



**Kahindi & another (Suing for and on behalf of the Estate of Dickson Randu  
Kahindi - Deceased) v Shyam General Merchants Limited (Miscellaneous  
Application E068 of 2025) [2025] KEELRC 2674 (KLR) (2 October 2025) (Ruling)**

Neutral citation: [2025] KEELRC 2674 (KLR)

**REPUBLIC OF KENYA  
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT MOMBASA  
MISCELLANEOUS APPLICATION E068 OF 2025**

**M MBARŪ, J  
OCTOBER 2, 2025**

**BETWEEN**

**RACHAEL KADZO KAHINDI ..... 1<sup>ST</sup> APPLICANT  
KAHINDI KENGA KATANA ..... 2<sup>ND</sup> APPLICANT  
SUING FOR AND ON BEHALF OF THE ESTATE OF DICKSON RANDU  
KAHINDI - DECEASED**

**AND**

**SHYAM GENERAL MERCHANTS LIMITED ..... RESPONDENT**

**RULING**

1. The applicants filed an application dated 23 July 2025 under the provisions of article 162 of *the Constitution*, section 12 of the *Employment and Labour Relations Court Act*, Rule 69 of the Employment and Labour Relations Court (Procedure) Rules, sections 19(2) and 51 of the *Work Injury Benefits Act*, and Orders 40 and 51 of the Civil Procedure Rules.
2. The applicants are seeking orders for the court to adopt as judgment the assessment and award made by the Director of Occupational Safety and Health Services (DOSHS) on 21 July 2023. The court is to issue a decree for the sum of Ksh 1,280,000, representing the remaining balance of the DOSHS award made on 21 July 2023, the respondent having partially paid Ksh 400,000.
3. The applicants are also seeking reasonable burial expenses of Ksh. 645,800, with interests and costs at 14% from the date of the award on 21 July 2023.
4. The applicants filed the affidavit of Rachael Kadzo Kahindi, who avers that a Letter of Administration ad Litem was obtained in Mombasa Misc. Cause No. E095 of 2025 for the estate of the deceased Dickson Randu Kahindi.



5. The deceased sustained work-related injuries that led to his death on 21 July 2023. The matter was reported to DOSH, which made an assessment payable to the estate of the deceased for Ksh. 680,000. The respondent partially paid Ksh.400, leaving a balance of Ksh. 280,000. The respondent has not paid the remaining amount within the required timeframe.
6. There were burial expenses of Ksh. 645,000, which are due under section 34 of the WIBA.
7. In reply, the respondent submitted the Replying Affidavit of James Otieno Abong'o, the operations manager, confirming that the deceased was an employee who sustained work-related injuries on 18 July 2023, and that the matter was reported to DOSH. An assessment was conducted, and the respondent made a partial payment of Ksh. 000 in good faith, and seeks to settle the outstanding balance of Ksh. 280,000 in instalments due to financial difficulties.
8. Mr. Otieno states that no evidence has been presented for the alleged burial expenses of Ksh. 000. DOSH did not include these expenses in the assessment for the award.
9. The claimed costs and interests at 14% are not justified considering the circumstances of the case and the fact of part payment.
10. Both parties attended court and made oral submissions.
11. The parties have agreed on an unpaid balance of Ksh. 1,280,000 to the applicants as the administrators of the estate of the deceased. In the Letters of Administration ad litem, the applicants are listed as the widow and father of the deceased. No children or dependants are mentioned. This is a lapse on the part of DOSH, which should ensure full compliance with DOSH requirements, particularly safeguarding minors and other dependants through a Certificate of Dependents.  
There is a lapse and omission.
12. The issue is whether burial expenses of Ksh. 000 are payable and if these should be assessed by DOSH when making the award.
13. Section 34 of WIBA is divided into four parts. Section 34(1) authorises DOSH to determine the compensation payable to the estate of the deceased; part (2) specifies that no deductions can be made from the award; part (3) considers the existence of any dependents; and part (4) addresses the payment of reasonable burial expenses.
  - (4) In addition to the compensation payable under this section, the employer is liable to pay reasonable expenses for the funeral of the deceased employee subject to the maximum amount determined by the Minister, after consultation with the Council.
14. Under section 34(4), the payment of burial expenses is in addition to the assessment of compensation. The employer is therefore liable to pay reasonable expenses for the funeral of the deceased employee. The Minister should determine the minimum, which has not been addressed since 2007.
15. The court is therefore tasked with applying the reasonable test to assess the proportionate expenses.
16. In this case, the applicants attached various receipts to the Supporting Affidavit to support a claim of Ksh.645, 000 for burial expenses;
  - a. Receipt dated 20 July 2023 for tents, chairs and transport for Ksh.231,600;
  - b. Receipt dated 27 July 2023 for sufurias, plates, mpishi, water, water buzzers, transport and public address at Ksh.227, 400.



- c. Receipt dated 27 July 2023 for various food items at Ksh.5, 100.
  - d. Receipt dated 26 July 2023 for various food items at Ksh.10, 000.
  - e. Receipt dated 28 July 2023 for flowers, white cloth and perfume at ksh.3, 700.
  - f. Receipt dated 26 July 2023 for various food items t ksh.168, 000.
17. Ordinarily, a burial in the traditional sense involves purchasing a coffin, transporting the body to the burial site, and allocating funds for a respectful send-off such as flowers. It would be unthinkable for a burial in the ordinary sense to include expenses like purchasing various food items similar to a wedding. This would contradict the purpose of reasonable burial costs.
18. As much as the Minister has not published the maximum reasonable burial expenses that an employer can pay, the court finds the expenses claimed exaggerated, clustered in globe figures and unable to discern what is reasonable save for the receipt dated 28 July 2023 for the purchase of flowers, while piece of cloth and perfume at ksh.3, 700 which is hereby found reasonable to award.
19. Regarding the balance of the award payable at Ksh.1,280,000, the respondent has made an immediate partial payment of Ksh.400,000 upon the assessed award. The remaining balance will be paid at 50% within 30 days, with the rest offset in two equal instalments within 90 days.
20. The claim for costs and 14% interest starting from 21 July 2023 has now been decided. Costs are payable today, and interest will only accrue if the respondent fails to settle the remaining amount within the designated timeframe specified in this ruling.
21. Accordingly, the respondent shall pay Ksh.1, 280,000 to the applicants per the DOSH award of 21 July 2023 as follows;
- a. 50% of Ksh.1,280,000 shall be paid within 30 days from the date hereof;
  - b. The balance thereof (a) above shall be paid in two equal instalments within 90 days from the date hereof;
  - c. The respondent shall pay burial expenses of Ksh.3,700;
  - d. The respondent shall pay the costs of the application;
  - e. In default (a) and (b) above, interests shall accrue based on court rates from the date hereof.

**DELIVERED IN OPEN COURT AT MOMBASA, THIS 2<sup>ND</sup> DAY OF OCTOBER 2025.**

**M. MBARŪ**

**JUDGE**

In the presence of:

Court Assistant: Japhet

..... and .....

