Omwaga & another v Jelagat (Civil Appeal 29 of 2021)
[2023] KEHC 1936 (KLR) (13 March 2023) (Judgment)

Neutral citation: [2023] KEHC 1936 (KLR)

REPUBLIC OF KENYA

IN THE HIGH COURT AT KISII

CIVIL APPEAL 29 OF 2021

PN GICHOHI, J

MARCH 13, 2023

BETWEEN

PETER OSORO OMWAGA ..... 1ST APPELLANT

KEFA OKWARE ..... 2ND APPELLANT

AND

MERCY JELAGAT ..... RESPONDENT

(Being an appeal from the judgment delivered by Honourable Nathan Shiundu Lutta (Chief Magistrate) on 10th March, 2021 in CMCC No. 714 of 2019 at Kisii)

JUDGMENT

1. The 1st and 2nd Appellants (Peter Osoro Omwaga and Kefa Okware) were the 1st and 2nd Defendants respectively while the Respondent (Mercy Jelagat) was the Plaintiff in the lower court. The Plaintiff had sued the 1st and 2nd Appellant being the registered owner and driver respectively of motor vehicle registration number KCA 607 K Toyota Hiace Van. While blaming the Defendants for the accident, she claimed general and special damages, future medical expenses, cost and interest for the injuries she claimed to have sustained when the said vehicle in which she was travelling as a passenger, was involved in a road traffic accident on 22nd October 2018.

2. The Defendants had filed a joint statement of defence denying the claim and prayed that the suit be dismissed with costs. Without prejudice, they accused the Plaintiff of negligence for failure to take precaution on her own safety, failing to wear safety belt and for distracting the driver by engaging him on endless banter.

3. The matter proceeded for full trial and while the Plaintiff called three witnesses for her case, the defence closed their case without calling any witness. However, parties recorded a consent to have the medical report by Dr. Jennifer Kahuthu produced as Defence Exhibit.

4. At the end of the trial, the honourable magistrate entered the Defendants 100% liable for the accident. He awarded Ksh. 4,000,000/- as general damages, Ksh. 15,048,000/- as future medical expenses and care and Ksh. 207,191.69 being special damages. He also awarded costs and interest.

5. The Appellants were aggrieved by the said judgment and in their Memorandum of Appeal, they raised four (4) grounds of appeal as follows;

    1. That the learned magistrate erred in law and facts and misdirected himself when he failed to consider the Appellants' submissions on points of law and facts on quantum.

    2. That the learned magistrate erred in law and fact in awarding general damages of Ksh.4,000,000/-, future medical expenses of Ksh. 15,048,000/- and special damages of Ksh. 207,191.69 an amount that was excessive and unjust in the circumstances considering the evidence adduced before court and principles of law.

    3. That the learned magistrate erred in law and facts and his decision was unjust, against the weight of evidence and was based on misguided points of law and fact and wrong principles of law which have occasioned a miscarriage of justice.

    4. That the learned magistrate erred in law and fact in unduly disregarding the judicial authorities cited by the Appellants and by instead relying on the authorities cited by the Respondent which were excessive in the circumstances.

6. The appeal was disposed of by way of written submissions. In their submissions dated 18th October 2022 and filed by the firm of Samuel Mainga & Co. Advocates, counsel for the Appellant submits that the Respondent was a passenger in the motor vehicle that caused the accident and failed to tell the court what she did to ensure her safety and that of the other passengers. He submits that the evidence on record did not help the court to determine the cause of the accident and therefore the trial court erred in law and fact in simply holding that the Plaintiff was a passenger hence holding the Defendant 100% liable for the accident. While citing the case of Postal Corporation of Kenya & another v Dickens Munayi [2014]eKLR, counsel submits that the court should apportion liability at the ratio of 50% :50% as between the Appellant and the Respondent.

7. On quantum , counsel submits that the trial magistrate ignored principles of law and exercised his discretion wrongly thereby arriving at erroneous award as there was no proof or justification in awarding the sum of Ksh. 4,000,000 as general damages, Ksh. 15,048,000 as future medical expenses and Ksh. 207,191.69 as special damages.

