



REPUBLIC OF KENYA



KENYA LAW
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**Musonera & 2 others v Changalwa (Civil Appeal E284 of 2024)
[2025] KEHC 14478 (KLR) (Civ) (9 October 2025) (Judgment)**

Neutral citation: [2025] KEHC 14478 (KLR)

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

CIVIL

CIVIL APPEAL E284 OF 2024

LP KASSAN, J

OCTOBER 9, 2025

BETWEEN

KORI KENT MUSONERA 1ST APPELLANT

ANN NYAWIRA MUREITHI 2ND APPELLANT

SUMAC DTM LIMITED 3RD APPELLANT

AND

PATRICK NYONGESA CHANGALWA RESPONDENT

*(Being an appeal of the judgment of Honourable Opiyo Green Oera delivered
on 30th January 2024 in Milimani Small Claims Court Case No. E 5183 of)*

JUDGMENT

1. This is an appeal against a decision emanating from RTA in which the lower Court found the Appellant liable. I have read the relevant documents and wish to note the following)

Proceedings;

2. Pw1 a police officer testified that the Respondent motor vehicle failed to give way as it was joining the main road thus resulting into the accident. On cross examination, he said that he was at the scene. The abstract he produced showed that the Appellant was to blame. This evidence was supported by the Respondent. In his evidence, the Appellant admitted that he was joining Gitangu road and since his vehicle was a "a bit long" the Respondent who was 300-400m away did not see it. At this juncture, it is imperative to state that the rules on joining a main road are well set- that anyone using the main road has a right of way regardless as to whether the one joining the road has a longer vehicle or not. Secondly, it is almost impossible to estimate the distance in meters or kilometers of an oncoming vehicle



or motorcycle coming on your left side or right side when you are already joining the high way. The yardstick of the said estimation which traffic rules require is that the vehicle is far enough for you to join the road without interfering with its right of way. To this extend, the lower Court was correct in its finding of liability. On the issue of inspection report, a car in a good condition can as well occasion an accident as it depends on the driver and sometimes cars involved in accident may not necessarily have visible dents. Under these circumstances, the report may not be of much help.

Quantum

3. Dr Okere said that the plaintiff suffered generalized neck tenderness, swelling on both ribs and blunt head injuries which he classified as harm. These injuries are more less the same as captured by Dr Swaro. I have considered the authorities with almost similar injuries and I see no need to disturb the lower court finding in quantum.
4. The upshot of the above is that the lower Court finding is upheld. The appellant shall pay costs of this appeal

DELIVERED VIRTUALLY DATED AND SIGNED AT NAIROBI THIS 9TH DAY OF OCTOBER 2025.

HON. L P KASSAN

JUDGE

In the presence of

Miss Wairimu for the for the Appellant

No appearance for the Respondent

Carol - Court Assistant

30 days stay granted.

HON. L P KASSAN

JUDGE

