



**Langat v Orangi (Civil Appeal E004 of 2024)
[2025] KEHC 16853 (KLR) (19 November 2025) (Judgment)**

Neutral citation: [2025] KEHC 16853 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT BOMET
CIVIL APPEAL E004 OF 2024
JK NG'ARNG'AR, J
NOVEMBER 19, 2025**

BETWEEN

PAUL KIMUTAI LANGAT APPELLANT

AND

STEPHEN MONGARE ORANGI RESPONDENT

*(Being an Appeal from the Judgment of Resident Magistrate, Michuki
M. at the Magistrate's Court at Sotik, Civil Suit Number E135 of 2022)*

JUDGMENT

1. The Appellant (then Plaintiff) sued the Respondent (then Defendant) for general and special damages that arose from a road traffic accident on 18th April 2022. In its Judgment delivered on 13th March 2024, the trial court dismissed the suit.
2. Being aggrieved with the Judgment of the trial court, the Appellant filed his Memorandum of Appeal dated 16th March 2024 appealing against the apportionment of liability and the award on damages.
3. My duty as the 1st appellate court is to re-evaluate and re-examine the evidence in the trial court and come to my own findings and conclusions, but in doing so, to have in mind that I neither heard nor saw the witnesses testify.
4. I hereby proceed to summarise the case in the trial court and the parties' respective submissions in the present Appeal.

The Plaintiff's/Appellant's case.

5. Through his Complaint dated 4th August 2022, the Appellant stated that he was a pillion passenger on motorcycle registration number KMFQ 895U along Bomet-Kaplong Road when they were hit by motor vehicle registration number KAR 823F that belonged to the Respondent.



6. It was the Appellant's case that the Respondent was negligent in causing the accident. The particulars of the negligence were stated in paragraph 6 of the Plaint. That as a result of the accident, the Appellant suffered the following injuries: -
 - i. Deep cut wound on the face.
 - ii. Chest pain.
 - iii. Shoulder injuries on both upper limbs.
 - iv. Dislocation on the lower limb.
7. The Appellant prayed for special and general Damages against the Respondent.
8. Through his written submissions dated 6th October 2025, the Appellant submitted that the Respondent was 100% liable for causing the accident and relied on *Rural Electrification Authority v Shason Ole Leuka (2017) eKLR*. That he presented evidence that the Respondent's motor vehicle entered the junction without a proper look out. The Appellant further submitted that the driver of the motor vehicle did not stay in his lane to avoid hitting oncoming motor vehicles.
9. It was the Appellant's submission that he pleaded and proved special damages. On general damages, he proposed an award of Kshs 200,000/= and relied on *Emmanuel Ithau Nyamal v Paul Kipsang Samoei (2021) eKLR*.

The Defendant's/Respondent's case.

10. Through his statement of defence dated 3rd November 2022, the Respondent denied the occurrence of the accident on 18th April 2022 and further denied being the registered owner of motor vehicle registration number KAR 823F.
11. It was the Respondent's case that if the accident occurred then it was caused by the negligence of the Respondent and the rider of the motorcycle. The particulars of negligence were contained in paragraphs 7 and 8 of the Defence.
12. Through his written submissions dated 15th July 2025, the Respondent submitted that it was incumbent on the Appellant to prove negligence against him and he failed. He relied on *Kiema Mutuku v Kenya Cargo Handling Services Ltd (1991) KAR 464* and sections 107 and 108 of the *Evidence Act*. The Respondent further submitted that the authenticity of the Appellant's oral evidence as to the circumstances of the accident could not be guaranteed. Further, that the Police Officer did not produce the Occurrence Book and the original court file in court as evidence. He relied on *Lochab Brothers Ltd v Johana Kipkosgei Yegon (2017) eKLR*.
13. It was the Respondent's submission that the Appeal lacked merit as the Appellant failed to discharge his burden of proof and that the trial court was correct in dismissing the suit. It was the Respondent's further submission that if the court was inclined to find in favour of the Appellant, then liability ought to be rationed at 70:30 in favour of the Respondent. On general damages, the Respondent proposed an award of Kshs 100,000/= and he relied on *Eva Karemi & 5 others v Koskei Kieng & another (2020) eKLR*, *Losagi Insurance Brokers Limited & another v Josephat Achesa Chumbali (2022) eKLR et.al*.
14. I have gone through and carefully considered the Record of Appeal dated 7th February 2025, the Appellants' written submissions dated 6th October 2025 and the Respondent's written submissions dated 15th July 2025. The only issue that I have sieved for my determination was whether the trial court erred in its findings on liability and quantum.