8. In support of this argument, the Respondent failed to prove injuries on a balance of probability and there were no documents to support the claim for future medical expenses. For reasons that in as much as the Respondent was in a wheelchair, she was wheeling herself around , was talking clearly and testified that she did not need assistance to eat. Her the medical report produced by the doctor (PW1) Nine (9) months after the accident was misleading and the injuries captured therein cannot be ascertained. No initial treatment notes or documents were produced to support Dr. Morebu's assessment that the Plaintiff sustained 100% permanent disability and that she needed assistance in every aspect of her life including a therapist.

9. Lastly , counsel submits that there no reason tendered by the trial court for awarding costs to the Respondent. He therefore urges the court to allow the appeal, set aside the lower court judgment and substitute with a proper finding and award the Appellant the costs in the lower court and this appeal.

10. In their submissions dated 7th December 2021 and filed by the firm of K.O. Obae & Co. Advocates, counsel for the Respondent submits that there were several documents to prove the injuries sustained. That the medical report clearly indicated the hospitals where the Respondent was attended to and treated as well as the injuries sustained. Counsel further submits that non- production of the initial treatment notes was not fatal as the doctor (PW1) had extensively relied on the initial treatment notes when carrying out physical examination of the Plaintiff.

11. Further, counsel submits that other than the medical report, the Respondent produced the P3 Form duly filled by the medical officer from Kisii Hospital where the Plaintiff was first treated before being referred to Moi Teaching & Referral Hospital and that the police also issued her with a police abstract. Further, all these documents were not objected to during the hearing. The medical report produced by defence by consent disclosed the source of information which is what the Plaintiff had.

12. Counsel submits that the Respondent sustained severe injuries that left her permanently disabled and confined into a wheelchair for life. As a result, the Respondent would require daily bladder and bowel care, physiotherapy, a care giver and continuous follow up.

13. While relying on the case of *Lei Masaku v Kalpama Builders Ltd* [2014]eKLR , counsel submits that the evidence given by the doctor regarding the severity of injuries was on oath , not rebutted and therefore the evidence remains uncontroverted. Further, the award by the trial court was based on multiplier of 30 years bearing in mind that the Plaintiff was only 21 years at the time of the accident which permanently confined her in a wheelchair.

14. Arguing that the assessment of damages is essentially discretionary, counsel submits that the Appellant has failed to demonstrate that the trial court clearly applied wrong principles in arriving at the award he did which requires the court to interfere with such discretion. He therefore urges the court to dismiss the appeal with costs to the Respondent.

DETERMINATION

15. From the memorandum of appeal, it is clear that broadly, the issues for determination are on both liability and quantum. This being a first Appeal, this court is duty bound to re-evaluate the facts afresh and come to its own independent findings and conclusions while bearing in mind that unlike the trial court, this court has neither seen nor heard the witnesses when they testified as stated in *Selle & Another v. Associated Motor Boat Co. LTD & Others* (1968) EA 123.

16. On liability, it is noted that the court had this to say:-

> " The court was provided with documentary evidence from the plaintiff who pointed to the owner of the motor vehicle as the defendant which was undisputed...the testimony given by the plaintiff was corroborated by the police abstract. Based on that evidence I find that the vehicle was being driven by the defendant...The evidence before the court is that of the plaintiff and with the support of the abstract on the road accident, the court finds that the accident took place due to the negligent acts of the defendant in driving at a high speed , driving recklessly and without due care and attention."

17. A look at the lower court reveals that the Appellant who testified as PW3 relied on the statement she recorded and filed together with the plaint. In that statement filed on 13th September 2019, she states that she was a passenger in motor vehicle registration number KCA 607 K Toyota Hiace Van and was travelling from Nandi Hills to Kisii. That the 2nd Respondent was driver of the said motor vehicle on the material date and time and that he drove the said motor vehicle at a very high speed, lost control,

veered off the road and landed on a house off the road at Mbanda area as a result of which she sustained serious injuries.

18. PW2 No. 91985 PC Daniel Mwachanya testified that the accident was self-involving in that the vehicle lost control and veered off the road. He further stated that it appeared the braking system failed. During cross -examination, he explained that he was not the investigating officer and that the matter was still pending under investigations. He clarified that though he visited the scene, he did not see any witness who did not blame the driver for the accident.

