Unga Feeds Limited & another v Mueni & Wambua (Suing as the Legal Representative and Administrator of the Estate of Benjamin Mutua Wambua) (Civil Appeal 23 of 2015) [2024] KEHC 4625 (KLR) (3 May 2024) (Judgment)

Neutral citation: [2024] KEHC 4625 (KLR)

REPUBLIC OF KENYA

IN THE HIGH COURT AT MACHAKOS

CIVIL APPEAL 23 OF 2015

FROO OLEL, J

MAY 3, 2024

BETWEEN

UNGA FEEDS LIMITED ..... 1ST APPELLANT

JOSEPH MWANIKI ..... 2ND APPELLANT

AND

SARAH MUENI & REGINA MBEKE WAMBUA (SUING AS THE LEGAL REPRESENTATIVE AND ADMINISTRATOR OF THE ESTATE OF BENJAMIN MUTUA WAMBUA) ..... RESPONDENT

(BEING AN APPEAL FROM THE JUDGEMENT AND DECREE OF THE HON M.K MWANGI, SENIOR PRINCIPAL MAGISTRATE DATED 22nd JANUARY 2015 DELIVERED IN MACAHKOS CMCC NO 489 OF 2012)

JUDGMENT

A. Introduction

1. The Appellants were the Defendants in the primary suit wherein they were sued for special damages, general damages under the *law reform Act*, and *Fatal Accidents Act*, costs and interest of the suit, arising from a road traffic accident which occurred on 09.05.2010 at about 4. oo pm hours at Sabaki area along Nairobi- Mombasa road. It was alleged that on the said date the deceased was lawfully crossing the Nairobi -Mombasa road, when motor vehicle registration number KAG 579K -FORD TAUNQ (hereinafter referred to as the suit motor Vehicle) was negligently, carelessly managed and controlled by the Appellants employee, driver and/or agent, that it violently knocked down the deceased herein occasioning him fatal injuries.

2. The respondents particularized the negligence alleged as against the Appellants and also listed the beneficiaries of the deceased Estate who survived him and had suffered great loss as a result of his death. The respondents therefore prayed for damages as pleaded.

3. The Appellants did entered appearance and filed a statement of defence dated 29th October 2012 wherein they denied all the allegations made as against them in the plaint and averred that, if an accident did occur, which was denied, the same was caused solely due to the deceased negligence. They further denied that the deceased estate had suffered any loss and damage and/or that they were entitled to the claim of damages as sought. The Appellants therefore prayed that the said suit be dismissed with costs.

B. Facts at Trial

4. PW1 Sarah Mueni Mutua testified that the deceased was her husband and they were blessed with two children Joshua Bahati Mutua in class two and Faith Mbeke Mutua aged 4 years. On 09.085.2010 she was at home , when she was called by one Francis Mwania Mwitiki, her husband's co -worked and he did break the sad news that he husband had been involved in a Road Traffic accident at Sabaki area , along Nairobi -Mombasa road and had been fatally injured. The family went to Machakos level 5 hospital mortuary to view the body, but she had remined behind mourning her husband. PW1 produced her claim supporting documents and further averred that the deceased was a mason, who would earn Kshs1,000/= daily, which he used to support his family and his parents. In cross examination, PW1 confirmed that she did not witness the accident, she did not have the payslip of the deceased and after the accident had identified the body at the Mortuary, she further confirmed that the deceased would support his family and send her money for family upkeep.

5. PW2 Regina Mbeke Wambua, testified that the deceased was her son and had sustained fatal injuries as a result of a road traffic Accident which occurred on 09.05.2010 along Mombasa road. She identified the body at the Mortuary and also reported the incident to the police. The deceased was a mason and would support her by sending her money for upkeep. He would also support her repair her house and when free would till their family land. In cross examination she confirmed that the deceased would give her approximately Kshs.5,000/= monthly.

