Mwitha v Nduati & another (Suing as the Legal Representatives of the Estate of Moses Ndungu Kamande) (Civil Appeal E004 of 2024) [2025] KEHC 12569 (KLR) (3 September 2025) (Judgment)

Neutral citation: [2025] KEHC 12569 (KLR)

REPUBLIC OF KENYA

IN THE HIGH COURT AT THIKA

CIVIL APPEAL E004 OF 2024

RC RUTTO, J

SEPTEMBER 3, 2025

BETWEEN

GEORGE NGIGI MWITHA ..... APPELLANT

AND

JANE NJOKI NDUATI ..... 1ST RESPONDENT

DANIEL KAMANDE NDUNGU ..... 2ND RESPONDENT

SUING AS THE LEGAL REPRESENTATIVES OF THE ESTATE OF MOSES NDUNGU KAMANDE

(Being an appeal from the Judgment of Hon. S. Atambo in Thika MCCC No. E180 of 2021, delivered on 5th December, 2023)

JUDGMENT

1. This appeal arises from the judgment and decree in Thika Chief Magistrate's Civil Suit No. E180 of 2021. In that suit, the Respondents filed a claim against the Appellant for negligence following a road traffic accident that led to the death of the deceased. The Respondent sought for general damages under the *Fatal Accidents Act* and the *Law Reform Act*, special damages, costs of the suit, and interest at court rates.

2. The Appellant was sued as the beneficial owner of motor vehicle registration number KBW 619Z. It was alleged that the deceased, a lawful pedestrian along Thika Superhighway, was fatally injured when the Appellant's motor vehicle, veered off the road due to negligent driving and knocked him down. During the trial the parties recorded a consent on liability in favour of the Respondents as against the Appellant in the ratio of 90:10.

3. Upon hearing the parties, the trial court entered judgment in favour of the Respondents as against the Appellant in the following terms;

    a. For pain and suffering Kshs 150, 000

    b. For lost years Kshs 3, 096, 000

    c. For Loss of expectation of life Kshs 100, 000

    d. Special Damages Kshs 550

    e. Funeral expenses Kshs 30, 000

    Less 10% contributory negligence

4. The appellant dissatisfied with the judgment of the trial court, filed this appeal on several grounds. They argued that the Learned Honourable Magistrate erred in law and fact in applying a multiplier of 36 years which was too high considering the age of the deceased at the time of his death and thereby arriving at an excessive and inordinately high award of Kshs.3,096, 000 in respect of lost years; in applying a multiplicand of Kshs21,500/= failing to consider that the deceased was only employed for a contractual period of one year which was about to lapse; in applying a multiplicand of Kshs.21,500 without any credible evidence to establish and support that the deceased had started working for Hilly Links Construction Limited; in applying a multiplicand of Kshs.21,500 without appreciating that binding decisions have determined that a net salary which factors statutory deductions should be applied where a deceased was working; grossly misdirected herself in ignoring the principles applicable and relevant authorities on quantum cited in the submissions by the Appellant and solely relying on the submissions by the Respondents; erred in awarding damages for lost years based on a one year contract forwarded in court and failed to apply a lump sum/global award in line with the decided cases cited; failing to take into account award under the *Law Reform Act* when making the award under the *Fatal Accidents Act* thereby making the deceased's estate benefit twice.

5. The Appellant therefore prays that the appeal be allowed, the judgment and decree of the lower court be quashed and set aside, and that this Court grants any other relief it may deem fit and just.

6. The appeal was canvassed by way of written submissions. The Appellant's submissions are dated 21st August 2024, while those of the Respondents are dated 30th September 2024.

Appellants' Submissions

7. The Appellant set out a brief background of the case and identified four issues for determination, namely: the applicable multiplier; the applicable multiplicand; whether the trial court should have adopted a global award; and whether the awards for loss of expectation of life, pain and suffering, and burial expenses of Kshs.30,000 were appropriate.