19. I find no basis for PW2's opinion that "it appears the braking system failed." There was no documentary evidence to support that opinion. It was only the driver who could respond to the Plaintiff's claim that the vehicle moved at a very high speed, veered off the road and landed on the house. No witness testified for the defence. In such a scenario in the case of *Trust Bank Limited v Paramount Universal Bank Limited & 2 others* [2009] eKLR, Lesiit J (as she then was) stated:-

> "The 2nd and 3rd Defendants closed their cases without calling a witness. It is trite that where a party fails to call evidence in support of its case, that party's pleadings remain mere statements of fact since in so doing the party fails to substantiate its pleadings. The 2nd Defendant and 3rd Defendant's defence were unsubstantiated and remained mere statements. In the same vein failure to adduce any evidence meant that the evidence adduced by the Plaintiff against the 2nd and 3rd Defendants was uncontroverted and therefore unchallenged."

20. I am alive to the Court of Appeal decision in *Charterhouse Bank Limited (Under Statutory Management) v Frank N. Kamau* [2016] eKLR where the Court dealt with the issue of failure by defence to call witnesses and while citing several cases on this issue including the case of Trust Bank Limited v Paramount Universal Bank Limited & 2 others [2009] eKLR , the Court clarified :-

> "First and foremost, there can be no quarrel with the statements in the above judgments that averments by the parties do not constitute evidence. The suggestion, however, implicit in some of the decisions quoted above, that in all and sundry civil cases the failure by the defendant to adduce evidence in support of his defence means that the plaintiff's case is proved on a balance of probabilities cannot possibly be correct. It is also obvious to us that in some of those decisions the question whether the plaintiff has, in the absence of evidence from the defendant, proved his case on a balance of probabilities, was conflated and confused with the distinct issue of the effect of the defendant's failure to testify when he had filed a defence and a counterclaim. While the defendant's failure to testify has fatal consequences for the counterclaim because the onus is on him to prove it on a balance of probabilities, it does not necessarily have the same consequence for the defence where the onus is on the plaintiff to prove his claim on a balance of probabilities... We would therefore venture to suggest that before the trial court can conclude that the plaintiff's case is not controverted or is proved on a balance of probabilities by reason of the defendant's failure to call evidence, the court must be satisfied that the plaintiff has adduced some credible and believable evidence, which can stand in the absence of rebuttal evidence by the defendant. Where the defendant has subjected the plaintiff or his witnesses to cross-examination and the evidence adduced by the plaintiff is thereby thoroughly discredited, judgment cannot be entered for the plaintiff merely because the defendant has not testified. The plaintiff must adduce evidence, which in the absence of rebuttal evidence by the defendant convinces the court that on a balance of probabilities, it proves the claim."

21. Bearing the above in mind, it is clear that while the Appellant pleaded that the Respondent was negligent for failure to take precaution on her own safety, failure to wear safety belt and for distracting the driver by engaging him on endless banter, those issues were not put to her at all during cross-examination. The police abstract shows that the said motor vehicle was being driven by the 2nd Appellant and that it was owned by the 1st Appellant. The Appellants' defence in this case remains as mere allegation that does not controvert the Respondent's claim as to how the accident did occur. There is nothing to show how the Respondent who was a passenger would have contributed to this accident unlike in the case of *Postal Corporation of Kenya & another v Dickens Munayi* [2014]eKLR cited by the Appellant where the Court found:-

> " From the excerpt, it is apparent that the cyclist was riding to join the junction. This then shutters PW1 and 3's evidence that they were on the main road heading towards Webuye. On cross-examination again, PW4 stated that the motor vehicle was "coming from Eldoret headed for Kitale". This again contradicted DW1 that he was driving towards Eldoret. With such sharp contradictions, it behoved the Plaintiff to set the record straight in re-examination as to how the accident occurred and which party was on which side of the road. For the foregoing reasons, I am clear in my mind, that it is difficult to tell the extent to which each party (Respondent and Appellants' driver) contributed to the accident. And as rightly submitted by counsel for the Appellants, when the court is in doubt on the extent of contribution by either party, the most prudent thing to do is to apportion the contribution at a ratio of 50% :50%."

22. The circumstances and facts in Postal Corporation of Kenya & another (supra) are very different from the facts in this case and therefore of no relevance here. I therefore find no reason why any lability should be apportioned to the Respondent in this case. I am satisfied that the trial court in this case was justified in finding the Appellants liable at 100% for this accident.