6. PW3 Francis Mwania Mwitiki testified that he knew the deceased and they were co -workers, employed as Masons at Sabaki. On the fateful day they had finished work and were walking home towards kitengela. At the toll station area, they checked if the road was clear and cross the road from the left facing Mombasa and crossed to the right side. Upon finishing to cross the said road, the suit lorry left the road, crossed over and came to the point where they were. He managed to jump off, but the said lorry hit the deceased and fatally injured him. According to PW3, the accident occurred off the road and he blamed the Appellants driver for driving at high speed and being reckless therefore losing control of the suit lorry and allowing it to veer off the road.

7. Upon cross examination, PW3 insisted that the Appellants driver was to blame for causing the said accident, and that where they had crossed the road did not have a zebra crossing. By the time the accident occurred, they had completed to cross the road and the point of impact was off the road. He confirmed that he did not record his statement with the police. PW4 PC Alice Kajuju, testified that she was based at Athi River police station and was assigned to do traffic duties. She had the police abstract relating to the accident and produced the same into evidence. She confirmed in cross examination that she was not the investigation officer and as per the report made the pedestrian was to blame for the accident.

8. DW1 Moses Murimi testified that he was the driver of the suit lorry, on the said accident date. He was driving from salama to Nairobi at about 60-70 km/hr and at Mombasa cement Area, the deceased

abruptly darted into the road. He braked, then swerved to ensure he did not overrun the deceased but unfortunately knocked him down. He stopped about 15 meters ahead and then called the police who came and took charge of the scene. He reaffirmed that he was not speeding and was not charged with any traffic offence. In cross examination he confirmed that the road was clear, his vehicle had a speed governor and he had tried his best to avoid the road accident. After the accident, he had reported the incident at Athi River police station. The accident occurred when the deceased darted across the road and that the deceased was entirely to blame for the misfortune that befell him.

9. The trial Magistrate did consider the evidence presented and vide his judgment dated 22nd January 2015 did find that the Appellants were 70% liable for the accident and awarded damages totaling to Kshs.3,565,350/= (less 30% contribution Kshs.1,069,605/=) with the total award being Kshs.2,495,745/= plus costs and interest. The Appellant being dissatisfied by the judgement did file their memorandum of Appeal dated 10.02.2015 and raised the following grounds of appeal namely: -

    a. That the Learned Magistrate erred in law and in fact by awarding liability in the ratio of 70:30 in favour of the respondent against the weight of evidence.

    b. That the Learned Magistrate erred in law and in fact in failing to dismiss the plaintiff's claim for want of proof.

    c. That the Learned Magistrate erred in law and in fact by awarding the claim in loss of dependency where the claim was neither pleaded in the plaint nor established in evidence.

    d. That the Learned Magistrate erred in law and in fact in awarding a multiplicand of Kshs.25,000/= in the absence of strict proof and way beyond the minimum wage.

    e. That the learned Magistrate erred in law and in fact in awarding a multiplier of 17 years for a person aged 34 years old.

    f. That the Learned Magistrate erred in law and in fact by not deducting the damages under the *law reform Act* thereby making the estate of the deceased to benefit twice.

    g. That the learned Magistrate erred in law and in making an award under the new reform Act and Fatal Accident Act.

10. The appellants therefore prayed that this Appeal be allowed, the award of the trial court be set aside and the primary suit be dismissed.

C. Submissions.

i. Appellants submissions

11. This appeal was disposed of by way of written submissions. The Appellant did file their submissions dated 15th September 2023, wherein they did submit that the Appellant did not prove liability as against the Appellants. The jest of their evidence was that the deceased had cross Mombasa road, when the suit lorry veered off the road, knocked him down and fatally injured him. Under provisions of section 107 and 109 of the *Evidence Act*, the respondent was to prove this allegation made, but had failed to do so. PW3 was not a credible witness as his testimony differed from what he had recorded in his witness statement. Reliance was placed on Aduton Oladeji (Nig) Ltd Vrs Nigeria Breweries Plc S.C 91/2002 (2014) eklr & David Sironga ole Tukai Vrs Francis Arap Muge & 2 others (2021) eklr, where it was

held that parties were bound by their pleadings and that the evidence lead should not be at variance with the said pleadings.