15. In regards to liability, it was agreed by parties in the trial court on 22nd June 2023 that Civil Suit Number E134 of 2022 (now Civil Appeal Number E003 of 2024) would be used as the test suit in regards to apportionment of liability. I have found the Appellant in Civil Appeal Number E003 of 2024 to be 50% liable for causing the accident. The same applies to this case and it is my finding therefore that liability in the present case is apportioned at the ratio of 50:50 between the Appellant and the Respondent.

Quantum

16. The Appellant pleaded the following injuries: -
- a. Deep cut wound on the face.
 - b. Chest pain.
 - c. Shoulder injuries on both upper limbs.
 - d. Dislocation on the lower limb.
17. PW1 produced a Medical Report dated 5th November 2022 and a P3 Form as P. Exh 1a and 3 respectively. I have looked at the exhibits and I have confirmed that the Appellant suffered the injuries listed above which in their nature were soft tissue injuries.
18. For this court to interfere with an award, it must be satisfied that the trial magistrate misdirected himself in some manner and as a result arrived at a wrong decision, or that it was clear from the case as a whole that the trial magistrate was clearly wrong in the exercise of his discretion and that as a result there has been a miscarriage of justice. See *Catholic Diocese of Kisumu v Tete* (2004) eKLR.
19. In the present case, the Appellant proposed an award of Kshs 200,000/= while the Respondent proposed an award of Kshs 100,000/=. The trial court held that had the Appellant's claim been successful, it would have awarded Kshs 80,000/= as general damages.
20. It is judicial practice that the general approach in awarding damages for injuries is that comparable injuries should as far as possible be compensated by comparable awards.
21. In addition to the authorities cited by the parties in their respective submissions, I have found the following cases quite helpful in terms of comparison: -
- I. In *Buds and Bloom Ltd v Lawrence Emusugut Obwa* [2016] KEHC 5392 (KLR), the lower court had awarded Kshs. 70,000/= for a deep cut wound on the left leg and soft tissue injuries on the leg. On appeal the High court reduced the award to Kshs. 50,000/=.
 - II. In *Kipkebe Limited v Peterson Ondieki Tai* [2016] KEHC 5422 (KLR), the trial court awarded Kshs. 100,000/= for deep cut wound on the left leg, chest contusion and bruises on the left shoulder. On appeal the High Court substituted the award with Kshs. 30,000/=.
 - III. In *Michael Okello v Priscilla Atieno* [2021] KEHC 7266 (KLR), the Respondent suffered injuries to the right shoulder, chest, back and to the left leg with hematoma. The court reduced the award of Kshs 500,000/= to Kshs 250,000/=.
 - IV. In *PF (Suing as next friend and father of SK (Minor) v Victor O Kamadi & another* [2018] KEHC 142 (KLR), the Appellant had sustained:- cut wound on the forehead, multiple small abrasions to the face, blunt injury to the head leading to loss of consciousness for some time, abrasions to the back, abrasion wounds to the dorsum of the right hand and cut wound to the



right leg. On appeal, High Court substituted the lower court's award of Kshs. 50,000/= with an award of Kshs. 100,00/= as general damages.

22. I have considered the authorities above alongside the parties' submissions and the nature of the injuries suffered by the Appellant. I have also considered the current inflation rates and I hereby award of Kshs 150,000/= as general damages. This award in my view is commensurate to the injuries suffered by the Appellant.
23. In regards to the special damages, the Appellant pleaded Kshs 8,139/= for the Medical Bill, Kshs 5,000/= for the Medical Report, Kshs 550/= for motor vehicle search, Kshs 3,000/= for transport and Kshs 420/= for postage fee. I have seen the receipt for the Medical Report (P. Exh 1b), motor vehicle search receipt (P. Exh 2b) and medical treatment fee (P. Exh 6). There was no evidence of transport expenses incurred and the postage fee. I hereby award Kshs 13,689/= as special damages.
24. In the final analysis, I have found that there is need for this court to interfere with the Judgement of the trial court. The final computation is as below: -
- General Damages Kshs 150,000/=
- Special Damages Kshs 13,689/=
- Total Kshs 163,689/=
- Less 50% liability Kshs 81,844.50/=
- Total Kshs 81,844.50/=.
25. In the end, the Appeal dated 16th March 2024 is successful and the Appellant is awarded a net sum of Kshs 81,844.50/=. Each party shall bear their own costs in this Appeal.

JUDGEMENT DELIVERED, DATED AND SIGNED AT BOMET THIS 19TH DAY OF NOVEMBER, 2025.

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HON. J.K.NG'ARNG'AR

JUDGE

Judgement delivered in the presence of;

Siele and Susan (Court Assistants).

No appearance for the Appellant

M/s Karanja for the Respondent