23. On quantum, this court is being called upon to interfere with the award by the trial court. However, there are principles upon which the court can do so. In the case of *Catholic Diocese of Kisumu v Tete* [2004] eKLR , the Court of Appeal had this to say:-

> " It is trite law that the assessment of general damages is at the discretion of the trial court and an Appellate Court is not justified in substituting a figure of its own for that awarded by the Court below simply because it would have awarded a difference figure if it had tried the case at first instance. The Appellate Court can justifiably interfere with the quantum of damages awarded by the trial court only if it is satisfied that the trial court applied the wrong principles, as by taking into account some irrelevant factor or leaving out of account some relevant one or misapprehended the evidence and so arrived at a figure so inordinately high or low as to present an entirely erroneous estimate."

24. On general damages, the Respondent had pleaded that she had sustained thoracic 5 (T) vertebral body collapse and cord compression, paraplegia , blunt trauma to the back and the neck as well as deep cut wounds on the scalp. After examining the Respondent in this case, Dr. Morebu concluded that due to this accident, the Respondent:

> " Sustained grievous harm that is thoracic 5th vertebral body collapse with cord compression resulting in severe spinal injury with complications of total paralysis of he lower limbs , incontinence of stool and urine with loss of sensation of the lower limbs . Due to the spinal injury, she will never resume her usual duties and she will suffer more complications in

future like developing bed sores and urinary tract infection due to the indwelling catheter permanent disability assessed at 100%."

25. Though counsel for the Appellant tries to challenge the medical report on the basis that the initial treatment notes or documents were not availed, the report shows that other than the physical examination and history given, the doctor also relied on the treatment notes availed to him . Further, it is clear that there was also a P3 and a medical report from a Cardiologist Dr. M. Alungát of Moi Teaching and Referral Hospital dated 23rd October 2018 relied on by the Respondent in this case.

26. The fact that the Respondent was examined by the doctor about nine months after the accident and the said injuries confirmed is an indicator of the seriousness of the injuries sustained and that they are permanent in nature. The argument by counsel for the Appellant that the Respondent was talking clearly and wheeling herself around as at the time she testified is not really the issue here. The paralysis was in the lower limbs and there was no indication that the brain was affected. Indeed, the trial court stated in its judgment regarding these injuries:

> " ...Dr Morebu Peter Momanyi based at Kisii Teaching and Referral Hospital had a medical report for the plaintiff. He testified that the plaintiff was involved in a road traffic accident on 22/10/2018. That she had a collapse of the backbone , paralysis of the lower limbs , blunt injuries to the back and a deep cut wound on the neck...that the plaintiff underwent surgery and an MRI was done... that the patient was bed ridden and using a catheter , that she had incontinence of urine and stool and had sensation in the lower limbs. Permanent disability was assessed at 100% and a cost of future medical expenses was Ksh. 1,500 per day. He stated that there were also other expenses indicated . He stated that the patient was 21 years old at the time and charged her Kshs. 6,500 for the report. That he examined the patient and saw that the treatment notes. He stated that he has charged Kshs. 5,000 for court attendance. He produced documents as Pexh. 1,2 and 3. He further stated that the patient will never walk and has incontinence of urine and stool , has a total paralysis of the limbs and will have to be taken care of throughout and that there is no chance that the plaintiff will recover."

27. The Appellant had proposed the sum of Ksh. 1,500,000 while citing the case of *S.J. v Francesco Di Nello & another* [2015 eKLR. In that case , the Appellant had become a 100% paraplegic and was aged 15 years. While discussing whether the sum of Ksh. 1.5 million awarded by the Judge was adequate, the Court of Appeal in that case stated:-

> " The appellant sought 5 million by way of general damages for pain, suffering and loss of amenities. The respondents countered that with an offer of 1m, and the court awarded a sum of Kshs.1.5 million. Considering all the authorities relied upon by both sides, the age of those authorities vis-à-vis the date of the instant injury to the appellant, the age of the appellant at the time of injury, on our part we consider the cases of *GM (minor) v Manie Kuria & Another*, Nbi Hccc No. 821 of 1991 wherein Msagha J awarded a sum of Kshs.2m for pain, suffering and loss of amenities on 17th April, 1993 for paraplegia and resultant disabilities; *James Nyamboga Masogo v Kipkebe Limited* Civil Appeal no. 225 of 2007, where an award of general damages for pain, suffering and loss of amenities was confirmed by this Court to a manual labourer rendered 80% incapable of earning to the tune of Kshs.1.7m; to be closer to the adequate damages for similar injuries.
>
> In that regard we do not find that the learned trial judge properly assessed general damages for pain suffering and loss of amenities. We think that a proper case for our interference has

been made out. We so interfere and award a sum of Kshs.2.2 million in respect of general damages for pain, suffering and loss of amenities. [Emphasis added]

