



**Ng'anga & another v Mwinamo (Civil Appeal E078 of 2023)
[2025] KEHC 14291 (KLR) (Civ) (29 September 2025) (Judgment)**

Neutral citation: [2025] KEHC 14291 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)**

CIVIL

CIVIL APPEAL E078 OF 2023

LP KASSAN, J

SEPTEMBER 29, 2025

BETWEEN

BONFACE MBURU NG'ANGA 1ST APPELLANT

NICCO PRIDE COMPANY LTD 2ND APPELLANT

AND

FREDRICK EBOSO MWINAMO RESPONDENT

*(Being an appeal from the judgment/Decree of (SRM) Hon.
R.L MASIEGA (MR) delivered on 31st JANUARY, 2023)*

JUDGMENT

1. This is an Appeal from the Lower Court Judgement dated the 31st day of January 2023. Without making any reference to any case law, it is a well-established principle that the High Court will only interfere with the Lower Court Judgement when there are adequate reasons to do so. I have read the proceedings and wish to dispose this Appeal by noting the following;

Liability

2. The plaintiff testified and produced all exhibits in Court. The defendant did not call any witness and in fact the Defendant was charged and convicted for a traffic offence related to this matter. To this extent, the trial Magistrate was well within the law in finding the defendant liable at 100% which i uphold.

Special damages

3. The trial Magistrate was correct in awarding Ksh 245,370 which was proven by receipts and assessment report that was produced by consent. Consequently, I shall not interfere with this award.



General damages.

4. The trial Magistrate finding an award of ksh. 700000 was based on the decision of Justice Serгон in which the Honourable Judge awarded ksh. 500000 for a matter that had almost the same injuries with the current matter. The decision by Justice Sergon was rendered in 2018, now seven years away. The Learned magistrate noted that on top of a metatarsal fracture, the Plaintiff sustained other soft tissue injuries. I have read other several precedents with similar or almost similar injuries. Doctor Wokabi opined that the Plaintiff will not suffer from any permanent disability. He added that the Plaintiff had no abnormality on the abdomen and pelvis where he had sustained soft tissue injuries. Based on the Doctors finding, I find that the award by the Lower Court was excessive. To this end, I reduce the general damages to ksh. 550000. The finding by the Magistrate on interests shall remain the same. Having faulted the Lower Court award on general damages, I direct that each party shall bear own costs of this Appeal.
5. Orders Accordingly.

DELIVERED, DATED AND SIGNED AT NAIROBI THIS 29TH DAY OF SEPTEMBER, 2025.

L. P. KASSAN

JUDGE

Court Assistant – Carol.