8. On the applicable multiplier, the Appellant submitted that in applying a multiplier of 36 years, the trial court relied on the Respondents' submissions that the deceased would have worked until the age of 60 years. The Appellant argued that the deceased was not in formal employment that could reasonably guarantee retirement at 60 years and there was no justification for such an assumption. He noted that the letter dated 29th May 2019 from Hilly Links Construction Limited offered employment for only one year, not up to retirement age, and it was highly unlikely that the deceased would have supported his parents for that entire period. The Appellant further submitted that the deceased was applying for a position as a helper mason, whose role typically involves assisting in carrying cement, stones, and performing tasks assigned by a mason. He therefore urged the court to take judicial

notice that construction work is not continuous but dependent on demand, making it improbable that the deceased would have been engaged for 36 years by the same employer. To support this position, the Appellant relied on Njue Gitonga Nthiga v Edward Nyamu Kibunyu (Suing as the Legal Representative of the Estate of Peter Njinju Nyamu) [2015] eKLR, Regina Kamanthe (Suing on behalf of the Estate of Boniface Muinde Nyamasyo (Deceased) v Edmond Bradley Martin [2015] eKLR, and Petronila Muli v Richard Muindi Savi & Catherine Mwende Mwindu [2021] eKLR, urging that the trial court should have applied a multiplier within the range of 20–25 years, taking into account the vicissitudes of life such as pandemics, natural disasters, and illness.

9. On the applicable multiplicand, the Appellant submitted that the trial court's adoption of ksh.21,500 was not supported by any evidence on record. He argued that the letter from Hilly Links Construction Limited was uncontroverted, but did not prove on a balance of probabilities, that the deceased had commenced employment or was earning Kshs.21,500/= at the time of his death. No payslip, payroll record, job card, or witness statement was presented to confirm the employment. He further asserted that the letter was merely an offer, and not a binding employment contract. Therefore, the respondent failed to discharge their burden of proof.

10. In support of this position, the Appellant referred to Okoyo (Suing as Legal Administrator of the Estate of Gregory Ouma Okoyo – Deceased) v Nyamongo (Civil Appeal E057 of 2021) [2023] KEHC 25736 (KLR), where the court emphasized the need for proof of income. He submitted that the appropriate multiplicand would be Kshs 7,240.95/=, being the prevailing minimum wage for general labourers in other areas under the Regulation of Wages (General) (Amendment) Order, 2018. In the alternative, he argued that if the deceased was considered to have been engaged as a helper mason, the court should have applied the minimum wage for that position as set out in the Labour Institutions (Building and Construction Industry) Wages Order, 2012 which is Kshs.12,330/= per month.

11. On global award, the Appellant submitted that the trial court should have adopted a global award due to the lack of reliable evidence regarding the deceased's income, nature of work and age at the time of death. He noted that the deceased was unmarried and had no children and that the multiplier approach was unsuitable given the uncertainties and the inconsistencies inherent in the multiplier approach. In support, he cited M'Ituamka M'Marambei (Suing as the Legal Representative of the Estate of Peter Miriti) v Board of Management – Miathene High School [2020] eKLR and Stanwel Holdings Limited & Another v Racheal Haluku Emmanuel & Another [2020] eKLR submitting that the award of Kshs.3,096,000/= for loss of dependency was excessive and amounted to a misdirection on the applicable principles. He urged the court to apply a minimum wage or, in the alternative, adopted a global sum in the range of Kshs.700,000/= to Kshs.1,000,000/=.

12. Regarding the awards for loss of expectation of life, pain and suffering, and burial expenses of Kshs.30,000/=, the Appellant submitted that these amounts were outside the range ordinarily awarded in similar circumstances. He proposed that Kshs.80,000/= should have been awarded for loss of expectation of life and Kshs.70,000/= for pain and suffering. As for burial expenses, he submitted that although the Respondents had pleaded special damages of Kshs.100,000/=, they failed to produce receipts to support the said amount. The Appellant further submitted that the trial court did not indicate in its judgment that it had taken into account the awards under the *Law Reform Act* when making awards under the *Fatal Accidents Act*, and therefore urged that the awards under the former should be deducted from those under the latter to avoid duplication.

13. In conclusion, the Appellant maintained that he had demonstrated sufficient grounds for this Court to interfere with the trial court's findings. He therefore prayed that the appeal be allowed, and that the judgment and decree of the lower court be set aside and quashed.

