



**Wangumbu v Yegon & another (Civil Appeal E092 of 2024)  
[2025] KEHC 12663 (KLR) (16 September 2025) (Judgment)**

Neutral citation: [2025] KEHC 12663 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAKURU  
CIVIL APPEAL E092 OF 2024  
SM MOHOCHI, J  
SEPTEMBER 16, 2025**

**BETWEEN**

**MOSES MURIITHI WANGUMBU ..... APPELLANT**

**AND**

**RONALD K YEGON ..... 1<sup>ST</sup> RESPONDENT**

**LEONARD YEGON ..... 2<sup>ND</sup> RESPONDENT**

*(Being an Appeal against the Ruling of the Honourable Magistrate  
E.M. Oboge. Resident Magistrate in Nakuru Small Claims  
Court Case No. E746 of 2023 delivered on 22nd April, 2024)*

**JUDGMENT**

1. The Appellant Moses Muriithi Wangumbu being dissatisfied with the Ruling of the Honourable Magistrate E.M. Oboge. Resident Magistrate in Nakuru Small Claims Court Case No. E746 of 2023 delivered on 22<sup>nd</sup> April, 2024 appeal to this Honourable Court against the said ruling on the following principal grounds:
  - a. That the Learned Trial Magistrate/Adjudicator erred in law and in fact in striking out and/or dismissing the Appellant's claim for want of jurisdiction yet the *Small Claims Court Act* expressly provides that the aforesaid Court has jurisdiction to hear and determine claims for compensation for personal injuries.
  - b. That the Learned Trial Magistrate/Adjudicator erred in law and in fact in failing to find that the doctrine of stare decisis does not override the express statutory provisions of the law.
  - c. That the Learned Trial Magistrate/Adjudicator erred in law and in fact in failing to find that the Honourable Judge in Civil Appeal No. 223 of 2022, Jerusha Aumma Ogwari Vs Ibrahim Aisha Hersi alias Hersi Ibrahim did not nullify or declare section 12(1)(d) of the *Small Claims*



Court Act unconstitutional hence the Court therein had jurisdiction to hear and determine the Appellant's claim.

2. Upon admission of the Appeal the Court had directed the Appeal be canvassed and argued by way of filed written submissions.

### **Appellants Case**

3. As to whether the Small Claims Court has the jurisdiction to hear and determine claims for compensation for personal injuries? It is the Appellants position that, it is trite law that a Court's jurisdiction flows from either the Constitution or legislation or both and thus, a Court of law can only exercise jurisdiction as conferred by the constitution or other written law. Jurisdiction of the Small Claims Court is derived from Section 12(1) of the Small Claims Court Act which provides that Subject to this Act, the Rules and any other law, the Court has jurisdiction to determine any civil claim relating to:-
  - (a) A contract for sale and supply of goods or services;
  - (b) A contract relating to money held and received;
  - (c) Liability in tort in respect of loss or damage caused to any property or for the delivery or recovery of movable property;
  - (d) Compensation for personal injuries, and
  - (e) set-off and counter-claim under any contract
4. That it is noteworthy that, the claim herein is for compensation for personal injury arising from a road traffic accident and Section 12(1)(d) of the Small Claims Court Act herein above expressly provides that the Small Claims Court has jurisdiction to hear and determine such matters. It is thus our humble submissions that the Small Claims Court has jurisdiction to hear and determine the claim herein as expressly provided for under the aforesaid Act.
5. The Appellant relies on the case of Irungu V Karanja (Civil Appeal E037 of 2024) (2024) KEHC 8162 (KLR) where the Court held as follows:-

“In interpreting the provision of the Small Claims Court Act, it is prudent to Interrogate why the Court was established. Some of the main reasons include the enhancement of ease of doing business, to reduce backlog of cases by having disputes resolved through simple, inexpensive and expeditious procedures thereby enhancing access to justice. Section 3 of the Act provides for that the Court in exercise its jurisdiction shall be guided by the principles of judicial Authority prescribed under Article 159(2) of the Constitution. The provision further stipulates that the Courts shall adopt procedures which shall ensure the timely disposal of all proceedings before the Court using the least expensive methods, equal opportunities to access judicial services under the Act, fairness of process and simplicity of procedure. Therefore, it is evident that in establishing the Court, the main aim was to expeditiously dispose of cases and provide a platform for litigants to access justice. It is therefore my considered view that by interpreting Section 12(1)(d) of the Act to exclude compensation for personal injuries in road traffic accidents would have the effect of defeating access to justice. I therefore find that the Small Claims Court is possessed of the jurisdiction to hear and determine cases for compensation for Injuries provided that the compensation shall be within its pecuniary jurisdiction.”



6. The Appellant submits that, Appeal be allowed with costs as the Small Claims Court has the jurisdiction to hear and determine claims for compensation for personal injury and that the holding of the Trial Magistrate/Adjudicator striking-out the Appellant's claim be set-aside and the Appellant's claim be reinstated, heard and determined on merit.

### **Respondents' Case**

7. The Respondent submits that the appeal is unmerited and thus fit for dismissal which submissions in that respect are based not just on the fact that the very Act (statute) that created the Small Claims as designed, in its express provisions and the purpose for the enactment could not for practical purposes have envisaged and granted jurisdiction to Small Claims Court jurisdiction to hear and determine personal injury claims. The learned magistrate by upholding that position and consequently striking out the claim cannot be faulted on any ground whatsoever.
8. That the learned magistrate rightfully applied the doctrine of stare decisis and rightly held that it was bound by the decision of the Superior Court on that particular issue.
9. In the precedent setting case of *Ogwari v Hersi* (Civil Appeal 223 of 2022) [2023] KEHC 20111 (KLR) (3 July 2023) (Judgment) eKLR, the Superior Court sitting at Mombasa held as follows and which position was fully binding upon the learned magistrate;

“The claim to that was being dealt with clearly beyond scope of the small claims Court. I therefore hold that such matters involving negligence and injuries arising from road traffic accidents should be filed in the Chief Magistrate's Court.”

