



**Equity Bank (K) Limited v Wambua & 2 others (Civil Appeal
247 of 2023) [2025] KEHC 10005 (KLR) (4 July 2025) (Judgment)**

Neutral citation: [2025] KEHC 10005 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MACHAKOS
CIVIL APPEAL 247 OF 2023**

RC RUTTO, J

JULY 4, 2025

BETWEEN

EQUITY BANK (K) LIMITED APPELLANT

AND

MESHACK MUSYOKI WAMBUA 1ST RESPONDENT

STUNNER TRAVEL LIMITED 2ND RESPONDENT

BENJAMIN NGUI 3RD RESPONDENT

*(Being an appeal from the judgment of the Honourable M. A Otindo
at Machakos delivered on 5th September 2023 in CMCC 759 of 2019)*

JUDGMENT

1. This is an appeal arising from the judgment delivered on 5th September 2023 in Machakos Chief Magistrate's Court Civil Case No. 759 of 2019, wherein the trial court found the defendants, including the appellant herein, 100% liable jointly and severally for a road traffic accident involving motor vehicle registration number KBQ 809N.
2. The appellant, Equity Bank (Kenya) Limited, being dissatisfied with the said judgment, filed this appeal on grounds inter alia that the trial court erred in law and fact by; holding the appellant liable for the accident despite evidence showing it was merely a financier of the subject motor vehicle; by failing to consider the documents submitted by the appellant demonstrating its limited interest in the vehicle; by failing to declare the appellant as a financier and not a party in possession or control of the vehicle at the material time.
3. The appellant has drawn this court's attention to its earlier decision in Machakos HCCA No. 246 of 2023 – *Equity Bank (K) Ltd v Meshack Musyoki & Another*, which involved the same vehicle (KBQ 809N), the same cause of action, and similar factual circumstances. In that appeal, this court (Muigai



J) held that the appellant, being a financier, could not be held liable for the accident and allowed the appeal to that extent.

4. Upon careful analysis of the record, this court notes the following: the subject matter in both appeals is identical; the cause of action in both cases arose from the same accident on 25th February 2019; the appellant's role in both cases was limited to that of a financier, with no evidence of possession, control, or operational responsibility over the motor vehicle; the trial court in both instances reached a similar finding that all the defendants were jointly and severally liable for the accident.
5. In the interest of consistency, judicial coherence, and to uphold the sanctity of this court's decisions, this court adopts the reasoning and holding in Machakos HCCA No. 246 of 2023. Accordingly, the appeal herein succeeds to the extent that the appellant, Equity Bank (Kenya) Limited, is found not liable for the accident.
6. In light of the foregoing, the court makes the following orders:
 - a. The appeal is hereby allowed.
 - b. The judgment of the trial court delivered on 5th September 2023 in Machakos CMCC No. 759 of 2019 is set aside to the extent that it found the appellant liable.
 - c. Liability for the accident shall rest solely with the 2nd and 3rd defendants in the trial court, jointly and severally.
 - d. Each party shall bear its own costs of the appeal.

It is so ordered.

DATED, SIGNED AND DELIVERED AT MACHAKOS THIS 4TH DAY OF JULY, 2025

RHODA RUTTO

JUDGE

In the presence of;

.....Appellant

.....Respondent

