



**Saina & another v Kenya Ordinance Factories Corporation (Employment and Labour Relations Cause E032 & E033 of 2021 (Consolidated))
[2025] KEELRC 3127 (KLR) (6 November 2025) (Judgment)**

Neutral citation: [2025] KEELRC 3127 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT ELDORET
EMPLOYMENT AND LABOUR RELATIONS
CAUSE E032 & E033 OF 2021 (CONSOLIDATED)
MA ONYANGO, J
NOVEMBER 6, 2025**

BETWEEN

BARNABAS SAINA CLAIMANT

AND

KENYA ORDINANCE FACTORIES CORPORATION RESPONDENT

AS CONSOLIDATED WITH

EMPLOYMENT AND LABOUR RELATIONS CAUSE E033 OF 2021

BETWEEN

NICOLAS BARNO CLAIMANT

AND

KENYA ORDINANCE FACTORIES CORPORATION RESPONDENT

JUDGMENT

1. Judgment in this suit was delivered on 13th June 2024 in favour of the Claimants. In the said judgment, the Court held: -

“71. Having found that the termination of the employment of the Claimants was unlawful and unfair, the Claimants are entitled to compensation. In their respective claims, the Claimants sought for various reliefs which I proceed to address below:



- a. A declaration that the termination of the Claimant's Appointment was unfair, illegal, wrongful and unlawful

The termination of the Claimants was unfair and unlawful and I declare as such.

- b. An unconditional order of reinstatement

Section 49 (3) (a) of the Employment Act provides for reinstatement if the termination or summary dismissal is found to be unfair. However, section 12 (3) (vii) of the Employment and Labour Relations Court Act provides that an order for reinstatement is only permitted within 3 years of the separation. The Claimants' employment was terminated in June 2017. It now seven years since. This prayer is therefore not available to the Claimants.

- c. Compensation for loss of employment for the past 2 months the Claimant has been unemployed, the projected years left up to the statutory age and compounded by monthly salaries.

Having found that the termination of the employment of the Claimants was unfair, this court is clothed with jurisdiction to award compensation. Section 49 of the Employment Act provides for remedies for wrongful dismissal and unfair termination. Section 49(1) (c) of the Act caps the maximum compensation for wrongful dismissal or unfair termination at twelve months of gross salary. Barno had worked from July 2007 while Saina was employed in September, 2010. Having found that the termination of their employment was on unsubstantiated grounds and taking into account the length of their service as well as all the grounds under section 49(4) of the Act, I award Mr. Saina compensation equivalent to 12 months' salary and Mr. Barno 10 months' salary.

- d. The court further orders that the Respondent refunds the monies that were surcharged to the Claimants and pays them all money and terminal benefits due to the Claimants up to the date of termination.

- e. The Respondent shall issue certificate of service to the Claimants.

- f. The Claimants are awarded costs and the decretal sum shall attract interest at Court's rates from date of judgment.

72. In view that no specific sum was claimed by the Claimants, the Respondent is directed to tabulate the amount due to the Claimants and file the same in court within 14 days after consensus with the Counsel for the Claimants. Should parties not agree each of them shall file their computation for determination by the court."

2. Pursuant to the above directive, the Respondent filed its tabulation dated 13th September 2024 indicated as hereunder: -



S/N	RELIEF	Nicholas Barno	Barnabas Saina
Compensation for loss of employment (Order of the judgment)	270,210 (Gross salary of 27,021 by 10 months)	307,452 (Gross salary of 25,621 by 12 months)	
Withheld amount (Order of the judgment)	153,900	153,900	
TOTAL		424,100	461,352

3. When the matter came up for mention on 4th June 2025, Counsel Rutto informed the court that parties had not agreed on the decretal sum payable to the Claimants.
4. The court then directed parties to file particulars of consolidated salary for both Claimants, any surcharge effected against them and withheld salary.
5. I have perused the record and did not find the said particulars.
6. From the judgment delivered on 13th June 2024, it is evident that the only monetary awards due to the Claimants were: -
 - i. Compensation for unfair termination
Barnabas Saina was awarded 12 months' salary as compensation for unfair termination and Nicholas Barno was awarded 10 months' salary.
 - ii. Refund of surcharged monies and payment of any terminal benefits due up to the date of termination.
7. The Respondent complied in part by filing the tabulation above indicating Kshs. 424,110 is due to Mr. Barno and Kshs. 461,352 due to Mr. Saina.
8. However, despite the Court's subsequent directions requiring production of particulars of consolidated salary, surcharges, and withheld amounts, no further material has been filed by either party to verify or contest the tabulation.
9. In the absence of any contrary computation or supporting documentation from the Claimants, and there being no evidence impugning the figures presented by the Respondent, the Court finds the Respondent's tabulation to be consistent with the terms of the judgment under paragraphs 71(c) and (d) thereof.
10. Accordingly, the Court adopts the Respondent's computation as the correct tabulation of the decretal sums payable to the Claimants as follows: -
 - a. Barnabas Saina
 - i. 12 months compensation for unfair termination Kshs. 307,452



- ii. Surcharged sum Kshs. 153,900
 - Total Kshs. 461,352
 - b. Nicholas Barno
 - i. 10 months salary compensation for unfair termination Kshs. 270,210
 - ii. Surcharged sum Kshs. 153,900
 - Total Kshs. 424,100
- 11. The decretal sums shall attract interest at Court rates from 13th June 2024, being the date of judgment, until payment in full.
- 12. The Respondent shall issue certificates of service to the Claimants forthwith in compliance with paragraph 71(e) of the judgment.
- 13. Each party shall bear its own costs in respect of this tabulation phase.

DATED, DELIVERED AND SIGNED THIS 6TH DAY OF NOVEMBER, 2025.

M. ONYANGO

JUDGE