Respondents' Submissions

14. The Respondents submissions address four key issues; (1) Whether the trial Learned Magistrate erred in adopting a multiplier of 36 years general damages for lost years (2) Whether the Learned trial Magistrate erred in adopting the multiplicand used (3) Whether the Learned Trial Magistrate should have adopted the global award and (4) Whether the awards of loss of expectation of life, pain and suffering and burial expenses were outside range.

15. On the first issue, the Respondents submitted that the deceased was 24 years old and working as a helper mason at Hilly Links Construction Limited, where he earned Kshs.21,500/= on a contractual basis. They argued that the Appellant did not adduce any evidence to dispute the deceased's employment, and therefore the trial court was justified in adopting a multiplier of 36 years. In support of this position, the Respondents cited Moses Akumba & Another v Hellen Karisa Thoya [2007] eKLR, Itumbi v Musyimi & Another (Civil Appeal 160 of 2022) [2024] eKLR, and Kenya Wildlife Service v Ibrahim Jama Galoro (Civil Appeal No. E009 of 2021), contending that the Appellant had not shown that the trial court misapplied principles of law or misapprehended the evidence in making its determination. Accordingly, they urged that the award by the trial court should not be disturbed.

16. On the second issue, the Respondents relied on Nairobi Civil Appeal No. 203 of 2001, Kimatu Mbuvi t/a Kimatu Mbuvi & Bros v Augustine Munyao Kioko, and Jacob Ayiga Maruja & Another v Simeon Obayo, Civil Appeal No. 167 of 2002, to submit that courts have, in similar circumstances, awarded damages for loss of earning capacity even where evidence of earnings was scanty, provided some credible evidence was presented. They contended that the letter from Hilly Links Construction Limited dated 29th May 2019 clearly indicated that the deceased's salary was Kshs.21,500/=, and therefore the multiplicand applied by the trial court was proper. The Respondents argued that the Appellant failed to produce any evidence to contradict this position, and as such, the award should not be disturbed. To reinforce their argument, the Respondents cited Francis Righa v Mary Njeri (Suing as the Legal Representative of the Estate of James Kariuki Nganga) and Board of Governors Kangubiri Girls High School & Another v Jane Wanjala Muriithi & Another [2014] eKLR. They further submitted that the deceased was a young man with a promising future and would likely have advanced in his career, possibly earning more or moving to better employment opportunities. Accordingly, they maintained that the multiplicand applied was reasonable, as the trial court properly considered the deceased's age, occupation, and potential for career growth in arriving at its award.

17. On the third issue, the Respondents while relying on Catherine Mwenda Karimbba (Suing as the Legal Representative of the Estate of Christopher Mutahi Mwangi – Deceased) v Joe Njiri Murigu & Tambuzi Limited and Caleb Juma Nyabuto v Evance Otieno Magaka & Another [2021] eKLR, submitted that they had demonstrated that the deceased was earning a monthly salary of Kshs 21,500/=, which the trial court properly considered. They argued that the Appellant failed to provide any evidence to contradict this position. Consequently, there was no basis for the court to apply a minimum wage for general labourers under the Regulation of Wages Order when assessing damages.

18. On the fourth issue, the Respondents maintained that the trial court correctly awarded Kshs.100,000/= for loss of expectation of life after taking all relevant factors into account and that the award should not be disturbed. They further submitted that, according to the deceased's death certificate, he died on 29th November 2019—six days after the accident on 23rd November 2019 during which period he endured significant pain and suffering. In this regard, they cited Civil Appeal No. 42 of 2018, Joseph Kivati Wambua v SMM & Another (Suing as Legal Representatives of the Estate of EMM) [2021] eKLR, urging the court to uphold the award for pain and suffering as it was justified by the circumstances.

19. On the issue of burial expenses, the Respondents relied on Jacob Ayiga Maruja & Another v Simeon Obayo [2005] eKLR and Gauntencia Atieno Amimo v Akamba Public Road Services Limited, Kisumu HCCC No. 173 of 2001, to submit that, although they had not produced receipts to prove the funeral expenses, the estate of the deceased is nonetheless entitled to a reasonable award under this head as a matter of course. They argued that the sum of Kshs.30,000/= awarded by the trial court was reasonable and should not be disturbed.

