



**Waweru & another v Chege (Civil Appeal E233 of 2024)
[2025] KEHC 15760 (KLR) (Civ) (3 November 2025) (Judgment)**

Neutral citation: [2025] KEHC 15760 (KLR)

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

CIVIL

CIVIL APPEAL E233 OF 2024

WM MUSYOKA, J

NOVEMBER 3, 2025

BETWEEN

SIMON WAWERU 1ST APPELLANT

MARY WANJIRA GUCHU 2ND APPELLANT

AND

JOSEPH MWANGI CHEGE RESPONDENT

(Appeal from the judgement and decree, of Hon. R. Musiega, Senior Resident Magistrate, of 19th December 2022, in Milimani CMCCC No. 8643 of 2017)

JUDGMENT

1. The suit, at the primary court, was by the respondent, against the appellants. The claim was for compensation, for pain and suffering, following a road traffic accident, on 1st May 2015, involving the respondent and a motor vehicle registration mark and number KCB 126y, owned and controlled by the appellants. The respondent alleged negligence on their part.
2. The appellants resisted the claim. They denied the allegations made in the plaint, but pleaded that, should the accident be established to have had occurred, the same must have been caused by the sole negligence of the respondent, or he must have contributed to the same.
3. A trial was conducted. Evidence was taken from the respondent. The appellants did not participate at the hearing. Judgement was delivered, on 18th March 2022. Liability was assessed at 100%, against the appellants. General damages were assessed at Kshs. 1,600,000.00, future medical expenses at Kshs. 150,000.00, special damages at Kshs. 750,507.00, plus costs and interests.



4. The appellants were aggrieved, hence this appeal. They challenge the judgement on the basis that the injuries sustained were not proven to the required standard; the decretal award of Kshs. 2,500,507.00 was excessive; their submissions were not considered; and conventional awards were not considered.
5. Directions were taken, on 24th September 2024, for canvassing of the appeal, by way of written submissions. Only the respondent filed written submissions, which I have read. They largely support the judgement of the trial court.
6. This is a case where the appellants have shown scant interest in the matter. After the suit was initiated at the trial court, they were served. They did not appear, nor file defence, and interlocutory judgement was entered, and the matter proceeded to formal proof, where a judgement was delivered, awarding Kshs. 2,706,507.00 in all, plus costs and interests. Thereafter the appellants sought and obtained the setting aside of that judgement. The ruling on that was delivered on 8th November 2019. In that ruling, the trial court found that the appellants had been properly served. Throwaway costs were imposed.
7. The appellants attended court only once thereafter, on 22nd July 2020, when the matter was fixed for pre-trial, on 27th August 2020. They did not attend the pre-trial conference, on 27th August 2020. They did not attend court at the appearances that followed thereafter, on 26th October 2020, 17th July 2021 and 20th May 2021. The hearing was conducted on 10th August 2021, in their absence.
8. That same script has played out at the High Court, upon the filing of the instant appeal by them. They attended court only on 2 occasions, out of the 6 appearances. They were present on 24th September 2024, when directions were taken, for written submissions. They did not attend court on 9th September 2025, when the date for judgement was fixed. They did not file written submissions.
9. As the appellants have not argued their appeal, there shall be no need to consider it on its merits. What I shall do is to dismiss it, as I hereby do, and affirm the judgment of the trial court. The respondent shall have the costs of the appeal. The original trial court records shall be returned to the trial court, while the appeal file herein shall be closed. Orders accordingly.

DELIVERED, VIA EMAIL, DATED AND SIGNED IN CHAMBERS, AT BUSIA, ON THIS 3RD DAY OF NOVEMBER 2025.

WM MUSYOKA

JUDGE

Mr. Arthur Etyang, Court Assistant, Busia.

Mr. Michael Onyango, Court Assistant, Milimani, Nairobi.

Advocates

Mr. Muraru, instructed by Kimondo Gachoka & Company, Advocates for the appellants.

Ms. Mwadumbo, instructed by Angela Mwadumbo Law, Advocates for the respondent.

