



**Sagaram v Wasirimba & another (Civil Appeal E002 of 2022)
[2024] KEHC 1168 (KLR) (12 February 2024) (Ruling)**

Neutral citation: [2024] KEHC 1168 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT LODWAR
CIVIL APPEAL E002 OF 2022
RN NYAKUNDI, J
FEBRUARY 12, 2024**

BETWEEN

JAMES ALIA SAGARAM APPELLANT

AND

JOY WASIRIMBA 1ST RESPONDENT

CHINA RAILWAYS ENGINEERING LTD 2ND RESPONDENT

RULING

Coram: Before Justice R Nyakundi

Munyaga Githaiga Advocates LLP

PG Kaingu & Co. Advocates

1. This matter has been pending before this court for a determination of the issues raised in the memorandum of appeal. In the interim both counsels tendered written submissions for and against the appeal. However, in the course of preparing the draft judgment it came to the courts attention that the substantive prayers sought by the appellant touch on accident and personal injury claim within the scope of the duty of care in the work place. Such that to be awarded compensation for an accident being alleged in the main suit the employer and employee duty of care is one of the predominate issue to be considered by the court. Essentially, the subject matter of this appeal is for liability and recovery of the physical injury suffered by the appellant. I hold the view therefore, that this court is not the proper forum for that cause of action.
2. The upshot of it being that the case file be placed before the Deputy Registrar ELRC at Eldoret to have a suitable date taken by the parties to facilitate directions mutually agreeable to both counsels. The statutes conference before the Deputy Registrar be and is hereby scheduled for the 19th February, 2024.

DATED SIGNED AND DELIVERED THIS 12TH DAY OF FEBRUARY, 2024



R. NYAKUNDI
JUDGE