20. In conclusion, the Respondents urged the court to dismiss the appeal with costs.

Analysis and Determination

21. Section 78(2) of *Civil Procedure Act*, provides that the appellate court shall have the same powers and shall perform nearly the same duties as are conferred and imposed by the Act on courts of original jurisdiction in respect of suits instituted herein. Therefore, my duty as the first appellate court is to re-evaluate and re-examine the evidence of the trial court and come to my own findings and conclusions. This principle was espoused by the Court of Appeal in Gitobu Imanyara & 2 others v Attorney General (2016) eKLR and in Selle & Anor –Vs- Associate Motor Boat Co. Ltd 1968 EA 123.

22. Having read the record of appeal and parties' submissions this court discerns the following issues for determination: -

    a. Whether the trial court erred in adopting a multiplier of 36 years in assessing damages for loss of dependency.

    b. Whether the trial court erred in adopting a multiplicand of Kshs.21,500.

    c. Whether the trial court erred in failing to adopt a global award in light of the deceased's employment status and dependency factors.

    d. Whether the awards under the heads of pain and suffering, loss of expectation of life, and funeral expenses were inordinately high and should be disturbed.

    e. Whether the trial court failed to consider the element of duplication of awards under the *Law Reform Act* and the *Fatal Accidents Act*.

23. On whether the multiplier of 36 years was proper, this court is guided by the Court of Appeal in Bashir Ahmed Butt vs. Uwais Ahmed Khan (1982-88) KAR as follows:

> " An appellate court will not disturb an award for general 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..."

24. In Marko Mwenda vs. Bernard Mugambi & Another Nairobi HCCC No. 2343 of 1993 held that:

> " In adopting a multiplier the Court has regard to such personal circumstances of both the deceased and the dependants as age, expectations of earning life, expected length of dependency and vicissitudes of life. The capital sum arrived at by applying the multiplicand to the multiplier is then discounted to allow for the fact of receipt in a lump sum at once rather than periodical payments throughout the expected period of dependency. The object of the entire exercise is to give the dependants such an award as would when wisely invested be able to compensate the dependants for the financial loss suffered as a result of the death of the deceased...The multiplier approach is just a method of assessing damages and not a

principle of law or 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 ages of the dependants, the net income of the deceased, the amount of annual or monthly dependency and the expected length of the dependency are unknown 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. Such sacrifice would have to be made if the multiplier approach was insisted upon in this case."

25. The trial court adopted a multiplier of 36 years on the basis that the deceased was 24 years old and would have worked until the retirement age of 60 years. The Appellant, however, took issue with the number of years applied, arguing that the deceased was a casual or contractual worker in the construction industry and had only a one-year engagement as indicated in the letter from Hilly Links Construction Limited. It was contended that the deceased was not in formal employment that could reasonably guarantee retirement at 60 years, and therefore there was no justification for adopting a multiplier of 36 years. The Appellant proposed a multiplier in the range of 20 to 25 years. The Respondents, on the other hand, maintained that the Appellant adduced no evidence to dispute the deceased's employment status and further failed to demonstrate that the trial court applied wrong principles of law or misapprehended the facts in arriving at its decision.

26. From the record in this case, the evidence relating to the deceased's employment was not challenged by the Appellant once it was adduced by the Respondents. The letter of employment produced indicated a one-year engagement; however, there was no proof that the deceased had actually commenced work and was earning a salary from Hilly Links Construction Limited. What is clear, however, is that the deceased was 24 years old, relatively educated, and possessed earning potential, albeit uncertain, prior to his untimely death. In view of these circumstances, and taking into account the vicissitudes and uncertainties of life, as well as the general expectation of a working life up to 60 years, a multiplier of 36 years remains reasonable. Accordingly, this court finds no basis to interfere with the trial court's finding on this issue.

27. With respect to whether the multiplicand of Kshs 21,500/= was proper, the trial court adopted this figure based on a letter of offer. However, no supporting evidence such as payslips or testimony from the employer was produced to establish that the deceased had commenced employment and was earning that amount. In the absence of such proof, this court is guided by the Court of Appeal's decision in Jacob Ayiga Maruja & Another v Simeon Obayo [2005] eKLR, where the court held that — ".....We do not subscribe to the view that the only way to prove the profession of a person must be by the production of certificates and that the only way of proving earnings is equally the production of documents. That kind of stand would do a lot of injustice to very many Kenyans who are even illiterate, keep no records and yet earn their livelihood in various ways. If documentary evidence is available, that is well and good. But we reject any contention that only documentary evidence can prove these things....."

