



REPUBLIC OF KENYA



**Beko v Kimani (Civil Appeal E230 of 2024)
[2025] KEHC 14515 (KLR) (Civ) (15 October 2025) (Judgment)**

Neutral citation: [2025] KEHC 14515 (KLR)

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

CIVIL

CIVIL APPEAL E230 OF 2024

WM MUSYOKA, J

OCTOBER 15, 2025

BETWEEN

SHOKO MOLU BEKO APPELLANT

AND

LENNY ERICK KIMANI RESPONDENT

(Appeal from the ruling and orders, of Hon. Rawlings Liluma, Senior Resident Magistrate (SRM), of 26th January 2024, in Nairobi CMCCC No. E10690 of 2021)

JUDGMENT

1. The suit, at the primary court, was filed by the respondent, against the appellants. It seeks compensation, for injuries that the respondent suffered in a road traffic accident, on 18th September 2020, along Dr. Griffin Road, Nairobi, involving him and a vehicle owned or controlled by the appellant. He attributed the accident to negligence on the part of the appellant.
2. The claim was resisted by the appellant. He denied all the allegations made in the plaint, although he pleaded, in the alternative, that, if the respondent proved that the accident alleged did happen, the trial court should find that it was caused solely by his negligence, or he substantially contributed to its occurrence, by such negligence.
3. A trial was conducted. Only the respondent testified. Judgement was delivered on 26th January 2026. Liability was resolved at 100% against the appellant. General damages were awarded at Kshs. 650,00.00; Kshs. 17,158.00 special damages; plus, costs and interests.
4. The appellant was aggrieved, hence the instant appeal. The grounds revolve around the judgment being contrary to the law; the award of general damages being excessive; wrong principles in assessment of physical damages being applied; the submissions by the appellant not being considered; and the trial



court not appreciating that the pleadings filed and evidence tendered by the respondent could not sustain the amount awarded.

5. Directions were given, on 23rd April 2025, for canvassing of the appeal, by way of written submissions.
6. The submissions I see in the record were filed by the respondent. He submits that he established his case to the required standard, and that his case was not controverted by the appellant, as he called no witness at the trial. He supports the award made by the trial court on general damages. He cites the decision that he had relied on at trial, *Global Allied Industries Limited v Gerald Mwangi Muriuri* [2015] eKLR (Sergon, J).
7. The medical records, being a medical report by Dr. Okere, dated 23rd April 2021, and treatment notes, captured the injuries sustained by the respondent, as a fracture of the lateral epicondyle of the right humerus, pain on the right elbow, tenderness on the right epicondyle of the humerus on deep palpation, and permanent incapacity at 2%. Those details of the injuries were carried into the plaint.
8. At the trial, the appellant had relied on *Benard Muinde Kilonzo v Andrea M. Maiko Mogi & Another* [2021] eKLR (Msagha, J), where the award of Kshs. 500,000.00, for a fracture of the humerus, was upheld. The respondent had cited *Global Allied Industries Limited v Gerald Mwangi Muriuri* [2015] eKLR (Sergon, J), where Kshs. 700,000.00 was awarded, for a fracture of the hand, right hand injury and forehead injury.
9. The appeal terms largely on quantum. I have looked up a number of decisions, where the courts handled matters where the claimants had suffered comparable injuries.
10. In *Said Abdullahi & another v Alice Wanjira* [2016] eKLR [2016] KEHC 5483 (KLR) (Sergon, J), the injury sustained was a fracture of the right humerus midshaft spiral, with 10% incapacity, and an award of Kshs. 306,100.00 was made. In *Nguku Joseph & another v Gerald Kihui Maina* [2020] KEHC 7670 (KLR) (T. Matheka, J), the principal injury was a fracture of the right humerus, with multiple soft tissue injuries, and an award of Kshs. 500,000.00 was made. In *Logistics Solutions Ltd v Steere Mavu Mwambela* [2021] KEHC 8614 (KLR) (N. Mwangi, J), the claimant had sustained a fracture of the right humerus arm bone, with 9% disability, and an award of Kshs. 500,000.00 was made.
11. In *Too v Muthethia & 2 others* [2025] KEHC 13382 (KLR) (Mrima, J), the injuries were a fracture of the upper end of the right humerus and blunt abrasion injuries of the left leg, with 35% disability, and the court awarded Kshs. 1,500,000 general damages. In *Ngugi & another v SJ (Minor Suing through Mother and Next Friend MJT)* [2022] KEHC 12045 (KLR) (T. Matheka, J), the injury was a fracture of the humerus, which required skin grafting to fix, and Kshs. 1,200,000.00 was awarded.
12. Upon the review above, I am persuaded that the award made by the trial court was within acceptable range. Consequently, I find that there is no merit in the appeal, and I hereby dismiss the same. Each party shall bear its own costs.

DELIVERED, VIA EMAIL, DATED AND SIGNED IN CHAMBERS, AT BUSIA, THIS 15TH DAY OF OCTOBER 2025.

W MUSYOKA

JUDGE

Mr. Arthur Etyang, Court Assistant, Busia.

R. Michael Onyango, Court Assistant, Milimani, Nairobi.

Advocates



Ms. Nanjira, instructed by Kairu & McCourt, Advocates for the appellant.

Mr. Orina, instructed by Musili Mbiti & Associates, Advocates for the respondent.