12. The Appellants further submitted that PW4 & DW1 too confirmed that the pedestrian was to blame for the accident and had crossed the road when it was not safe to do so. The trial Magistrate finding on liability was therefore devoid of any judicial, legal or factual backing. Further reliance was placed on David ogol Alwar Vrs Mary Atieno Adwera & Another (2021) Eklr, Peter Kanithi Kimunya Vrs Aden Guyo Haro (2014) eklr & Palace Investment Ltd Vrs Geoffrey Kariuki Mwenda & Another (20150 eklr, where it was held that pedestrians too had a duty of care to other road users and they too would bear the burden of negligence if proved.

13. With respect to damages awarded, the Appellants did submit that the trial Magistrate misdirected himself by applying the wrong principles under the head of loss of dependency as no evidence was lead to support the fact that the deceased used to earn Ksh.1000/= daily. The letter produced only supported the fact that he worked as a mason, but did not state the salary/wages earned. The said letter also only confirmed that the deceased had temporary employment and would not build the residential house in perpetuity. The trial court therefore ought to have used the global award method or in the alternative used the Regulations of wages (General),(Amendment) Order, 2010. Reliance was placed on John Wamae & 2 others Vs Jnae Kituku Nziva & Another (2017) eklr, Mary Khayesi Awalo & Another Vs Mwilu Malaunga & Another (1999) eklr.

14. The Appellants thus urged this court to set aside the award of loss of dependency and re assess the same using the Regulations of wages (General),(Amendment) Order, 2010, where the Minimum wage of a mason was pegged at Kshs.3,597/=. The dependency applicable was therefore to be calculated at Kshs.3,597 x 12 x 26 x1/3 =Ksh.374,088/=. In total, after computing the same with other heads awarded, the sum due to the respondents ought to have been reduced to Kshs.748,176/=. They urged the court to allow this Appeal on the said terms.

ii. The Respondent submissions

15. The respondents did file their submissions on 25th October 2023 and submitted that the trial court did not err in its finding regarding liability. The trial court did consider the evidence of PW3 who was an eye witness and DW1, the driver of the suit lorry and having had the benefit of hearing and observing them first hand, the trial magistrate was persuaded that the evidence of PW3, as to how the accident occured was clear, logical and therefore convincing on a balance of probability. There was also no evidence adduced to confirm that the deceased was hit while in the middle of the road. Conversely, the Appellants driver to had a duty to drive prudently and to be able to control the suit motor vehicle to avoid the accident and he did not manage to do so and/or stop in case of emergency.

16. The respondents further faulted the Appellants reliance of the testimony of PW4 for the simple reason that she did not visit the accident scene and also confirmed in cross examination that the accident occurred when the deceased had crossed the road. The trial magistrate had correctly observed that DW1 too had an obligation to drive at reasonable speed and to the extent that he breached that obligation, and he too had to share the blame for this accident. Reliance was placed on Masembe Vs Sugar corporation & Another (2002) 2 EA 434.

17. As to whether the award under loss of dependency was too high, the respondents averred that, it had not been shown that the trial Magistrate had made an error of principle or apportionment which was manifestly erroneous. There was therefore no basis upon which the court could interfere with the findings arrived at. Further they had pleaded for damages under the Fatal Accident Act and it was misleading for the Appellants to claim that they had not done so. They had also produced documentary

evidence to show that the deceased earned Ksh.1000/= daily and the multiplier adopted of 17 years was justified.

18. Finally, the Appellants contention that the award of loss of expectation of life ought to have been deducted had no basis in law and had been overruled by several citations. Reliance was placed on the case of Crown Bus services ltd & 2 others Vs Jamilla Nyaongesa & Amida Nyongesa (legal representatives of Alvin Nanjala (Deceased), (2020) eKLR.

19. The respondent urged this court to find that this Appeal as filed had no merit and proceed to dismiss the same with costs.

D. Analysis & Determination

20. A first appeal is a valuable right of the parties and unless restricted by law, the whole case therein is open for rehearing both on the question of fact and law. The judgment of the appellate court must therefore reflect its conscious application of mind and record the findings supported by reasons, on all issues arising along with the contentions put forth and pressed by the parties for decision of the appellate court. While reversing a finding of fact the appellate court must come into close quarters with the reasoning assigned by the trial court and then assign its own reasons for arriving at a different finding. This would satisfy the court hearing a further appeal that the appellate court had discharged the duty expected of it. See Santosh Hazari Vs Purushottam Tiwari (Deceased) by L.Rs (2001) 3 SCC 179.