28. Applying the above in the present circumstances of this case and as earlier noted, the facts surrounding the deceased employment was not controverted by the Appellant upon evidence being adduced by the Respondents. However, the only document that the Respondents relied upon is the letter of employment which does not conclusively prove commencement of work and or proof of earnings. In such cases, courts often resort to applying the applicable minimum wage. This principle was stipulated

in the case of Petronila Muli v Richard Muindi Savi & Catherine Mwende Mwindu [2021] eKLR where the court stated:-

> "On the question of the multiplicand adopted by the trial court using a minimum wage guideline, it is apparent that the deceased was engaged in informal employment where it is difficult to tell the actual regular income. In such circumstances, the legal position is to adopt the minimum wage guideline as a guiding principle in assessing loss of income."

29. Under the Labour Institutions (Building and Construction Industry) Wages Order, 2012, the minimum wage for a mason's helper, the position the deceased had applied for is Kshs 411/= per day, translating to approximately Kshs.12,330/= per month. In light of the absence of proof that the deceased had commenced employment at a salary of Kshs 21,500/=, the multiplicand adopted by the trial court is unsupported by evidence. Accordingly, and guided by the principle in Jacob Ayiga Maruja & Another v Simeon Obayo [2005] eKLR, which emphasizes the need for credible evidence in proving earnings, this court adopts Kshs 12,330/= as the appropriate multiplicand, being the applicable minimum wage for a helper mason under the relevant wage order.

30. On whether the trial court should have applied a global award, the Appellant argued that a global award was more appropriate given the uncertainties in the deceased's earnings, the absence of proof of permanent employment and lack of dependents beyond parents. However, the Respondents demonstrated that the deceased was a young man with potential for future earnings. While global awards are appropriate where proof of income is lacking, here, some evidence exists, and the court can reasonably estimate earnings using the statutory minimum wage. Therefore, adopting a multiplier/multiplicand approach (with adjustments as above) is preferable to a global award. The trial court did not err in declining a global award, but the computation parameters must be adjusted as per this judgment.

31. On the awards for pain and suffering, loss of expectation of life, and funeral expenses, the trial court awarded Kshs.150,000/= for pain and suffering, Kshs.100,000/= for loss of expectation of life, and Kshs.30,000/= for funeral expenses. The Appellant urged this Court to review these awards to Kshs.70,000/= for pain and suffering and Kshs.80,000/= for loss of expectation of life. It is well settled that an appellate court will not interfere with an award of damages unless it is shown that the trial court acted on wrong principles of law, took into account irrelevant factors, or failed to consider relevant factors, thereby arriving at an award that is either inordinately high or low. The applicable principles in that regard are well set out in Butt v. Khan Civil Appeal No. 40 of 1997 thus: -

> "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 arrive at a figure which was either inordinately high or low."

32. Apart from proposing alternative figures that it considered appropriate, the Appellant did not demonstrate why this Court should interfere with the awards granted by the trial court. The settled principle is that an appellate court will only interfere with such awards where it is shown that the amount awarded was inordinately high or low, or that the trial court acted on wrong principles of law. In the absence of such proof in the present appeal, this Court finds no justification to interfere with the trial court's awards for pain and suffering and loss of expectation of life.

33. With regard to funeral expenses, the Appellant argued that the Respondents were required to produce receipts to support the claim of Kshs.100,000/=. From the record, the trial court noted that although the Respondents had pleaded Kshs.100,000/= under this head, the same was not proved.

Consequently, the trial court awarded only Kshs 550/= as special damages and Kshs.30,000/= as reasonable funeral expenses. Notably, the Appellant has not contested this specific award in the present appeal.

34. On the issue of duplication of awards under the *Law Reform Act* and the *Fatal Accidents Act*, the Appellant contended that the trial court failed to indicate that it had considered the awards made under the *Law Reform Act* when assessing damages under the *Fatal Accidents Act* and therefore the former should have been deducted from the latter. Upon perusal of the trial court's judgment delivered on 5th December 2023, it is evident that the court did not expressly state whether such consideration was made. It is, however, necessary to clarify the correct legal position regarding the question of duplication of awards, so as to avoid ambiguity and ensure that litigants understand the applicable principle.