28. That judgment was delivered on 19th day of June, 2015 which is six years before the judgment which is the subject of this appeal. In *Jubilee Haulers Limited & 2 others v Brian Muchiri Waihenya* [2021] eKLR the Respondent who was aged 19 years was a complete paraplegic with 100 % permanent incapacitation, had incontinent of stool and must use pampers, had an indwelling catheter with urine bag and had to be on a wheelchair throughout his life. In its judgment dated 5th day of March, 2021, the Court of Appeal had this to say:-

> " The appellants suggested an award of Kshs.1,500,000 while the respondent urged the court to award Kshs.8,000,000 which the learned judge did. While we appreciate that assessment of damages is an exercise of judicial discretion that can only be interfered with if an appellate court is satisfied that in assessing the damages the court took into account factors it ought not to have considered or failed to take into account factors that it ought to have, and thereby arrived at a figure that was inordinately high or inordinately low, as held in *Butt v Khan* [1981] KLR 349, among other decisions, the court must also ensure that the amount awarded is reasonable and within limits set by other courts and which the Kenyan economy can afford.
>
> The judgment was delivered on 24th September 2014. Considering the similarities in the two cases and bearing in mind the factor of inflation, we are of the considered view that an award of Kshs 4,000,000 would be reasonable for pain suffering and loss of amenities. We hereby set aside the award of Kshs.8,000,000 and substitute it therefor with an award of Kshs.4,000,000.

29. While assessing general damages, the trial court considered the proposal of Ksh. 15,000,000/= made by counsel for the Respondent who had cited case of *Dorothy Kanyua Mbaka & another v P.S. In-Charge of Department of Defence In the Office of the President & another* [2014] eKLR where each of the Plaintiffs were awarded Ksh. 10,000,000/= and *Brian Muchiri Waihenya v Jubilee Haulers Limited & 2 others* [2016]eKLR where the court had awarded Ksh. 8,000,000/- "for similar injuries."

30. Nevertheless, the court did not award the above proposed damages and justified the award of Ksh. 4,000,000/- as general damages in this case. In doing so, the trial court had this to say:

> " The plaintiff sustained serious injuries. However as held by Potter J.A. in *Rahima Tayab & others versus Anna Mary Kinanu* Civil Appeal No. 29 of 1982 KLR:"money cannot renew a physical frame that has been battered and shattered. All that judges and courts can do is to award sums , which must be regraded as giving reasonable compensation. In the process there must be uniformity in the general method of approach. Furthermore, it is eminently desirable that so far as possible comparable injuries should be compensated by comparable awards. When all this is said it must still be that amounts which are awarded are to a considerable extent controversial."

31. The trial court went on to say: "The court has to strike a balance between endeavouring to award the plaintiff a just amount , so far as money can ever compensate and entering the realms of very high awards, which can only in the end have a deleterious effect ."

32. In this appeal, there is nothing in the judgment by the trial court that the submissions by the Appellant were not considered. It is clear that the court considered submissions by both parties and the authorities cited therein. That ground of appeal fails in the circumstances. I am satisfied that the trial court

observed the well settled general principles in awarding general damages and used his discretion correctly. The ward is neither excessive nor low in the circumstances. There is no reason to disturb the trial court's award of Ksh. 4,000,000/- under this head.

33. On special damages, it is trite law that the same has to be specifically pleaded and proved. The Respondent had pleaded Ksh. 207, 191.69 being made up of Ksh. 6,500/- for medical report, Ksh. 200/= for the police abstract, Ksh. 50/- for the search and Ksh. 200, 441.69 as medical expenses. I have perused the lower court record and confirm that there is an invoice and receipt of Ksh. 200,441.69 from Moi Teaching and Referral hospital, a receipt of Ksh. 550 /- for copy of records and a receipt of Ksh. 6,500/- for medical report making a total of Ksh. 207,449.69 which is more than the sum pleaded. The trial court was correct in allowing the sum of Ksh. 207,191 .69 pleaded. There is no reason to disturb it.

