



Kinyua & Maingi Advocates v Trident Insurance Company Limited (Miscellaneous Application 104 of 2023) [2024] KEHC 5186 (KLR) (17 May 2024) (Ruling)

Neutral citation: [2024] KEHC 5186 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MALINDI
MISCELLANEOUS APPLICATION 104 OF 2023**

M THANDE, J

MAY 17, 2024

BETWEEN

KINYUA & MAINGI ADVOCATES APPLICANT

AND

TRIDENT INSURANCE COMPANY LIMITED RESPONDENT

RULING

1. By an application dated 26.1.24, the Applicant Kinyua & Maingi Advocates seeks that judgment be entered in its favour against Trident Insurance Company Limited, the Respondent in the sum of Kshs. 57,680/= as per the certificate of costs dated 23.11.23. The Applicant also seeks costs and interest on the taxed sum.
2. The certificate of costs was issued pursuant to the taxation of an Advocate/ Client bill of costs dated 1.9.23 arising from Kilifi SPMCC No. E268 of 2021 Konde Karisa Kitsaumbi & Anor (suing as administrators of the estate of Sandra Konde (deceased)) v Frederick Mwanja Muingi.
3. The Respondent though served did not file a response nor attend Court at the hearing.
4. The jurisdiction of this Court to enter judgment for the sum certified to be due to an advocate upon taxation of a bill of costs is contained in the *Advocates Act* and the Advocates Remuneration Order. Section 51(2) of the *Advocates Act* provides as follows:

The certificate of the taxing officer by whom any bill has been taxed shall, unless it is set aside or altered by the Court, be final as to the amount of the costs covered thereby, and the Court may make such order in relation thereto as it thinks fit, including, in a case where the retainer is not disputed, an order that judgment be entered for the sum certified to be due with costs.

5. The certificate of taxation dated 23.11.23 that was issued by the taxing officer in favour of the Applicant herein has neither been set aside nor altered by the Court. As per the foregoing provision, the certificate



of costs is final as to the amount contained therein. Section 51(2) empowers the Court to make such order as it thinks fit, including an order that judgment be entered for the sum certified to be due with costs.

6. Paragraph 7 of the Advocates Remuneration Order allows an advocate to charge interest on his costs and disbursements as follows:

An advocate may charge interest at 14 per cent per annum on his disbursements and costs, whether by scale or otherwise, from the expiration of one month from the delivery of his bill to the client, provided that such claim for interest is raised before the amount of the bill shall have been paid or tendered in full.

7. The rate of interest which an advocate may charge is set at 14% per annum. This interest is chargeable from the expiration of 1 month from delivery by the advocate of the bill to his client. There is a rider however. The claim for interest must be raised before the amount of the bill is paid in full.
8. In the present case, there is an affidavit of service indicating that the Respondent was served with the notice of taxation and bill of costs on 3.10.23. There is also evidence that the Respondent accepted service by stamping and signing the notice as well as the bill of costs. The Applicant is therefore entitled to charge interest from the expiration of one month from the delivery of his bill to the Respondent.
9. In view the foregoing, the Court finds that the Application dated 26.1.24 is merited. Judgment is hereby entered in favour of the Applicant as against the Respondent in the sum of Kshs. 57,680/= as per the certificate of taxation dated 23.11.23 together with interest at 14% per annum from 3.11.23. The Applicant shall have costs.

DATED, SIGNED and DELIVERED in MALINDI this 17th day of May 2024

M. THANDE

JUDGE

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