

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT KIAMBU

MISC. CIVIL APPLICATION NO. E131 OF 2024

ERIC NTABO & CO ADVOCATES.....APPLICANT

VERSUS

TRIDENT INSURANCE CO LTD.....RESPONDENT

RULING

1. What is before the court for determination is the **Notice of Motion application dated 23rd April, 2025** in which the Applicant **Eric Ntabo & Co. Advocates** is seeking the following orders:-

a) THAT the court be pleased to order that the Certificate of Taxation issued to the Applicant against the Respondent be converted into a Judgment and Decree of this court and consequently Judgment be entered for the Applicant against the Respondent for the sum of Kshs. 294,038/=.

b) That the interest does accrue on the sum of Kshs. 294,038/= at the rate of 14% per annum with effect from 16th May, 2024 until payment shall be made in full as prescribed in Paragraph 7 of the Advocates Remuneration Order.

c) THAT the Respondent do pay to the Applicant the costs of this

application in the sum of Kshs. 50,000/=

2. The application is based on the grounds as set out on its face and the Supporting Affidavit of **Eric Nyarangi Ntabo** sworn on the instant date. The Application was served upon the Respondent and an Affidavit of Service duly sworn by **Andrew Alwaka** on 16th August, 2024 to confirm that service was effected but the Respondent has not filed any response or reference. For this reason, the Applicant's counsel has sought for the application to be allowed as presented since it is unopposed. However, the court is still required to consider the application to determine whether the Application has satisfied the legal threshold required to such application.
3. It is the Applicant's case that her firm represented the Respondent but it has failed to pay his legal fees. The Applicant then filed a Bill of Costs and vide a Ruling dated 12th September, 2024, the Deputy Registrar assessed the same at Kshs. 294,038/=. Subsequently, a Certificate of Taxation dated 10th March, 2025 was issued to that effect.

Determination

4. In considering the Notice of Motion application dated 23rd April, 2025, I have read through the grounds upon which the same is premised as set on its

face and supporting affidavit sworn by **Eric Ntabo** on even date alongside the guiding statute and case law.

5. The orders sought are governed by the provision of **Schedule VI of the Advocates Remuneration (Amendment) Order, 2014** which provides for Advocates-client costs as follows:-

“As between advocate and either the minimum fees shall be—

- a) the fees prescribed in A above increased by 50%;*
- b) the fees ordered by the court increased by the 50%; or*
- c) the fees agreed by the parties under paragraph 57 of this order, increased by 50%, as the case may be, such increase to include all proper attendances on the client and all necessary correspondences.*

6. This provision is elaborated by the court in its decision in the case of **Lubulellah & Associates, Advocates –vs- N. K. Brothers Limited [2014] eKLR**, where it stated as follows:-

“The law is very clear that once a Taxing Master has taxed the costs, issued a Certificate of costs and there is no reference against his ruling or there has been a ruling and a determination made and not set aside and/or altered, no other action would be required from the court save to enter Judgment. An applicant is not required to file suit for the recovery of costs. The certificate of costs is final as to the amounts of the costs and the court would be quite in order to enter Judgment in favour of the Applicant against the

Respondent herein for the taxed sum indicated in the Certificate of Taxation that was issued on 25th November, 2012.”

7. It is trite law that once the Taxing Officer has taxed costs and issues a Certificate of Taxation but no reference is filed by the opposing party seeking to have the certificate set it aside or even alter it, then this court's duty would be to enter Judgment in favour of the Applicant against the Respondent in terms of the said Certificate.

8. In the instant case, the court finds that the application herein has met the provisions provided for under Schedule VI of the Advocates Remuneration (Amendment) Order, 2014 on legal threshold required for Advocate-client costs, and being unchallenged, the same is allowed in the following terms:-

a) THAT Judgment be and is hereby entered in favour of the Applicant against the Respondent for the sum of Kenya Shillings Two Hundred and Ninety Four Thousand and Thirty Eight Only (Kshs. 294,038) being the assessed costs due to the Applicant as against the Respondent.

b) That the interest does accrue on the sum of Kshs. 294,038 at the rate of 14% per annum with effect from 16th May, 2024 until payment shall be made in full as prescribed in Paragraph 7 of the Advocates Remuneration Order.

c) THAT the Respondent do pay to the Applicant the costs of this application in the sum of Kshs. 30,000/=

It is so ordered.

**RULING DELIVERED VIRTUALLY, DATED AND SIGNED AT KIAMBU
THIS 29TH DAY OF OCTOBER, 2025.**

**D. O. CHEPKWONY
JUDGE**

In the presence of:

M/S Masese holding brief for Mr. Ntabo counsel for the Claimant

No appearance by and for Respondent

Court Assistant – Martin/Sakina