10. That the Superior Court in coming up with the above position and whilst importing the provision of Section 12 of the *Small Claims Court Act* had analyzed the issue in the following manner,

“I am aware that the jurisdiction of the Court under Section 12 is as doth Subject to this Act, the Rules and any other law, the Court has jurisdiction to determine any civil claim relating to-

- (a), a contract for sale and supply of goods or services,
- (b). a contract relating to money held and received:
- (c), liability in fort in respect of loss or damage caused to any property or for the delivery or recovery of movable property,
- (d) compensation for personal injuries, and
- (e), set-off and counterclaim under any contract.
- (2) Without prejudice to the generality of subsection (1), the Court may exercise any other civil jurisdiction as may be conferred under any other written law.
- (3) The pecuniary jurisdiction of the Court shall be limited to one million shilings

However, in respect of unquantified claims, like negligence leading to personal injury the small claims Court is singularly unsuited to handle the same.”

11. That it is clear that at the time the Honorable Magistrate delivered the ruling, the extant and binding interpretation of Section 12 of the Act in question was as espoused in the foregoing decision. The



learned magistrate therefore acted within the law. He adhered as he ought to have, to the doctrine of stare decisis and/or judicial precedence.

12. That the centrality and importance of the doctrine and its place in the Kenyan legal system is demonstrated by the Supreme Court of Kenya in the case of *Jasbir Singh Rai & 3 Others v. Terlochan Singh Rai & 4 Others* Supreme Court Petition No. 4 of 2012, [2013] eKLR, where the apex Court unequivocally stated thus:

“Adherence to precedent should be the rule and not the exception the labour of Judges would be increased almost to breaking-point if every past decision could be reopened in every case, and one could not lay one’s own course of bricks on the secure foundation of the courses laid by others who had gone before him.”

13. That as far as merits of the decision is concerned, it is the Respondents submission that, as far as the founding statute expressly enacts, Small Claims Court have pecuniary jurisdiction of not more than Kshs. 1,000,000/= . It follows therefore that any claim beyond that cannot lie before the Court. But, as your lordship appreciates, general damages for Personal injury claims arising from traffic accidents as the name suggests are invariably unquantified. At the time of filing the claim, one cannot with precision ascertain the amount of money the Court will award.
14. Further, *Small Claims Court Act* expressly states that Small Claims Court does not have jurisdiction to hear and determine defamation, slander and libel claims as they also come in handy with general damages which cannot be quantified at the time of institution of suit.
15. Moreover, personal injury claims are complicated and are not straight forward like claims for a quantified sum. The Defendant unlike in breach of contract and/or material damage claim which are assessable from the beginning may need to do a second medical examination report to verify the injuries further compounding the complexity of proof

### **Analysis and Determination**

16. Being a first appeal this Court lays emphasis on the principles as set out in *Selle and Another vs Associated Motor Boat Company Ltd & others* [1968] 1EA 123:

“...this Court must reconsider the evidence, evaluate it itself and draw its own conclusions though it should always bear in mind that it has neither seen nor heard the witnesses and should make due allowance in this respect. In particular, this Court is not bound necessarily to follow the trial Judge’s findings of fact if it appears either that he has clearly failed on some point to take into account of particular circumstances or probabilities materially to estimate the evidence.”

17. The only solo issue for this Court to consider is whether the Small Claims Courts have jurisdiction to hear Road Traffic Accident Claims for damages based on the law of negligence.
18. I have considered the Record of Appeal and the trial proceedings noting that, this Courts appreciation that the Small Claims Court was intended to hear Civil Matters involving modest claims for monetary relief, generally for sums under Sh1 million. For settling minor conflicts, the Court offers a relatively informal, speedy, and affordable substitute to the Conventional Court System.
19. It allowed pro se representation to get a just resolution to their disputes without having to hire advocates or pay hefty legal expenses thereby enhancing access to justice, the intention was to enable access to justice minor conflicts and modest claims that were previously going unattended.



20. The intention was not to transfer complex road traffic accidents claims from the magistracy to be heard and determined in an informal manner within sixty days to the exclusion of strict rules of evidence.
21. I do conform to the school of thought that, proof of negligence in personal injury claims and its appreciation of the doctrine of res ipsa locutor is a complexity the Small Claims Court was not designed to deal with, and that an appeal would apply the strict rules of evidence absent in the Small Claims Court.
22. This Court notes that, in remaining focused on the overall intent and policy direction of the creation of this Court and its narrow jurisdiction is intended to maintain the purity of the forum.
23. I find no fault on the part of the Trial Magistrate as the basis to disturb the ruling from the Trial Court and the Appeal is found to be without merit and accordingly dismissed with costs.
24. Having found in favor of the Respondent and in furtherance of entrenching the operationalization of the Small Claims' Courts and the deliberate intent to mitigate costs for the litigants, I hereby assess the costs of this Appeal at Kshs 50,000/- which the Appellant shall pay the Respondents.

It is So Ordered.

**SIGNED, DATED AND DELIVERED AT NAKURU ON THIS 16<sup>TH</sup> DAY OF SEPTEMBER 2025**

**MOHOCHI S. M.**

**JUDGE**