21. A first appellate court is also the final court of fact and litigants are entitled to full fair independent consideration of the evidence. The parties share a right to be heard both on issues of fact and issues of law, and the court must address itself to all issues raised and give reasons thereof. While considering the entire scope of section 78 of the *civil procedure Act* a court of first appeal can appreciate the entire evidence and come to a different conclusion. See Kurian Chacko Vs Varkey Ouseph AIR 1969 Keral 316

22. Accordingly, I have re-evaluated the evidence that was presented before the lower court, its judgment and submissions filed by both parties and note that the Appellant has challenged both the finds of the trial magistrate as regard liability and the award for loss of dependency.

I. Whether the trial court erred in finding the Appellant 70% liable

23. On the question of proof of liability, the Court of Appeal in Micheal Hubert Kloss & Another vs. David Seroney & 5 Others [2009] eKLR did succinctly proffered that;

> " The determination of liability in a road traffic case is not a scientific affair. Lord Reid put it more graphically in Stapley vs. Gypsum Mines Ltd (2) (1953) A.C. 663 at p. 681 as follows:
>
> " To determine what caused an accident from the point of view of legal liability is a most difficult task. If there is any valid logical or scientific theory of causation it is quite irrelevant in this connection. In a court of law this question must be decided as a properly instructed and reasonable jury would decide it...The question must be determined by applying common sense to the facts of each particular case. One may find that as a matter of history several people have been at fault and that if any one of them had acted properly the accident would not have happened, but that does not mean that the accident must be regarded as having been caused by the faults of all of them. One must discriminate between those faults which must be discarded as being too remote and those which must not. Sometimes it is proper to discard all but one and to regard that one as the sole cause,

but in other cases it is proper to regard two or more as having jointly caused the accident. I doubt whether any test can be applied generally..."

24. This court is faced with two sets of circumstances and is duty bound to make a determination thereon however difficult the circumstances are. This was appreciated by Madan, J (as he was then) in Welch Vs Standard Bank Limited (1970) EA 115 where he expressed himself as hereunder;

> " When there is no material to generate actual persuasion in the courts mind, still the court cannot un-concernedly refuse to perform its allotted task of reaching a determination. The collision is a fact. Any one of the alternatives mentioned may provide the right answer as to how it happened. The court's sense of impartiality prevents the choosing of the alternatives of individual blame against either driver. It would be just to say, and it is as likely the explanation that both drivers were to blame equally as that only one of them was wholly to blame. Accidents do not happen but they are caused. It is an explanation which offers a solution of impartial practicability.
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> Every day, proof of collision is held to be sufficient to call on the two defendants to answer. Never do they both escape liability. One or the other is held to blame. They would not escape simply because the court has nothing by which to draw and distinction between them. So, also, if they are both dead and cannot give evidence enabling the court to draw a distinction between them, they must both be held to blame, and equally to blame.....justice must not be denied because the proceedings before the court failed to conform to conventional rules provided, in it judgment, the court is able to discern that which is right owing to it being fair and just in the circumstances, without jeopardizing the vital task of doing justice. Provided there is no transgression of this sacred duty, the court will act justly in coming to a decision even if there is no evidence capable of procreating actual persuasion.....There being nothing to enable the court to draw a distinction between the two drivers, it is consonant with probabilities, and it is not repugnant aesthetically to a logical judicial mind, to hold that both were to blame, and equally to blame. The court does so in this case.

25. On liability, the courts have severally held that a pedestrian cannot simply be faulted for crossing the road, as roads are used by motorists and pedestrians as well. It was the duty of motorist to drive with due care and attention as well as observe traffic rules and regulations including giving right of way to pedestrians at designated places. A motor vehicle driver also had to anticipate that things, people or animals might stray onto the road and he is bound not to drive at high speed so as to avoid accidences occasioned by such persons/animals.

