behalf and on behalf of the estate of Samuel Muweliani Jumamosi (deceased) v Shabir M. Hassan (supra), this court awarded Kshs. 400,00.00 where the deceased was 59 years of age.
21. Taking the above comparative decisions, to market inflation, the deceased's age and unfortunate death, the deceased health before his death and his dependents, and the significant role the deceased played in his children's lives as a widower, I find that a sum of Kshs. 600,000.00 is reasonable given the facts and circumstances of the case for loss of dependency. The award of Kshs. 1,440,000.00 is therefore interfered with and substituted with that sum. On special damages, the award that was pleaded and proved was the sum of Kshs. 20,500.00. I will therefore interfere with those findings to that extent.
22. Ultimately, I find that the appeal partially succeeds to the extent that the award on loss of dependency in the sum of Kshs. 1,144,000.00 is set aside and substituted with an award of Kshs. 600,000.00. For avoidance of doubt judgment is entered in favour of the respondents as against the appellant as follows:  
Pain and suffering Kshs. 10,000.00  
Loss of expectation of life Kshs. 80,000.00  
Loss of dependency Kshs. 600,000.00  
Special damages Kshs. 20,500.00  
Total: Kshs. 710,000.00
23. The award on costs and interest is also sustained. Since the appeal partially succeeds, each party shall bear its own costs.  
It is so ordered.

**JUDGEMENT DATED, SIGNED AND DELIVERED VIRTUALLY THIS 5<sup>TH</sup> DAY OF JUNE 2025.**

In the presence of;

No Appearance for the Appellants

No Appearance for the Respondents

Siele /Mark (Court Assistants)

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**J. NG'ARNG'AR**

**JUDGE**

