



**Ochoki v Sukari Industries Limited (Civil Appeal 061 of 2021)
[2024] KEHC 14940 (KLR) (17 October 2024) (Judgment)**

Neutral citation: [2024] KEHC 14940 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MIGORI
CIVIL APPEAL 061 OF 2021
A. ONG'INJO, J
OCTOBER 17, 2024**

BETWEEN

ENOCK ONGAGA OCHOKI APPELLANT

AND

SUKARI INDUSTRIES LIMITED RESPONDENT

(Being an Appeal against the whole Judgment of the Chief Magistrate's Court at Migori (Hon. D. Onyango (CM) dated 23rd June, 2021 in CMCC No. 672 of 2016)

JUDGMENT

1. The Appellant Enock Ongaga Ochoki obtained a Judgment in Migori CMCC No. 672 of 2016 against the Respondent in the sum of Kshs. 529740/= together with interest from the date of judgment.
2. He was however aggrieved by award of interest from date of judgment and preferred the appeal herein seeking this court orders that interest on principal accrued from the date of filing of the suit. He also sought for costs of the appeal.
3. The trial Magistrate did not give reason why interest rate on the award to the Appellant was to accrue from the date of judgment and not the date of filing of the suit and yet the claim was quantifiable from the time the suit was filed and the pleadings specified what the Appellant was claiming in terms of area of his farm, the expected yield per harvest/cycle per an area, the price per land and the number of harvest being claimed.
4. The circumstances of this case are different/distinguishable from those in Mukisa Biscuits Manufacturing Company Limited =vs= West End Distribution Limited [1970] EA 469 in which damages being assessed were general and not Special /Specific where damages are assessed by the court interest accrues from date of judgment because the same is not ascertained at the time of instructions of the suit. This court be guided by the court of appeal authorities cited by the Appellant finds that interests on award made to the Appellant should accrue from the date of filing of the suit.



5. Appeal has merit's and is allowed with costs to the Appellant.

DELIVERED DATED AND SIGNED AT MIGORI THIS 17TH DAY OF OCTOBER 2024.

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A. ONG'INJO

JUDGE

Judgment delivered in the presence of

Mr. Akoya Advocate, for the Respondent

Mr. Otieno holding brief for Mr. Jura Advocate for Appellant

Victor/ Lola – Court Assistants