26. In other words, a reasonable person driving a motor vehicle on a highway with due care and attention, does not hit every stationary object on his way, merely because the object is wrongfully there. See Masembe Vs Sugar Corporation & Another (2002) 2 EA 434, which was cited with approval in the case of Kennedy Muteti Musyoki Vs Abedinego Mbole (2021) EKLR & *Osoro & 2 others Vs Msango & Another 9 suing as legal representative of the Estate of Nicholas Brown Mwangemi(deceased) (Civil Appeal 65 of 2019*)(2022) KEHC 212(KLR).

27. It is not disputed that an accident did occur on 09.05.2010, when the suit lorry knocked down the deceased at Sabaki area of Nairobi – Mombasa road. PW3, the respondent's eye witness and DW1, the suit lorry driver both gave different versions as to how the accident occurred and it was the Appellants

contention, that the negligence of their driver was not proved. From analysis of the evidence adduced, especially having also considered the witness statement of PW3 he clearly stated that;

> " we reached toll stage. We stood so as to prepare to cross the road. We looked left and right direction and the road was clear for us to cross. Then we started crossing the road and all over sudden a vehicle appeared from Nairobi direction at a very high speed. I noticed it and I jumped from the road. Benjamin tried to jump but it was too late and he was knocked down."

28. While this evidence differed with what he stated in court, it concurred with the evidence of DW1, who on his part testified that he knocked down the deceased as he cross the road. The deceased was therefore to partially be blamed for crossing the road when it was unsafe to do so. Be that as it may, it was also PW3 evidence that the suit lorry was being driven at high speed. DW1 on the other hand averred that he was driving at a speed of about 60 to 70km/hr and braked to avoid the accident. PW4 the traffic police officer did not visit the scene nor did she produce the accident sketch map to enable the court decipher what transpired.

29. In absence of the said evidence, and in light of the contradictory evidence tendered, it would be safe to state that PW3 and the deceased were cross the road from "Toll stage". It is expected that the driver of the suit lorry would have taken extra precaution as to be on the lookout for pedestrians crossing the road and to reduce his speed at such areas "Toll (matatu) stage" to 50km/hr or less as passenger's alighting or coming to board PSV Vehicles are bound to cross the road continuously. It is obvious that DW1 was driving at high speed and as a result of the impact, the late Benjamin Mutua Wambua sustained instant fatal injuries. Indeed had he been driving at 60 -70km/hr as alleged he would have been able to break and/or swerve to avoid the said accident. That he did not manage to do, and in the absence of the accident sketch Map to show his breaks skid marks or point of impact whether in the middle of the road or at the extreme end, it would be safe to assign both parties equal share of the blame. The trial Magistrate finding of 70:30% liability is therefore not supported by the evidence/facts presented and must be set aside.

iii. Whether the award of Loss of dependency was Excessive and should be reduced.

30. On the issue of interference with amount of damages awarded, this court is guided by the decisions of the Court of Appeal, In the case of Johnson Evan Gicheru vs Andrew Morton & another [2005] eKLR where it was stated that: -

> " In order to justify reversing the trial judge on the question of the amount of damages it was generally necessary that the court of appeal should be convinced that either the judge acted upon some wrong principle of law or, that the amount awarded was so extremely high or so very small as to make it, in the judgement of the court, an entirely erroneous estimate of the damage to which the appellant was entitled".

31. Further, in the case Kemfro Africa Limited t/a Meru Express Service Gathogo Kanini v A.m. Lubia and Olive Lubia [1985] where Kneller J.A stated that:

> " The principles to be observed by an appellate court in deciding whether it is justified in disturbing the quantum of damages awarded by a trial judge were held by the former Court of Appeal of Eastern Africa to be that it must be satisfied that either that the judge, in assessing the damages, took into account an irrelevant factor, or left out of account a relevant

one, or that; short of this, the amount is so inordinately low or so inordinately high that it must be a wholly erroneous estimate of the damage."

