



**Mashline Agencies (K) Limited v Chalinga (Civil Appeal E084 of 2023)  
[2025] KEHC 16048 (KLR) (7 November 2025) (Judgment)**

Neutral citation: [2025] KEHC 16048 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT MAKUENI  
CIVIL APPEAL E084 OF 2023  
TM MATHEKA, J  
NOVEMBER 7, 2025**

**BETWEEN**

**MASHLINE AGENCIES (K) LIMITED ..... APPELLANT**

**AND**

**DOUGLAS ISAAC CHALINGA ..... RESPONDENT**

**JUDGMENT**

1. Douglas Isaac Chalinga filed Makindu SRMCC 72/2018 suing for special and general damages for pain suffering and loss of amenities, following a road traffic accident that occurred along Nairobi Mombasa Road on 29/4/2015.
2. He sustained injuries : - Fracture of the right Clavicle and Soft tissue injuries.
3. As a result of the fracture treatment included metal implants and it was recommended that he would require future surgical interventions for removal of implants at Kshs. 250,000.
4. Parties entered into consent at 20:80 in favour of the respondent on liability.
5. Parties filed submissions on the issue of general damages.
6. It appears to me that the issue of the future medicals was not contested.
7. The trial court in its judgment awarded general damages for pain and suffering, loss of amenities at Kshs. 700,000. Less 20% contribution it came to Kshs. 560,000
8. The appellant was aggrieved filed his appeal on the grounds generally that the award was too high and excessive considering the injury sustained by the respondent .
9. The respondent stands ground that the award does not in any way fall within the parameters set out in precedents that call for its disturbance:- too high, too low, on wrong principle, without evidence, etc.



10. Both sides have cited several authorities to support their respective positions which I have considered
11. I have carefully considered the submissions and it is not in doubt that the respondent sustained fracture of the left clavicle – the other injuries were considered soft tissue.
12. A medical examination in 2019 found that the injury had healed, the shoulder joint was back to normal and there was no pain. Hence though the implants were in situ the injury had healed.
13. The trial court relied on UAP Assurance Ltd and 2 others Vs Racheal Warigia Ndungu [2022]eKLR where the plaintiff suffered fracture of the right clavicle, 10% permanent incapacity and an award of Kshs. 650,000 was made.
14. Reading through the judgment of the learned trial court I noted that the court observed that that plaintiff had submitted for Kshs. 1m, and the defendant for Kshs. 400,000. I also noted that there was no discussion of the authorities so as to support the reliance on this specific authority and not the others.
15. In this case the defendant also cited; Board of Management Sasura Girls Secondary School & Another Vs Grace Wangari Mwangi [2021] eKLR – where a sum of Kshs. 350,000 was awarded for the fracture of right clavicle among other injuries.
16. I considered this authority and the one the trial court relied on which was cited by the plaintiff. I noted that in the UAP case the plaintiff was awarded 10% permanent disability which was not the case in this case and though about a similar injury, was distinguishable for this case – It is my view that with that distinction – the authority did not present similar injury.
17. Looking at the two comparable authorities - I find that Kshs. 700,000 was excessive and ought to be reviewed. I find that the sum of Kshs. 500,000 would be appropriate for the injury sustained by the respondent.
18. In the circumstances the judgment of the subordinate court is set aside and substituted as follows;  
General Damages Kshs. 500,000  
less 20 % Kshs. 100,000  
Kshs. 400,000  
Plus future medicals Kshs. 250,000  
Total Kshs. 650,000  
  
Judgment be and is hereby entered for the respondents in the sum of Ksh 650,000. The respondent will have interest for the date of the judgment in the subordinate court –  
  
The appellant will have ½ the costs of the appeal.

**DATED, SIGNED AND DELIVERED VIA CTS THIS 7<sup>TH</sup> NOVEMBER 2025**

**MUMBUA T. MATHEKA**

**JUDGE**

CA Chrispol