35. I am fully guided by the Court of Appeal's decision in the case of Hellen Waruguru Waweru (suing as the legal representative of Peter Waweru Mwenja (Deceased) v Kiarie Shoe Stores Limited [2015] eKLR where the court stated on this issue that: -

> " 19. Finally on the third issue, learned counsel for KSSL, Mr. C. K. Kiplagat was of the view that Hellen could not claim damages under both the LRA and FAA because there would be double compensation since the dependants are the same. He therefore supported the two courts below who deducted the entire sum awarded under the LRA from the amount awarded under the FAA. With respect, that approach was erroneous in law.
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> 20. This Court has explained the concept of double compensation in several decisions and it is surprising that some courts continue to get it wrong. The principle is logical enough; duplication occurs when the beneficiaries of the deceased's estate under the *Law Reform Act* and dependants under the *Fatal Accidents Act* are the same, and consequently the claim for lost years and dependency will go to the same persons. It does not mean that a claimant under the *Fatal Accidents Act* should be denied damages for pain and suffering and loss of expectation of life as these are only awarded under the *Law Reform Act*, hence the issue of duplication does not arise.
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> 21. The confusion appears to have arisen because of different reporting of the Kenfro case (supra) which was heavily relied on by Mr. Kiplagat. The version he relied on is from [1982-88] 1 KAR 727 which concentrates on the decision of Kneller JA in extracting the ratio decidendi. The same case, however, is more fully reported in [1987] KLR 30 as Kenfro Africa Ltd t/a Meru Express Services 1976 & Another -VS- Lubia & Another (No. 2) and the ratio decindendi is extracted from the unanimous decision of all three Judges. It was held, inter alia, that:-
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> > "6. An award under the *Law Reform Act* is not one of the benefits excluded from being taken into account when assessing damages under the *Fatal Accidents Act*; it appears the legislation intended that it should be considered.
> >
> > 7. The *Law Reform Act* (Cap 26) section 2 (5) provides that the rights conferred by or for the benefit for the estates of deceased persons shall be in addition to and not in derogation of any rights conferred on the dependants of the deceased persons by the *Fatal*

Accidents Act. This therefore means that a party entitled to sue under the *Fatal Accidents Act* still has the right to sue under the *Law Reform Act* in respect of the same death.

8. The words 'to be taken into account' and 'to be deducted' are two different things. The words in Section 4 (2) of the *Fatal Accidents Act* are 'taken into account'. The Section says what should be taken into account and not necessarily deducted. It is sufficient if the judgment of the lower court shows that in reaching the figure awarded under the *Fatal Accidents Act*, the trial judge bore in mind or considered what he had awarded under the *Law Reform Act* for the non-pecuniary loss. There is no requirement in law or otherwise for him to engage in a mathematical deduction."

36. Guided by the position of the Court of Appeal in the authorities cited, this Court is mindful not to misapply the principle on duplication of awards. In this regard, and considering that the Respondents are entitled to claim under both the *Fatal Accidents Act* and the *Law Reform Act*, I am satisfied that the awards made by the trial court under the two statutes do not amount to double compensation, as each head of damages was considered independently and appropriately.

37. The upshot of the above is that the appeal partially succeeds on the multiplicand only. The trial court's multiplicand of Kshs.21,500/= is set aside and substituted with Kshs.12,330/=. In the interest of justice, each party to bear the costs of the appeal.

38. The final award is therefore as below;

a. Loss of dependency is recalculated thus:
12,330×12×36×1/3= 1,775,520/=

b. Pain and suffering- Kshs 150, 000/=

c. Loss of expectation of life-Kshs 100, 000/=

d. Funeral expenses- Kshs 30, 000/=

e. Special Damages- Kshs 550/=

Less 10% contributory negligence

Total award Kshs.1,850,463/=

39. It is so ordered.

DATED, SIGNED AND DELIVERED AT MACHAKOS THIS 3RD DAY OF SEPTEMBER, 2025.

RHODA RUTTO

JUDGE

In the presence of;

.....Appellant

.....Respondent

Selina Court Assistant