32. On loss of dependency, it was held by the Court of Appeal in Gerald Mbale Mwea vs. Kariko Kihara & Another Civil Appeal No. 112 of 1995 that the issue of dependency is always a question of fact to be proved by he who asserts. Further I am guided by the observation of the Court of Appeal for East Africa in the case Chunibhai J Patel and Another vs PF Hayes and Others [1957] EA 748, observed that:

> "The court should find the age and expectation of the working life of the deceased and consider the ages and expectations of life of his dependent's, the net earning power of the deceased (i.e. his income less tax) and the proportion of his net income which he would have made available for his dependent's. From this it should be possible to arrive at the annual value of the dependency, which must then be capitalized by multiplying by a figure representing so many years' purchase."

33. However, in determining the multiplicand, it was held in by Ringera, J (as he then was) in Marko Mwenda vs. Bernard Mugambi & Another Nairobi HCCC No. 2343 of 1993 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."

34. The trial court did find that the respondents had proved that the deceased was a mason and earned Kshs.1000/= (P-Exhibit 5), and worked for 25 days in a month. He was 34 years old and would have probably worked until 55 years. The trial court further adopted a dependency ration of 2/3 since the deceased had a wife and children and therefore awarded the him as follows (25,000 x 17 x 2/3 x 12 = Ksh.3,400,000/=. The Appellant faulted this finding and averred that the employment of the deceased was temporary and would not go on beyond the period of engagement at this particular site. They therefore proposed that the court uses the Regulations of wages (General),(Amendment) Order, 2010, where the Minimum wage of a mason was pegged at Kshs.3,597/=. The dependency applicable was therefore to be calculated at Kshs.3,597 x 12 x 26 x1/3 =Ksh.374,088/=

35. A trial court can adopt either the multiplier approach or global sum approach as such was a matter that fell within the discretion of the trial magistrate. In the case of Mwanzia vs Ngalali Mutua Kenya Bus

Ltd cited in Albert Odawa vs Gichumu Githenji Nku Hcca No.15 of 2003 [2007] eKLR, the court made the following observation;

> " The multiplier approach is just a method of assessing damages. It is not a principle of law or a 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 amount of annual or monthly dependency and the expected length of the dependency are known 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."

36. The respondents did prove such factors such as the age of the deceased, the amount of monthly income and dependency and the expected length of the dependency. The trial magistrate cannot be faulted for using Ksh.1000/= as a daily wage of a mason, as this was proved by P, exhibit 5 produced into evidence by the consent of the parties. While it is also true as pointed out by the Appellants, that the deceased would not have been at one site forever, however his skill was proved and this court also takes judicial notice of the fact that Masons earn Kshs.1000/= daily or more and are in great demand due to the skills the possess. His earning having been established by evidence, the trial court could not be faulted for so awarding him Ksh.1000/= as the multiplicand. The multiplier of 17 years too was fair under the circumstances.

37. Finally, the Appellants raised the issue that the award of loss of expectation of life ought to have been deducted from the final award, as it amounted to double compensation. The position is not supported in law and is clearly explained by the case of Crown Bus services ltd & 2 others Vs Jamilla Nyaongesa & Amida Nyongesa (legal representatives of Alvin Nanjala (Deceased), (2020) eKLR.

Disposition

38. The upshot is that this Appeal partially succeed. The finding on liability by Hon M.K.Mwangi (S.P.M) in his Judgment dated 22nd January 2015 in MACHAKOS CMCC NO 489 of 2012 is hereby set-aside and the same is apportioned at 50:50% each.

39. The final decree awarded to the respondent will thus be as follows;

    a. Liability 50.50

    b. Damages for Pain & suffering Kshs.20,000/=

    c. Damages for loss of expectation of life Kshs.100,000/=

    d. Damages for loss of Dependency Kshs.3,400,000/=

    e. Special damages Kshs.45,350/=

    Sub Total Award.....Kshs.3,565,350/=

    Net award (at 50%) .....Kshs.1,782,675/=

    Plus costs and Interest from the date of Judgment in the primary suit

40. The appellant is awarded half costs of this Appeal which is assessed at Ksh.150,000/= all inclusive.

41. It is so ordered.

Judgement written, dated and signed at Machakos this 3rd day of May, 2024.

FRANCIS RAYOLA OLEL

JUDGE

Delivered on the **virtual platform, Teams** this **3rd** day of **May, 2024.**

In the presence of;

No appearance for Appellant

No appearance for Respondent

Sam Court Assistant

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