



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA**

**AT KISUMU**

**MISC. CIVIL APPLICATION NO 331 OF 2015**

**OTIENO, RAGOT & COMPANY ADVOCATES.....APPLICANT**

**VERSUS**

**KENINDIA ASSURANCE COMPANY LIMITED.....RESPONDENT**

**JUDGMENT**

By a notice of motion dated 15.5.17, brought under Section 51 of the Advocates Act Cap 16 Laws of Kenya; the applicant prays for orders:-

- a. **THAT the certificate of costs dated 3.4.17 in respect of the order made on 3.4.17 for the sum of Kshs. 40,073/- be adopted as judgment and decree of this Honourable Court**
- b. **THAT the applicant be awarded interest accrued on the costs at 14% per annum from 10.1.16 until payment in full**
- c. **THAT the costs of this application be borne by client/respondent**

The motion is premised on the grounds on the body of the application and the supporting affidavit of Moreen Alinaitwe, Advocate of the High Court of Kenya, sworn on 15.5.17. She averred that the client instructed the advocate to act for it in ***KISUMU HCCC No.337 of 2006***. That the bill of costs dated 25.11.15 was forwarded and received by the client on 10.12.15. That the bill of costs was taxed on 3.4.17 in the sum of Kshs. 40,073/- and a certificate of taxation was issued for the said sum. That the client has not paid the said amount and the applicant requests for judgment for the entire sum.

When the application came for hearing on 28.6.17, Ms. Aron for the client conceded to prayer (a) and submitted that interest should run from 3.4.17 when the costs due were ascertained.

Mr. Osodo for the advocate submitted that interest is payable 30 days from the date the bill of costs is served on a client.

I have considered the provisions of Rule 7 of the Advocates Remuneration Order which provides: -

***“An advocate may charge interest at 14% 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, providing such claim for interest is raised before the amount of the bill has been paid or tendered in full.”***

The rate of interest awardable is 14% per annum applicable from 30 days after the date of service of either the Bill of Costs. There is evidence that the bill of costs in this matter was served on 10.12.15. Thirty (30) days from the delivery of the bill to the client expired on 9.1.16.

The upshot of this is that the respondent's submission that interest should accrue from 3.4.17, goes against clear provisions of the law and it is unsustainable. The notice of motion dated 15.5.17 succeeds and is allowed in the following terms:

- a. Judgment is hereby entered for the advocate against the Respondent for **Kshs. 40,073/-**
- b. Interest shall accrue on the taxed costs at 14% per annum from 9.1.16 until payment in full
- c. The Advocate will also have the costs of this application.

**DATED AND DELIVERED ON THIS 13th .DAY OF July 2017**

**T. W. CHERERE**

**JUDGE**

**Read in open court in the presence of-**

Court Assistant - Felix

Applicant - No appearance

Respondent - No appearance