34. On future medical expenses, the trial court had assessed this claim at Ksh. 15,048,000 /- having calculated it as follows: -

-Indwelling Catheter: 8,000 x12 x 30 = Ksh. 2,880,000.

-Pampers: 22,400 x 12x 30 = Ksh. 8,064,000.

-Physiotherapy: 3,000 x 12x 30 = Ksh. 1,80,000.

-Nurse aid : 8,400x 12 x 30 = Ksh. 3,024,000.

35. Counsel for the Appellant submits future medical expenses has to be specifically pleaded and strictly proved and therefore urges the court to award only items that are strictly proven if any. On the other hand , counsel for the Respondent has submitted that the evidence presented by the Respondents doctor were not rebutted and hence the Appellant cannot now be heard to complain that this award was excessive and unjust.

36. As I consider the rival submission, I am guided by the case of *Forwarding Company Limited & another v Kisilu; Gladwell (Third party)* (Civil Appeal 344 of 2018) [2022] KECA 96 (KLR) (4 February 2022) (Judgment) where the Court of Appeal had this to say :-

> " In the instant case, we do not agree with the finding of the learned judge that failure to plead future medical expenses would fatally affect this specific claim. To demand a specific sum to be proved specifically like special damages would be unreasonable. This is a claim for money not yet spent, for money estimated to be spent depending on how the claimant's body is responding to treatment, among other things. It is not always clear at the time of filing a case what these future costs may be. The prognosis could change for better or for worse depending on various circumstances."

37. In this case, the Respondent had pleaded it as follows:-Indwelling catheter – Ksh. 8,000/= per monthPampers- Ksh. 22,400/= per monthNurse aid- Ksh. 8,400/= per monthPhysiotherapy- Ks. 3,000/= per month.

38. The court record shows that Dr. Morebu had found that the Respondent had an indwelling catheter that has to be changed fortnightly and the cost of the same and prophylactic antibiotics at Ksh. 4,000/=. Further, he stated that due to the incontinence of stool, she uses pampers at a cost of Ksh. 800/- per day. Further, she has to have an aid as she is unable to do anything for herself and who she pays Ksh. 300/= per day. She also attends two physiotherapy sessions per day at a cost of Ksh. 100 per session per day and will continue with this treatment for the rest of her life.

39. While the Appellant's doctor assesses the degree of permanent incapacity at 80 % due to paraplegia, she acknowledges in her medical report dated 23rd September 2019 that the injuries sustained by

the Respondent. She notes that the Respondent was using a wheelchair , had catheter in situ, will require daily bladder and bowel care, physiotherapy, a care giver and follow up. The Respondent still complained of being unable to use the lower limbs.

40. Dr Jennifer Kahuthu did not come up with her own figures in respect of the expenses that the Respondent was to incur in view of her findings. There was no data provided by the Appellant to controvert what was given by Dr. Morebu. The Appellant cannot therefore challenge the same in submissions.

41. The trial court used the case of *Peter Ngugi Kimani v Joseph Kariuki* [2018[eKLR for purposes of calculation by use of a multiplier. In that case, the Plaintiff was aged 43 years at the time of accident and a multiplier of 15 years was used. In the instant case, the trial court found that the Appellant was only 21 years at the time of the accident and used a multiplier of 30 years. In Jubilee Haulers Limited & 2 others v Brian Muchiri Waihenya [2021] eKLR , the Court of Appeal did not disturb the multiplier of 30 years used for the 19-year-old Respondent and had this to say:- " A multiplier of 30 years for a 19 years old university student is not unreasonable. The retirement age for most employees is 60 years and there are prospects for self-employment thereafter."

42. I am satisfied that the award under this limb was well guided by principles of law and the discretion was properly exercised in arriving at this award. The award is neither excessive nor unjust in the circumstances. I uphold the learned magistrate's decision on both liability and quantum and dismiss the Appellants' appeal with costs to the Respondent.

DATED, SIGNED AND DELIVERED IN OPEN COURT AT KISII THIS 13TH DAY OF MARCH, 2023.

PATRICIA GICHOHI

JUDGE

In the presence of:

Mr. Gichaba for Mr. Mainga for Appellant

Mr. Obae for Respondent

Kevin Isindu, Court Assistant