



**Muiruri v Waweru (Civil Appeal E1291 of 2024)
[2025] KEHC 17386 (KLR) (Civ) (27 November 2025) (Judgment)**

Neutral citation: [2025] KEHC 17386 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
CIVIL
CIVIL APPEAL E1291 OF 2024
LP KASSAN, J
NOVEMBER 27, 2025**

BETWEEN

CICILY MUTHONI MUIRURI APPELLANT

AND

MOSES GACII WAWERU RESPONDENT

JUDGMENT

1. This is an appeal against an award of quantum by the lower Court that emanated from a toad traffic accident. The parties had recorded a consent on liability. The issue of quantum is basically decided by looking at medical reports, evidence on record and decided cases.
2. Doctor Okere indicated in his report that the Plaintiff suffered blunt head injury with brain concussion, chest pains and a fracture of the right tibia and fibula. He assessed degree of permanent injury at 30 percent. This report has the same finding with that of Dr Owuor save that the fractures of the right tibia and fibula were classified as "multiple" and that the Plaintiff had an impaired left eye vision which requires visual aid. I have read the evidence and authorities with almost similar injuries. The most serious injuries are the fractures and impaired vision. Taking into consideration factors such as inflation, I shall award damages on this limb at Ksh 1,200,000.
3. The trial Magistrate awarded damages under diminished earning capacity at Ksh 2,117,372. There was no document to prove that the Plaintiff who was 52 years old was working as a mason at the time with daily wages of Ksh 2,000. The award of permanent incapacity was 30 percent meaning that the Plaintiff was not totally incapacitated. In circumstances like this where there is no clear prove of earning, Courts have either embraced an award under global award or minimum wage. Assuming that the Plaintiff was earning Ksh 10,000 a month being the minimum wage and the 30 percent incapacity is applied, his loss in a month would be Ksh 3300 which translates to Ksh 38,600 in a year. The Plaintiff was 52 years



at the time of injury and so with a multiplier of 5 years, the total would be Ksh 193,000- and this is what I award the Plaintiff.

4. The upshot of the above is that the Appeal partially succeeds in respect to the damages on diminished working capacity which I hold at Ksh 193,000 and general damages at 1,200,000. The rest remains the same. Each party shall bear own costs of this appeal.

DATED, DELIVERED VIRTUALLY AND SIGNED ON THIS 27TH DAY OF NOVEMBER 2025.

HON L P KASSAN

JUDGE

In the presence of;

Waweru holding brief Ongeri for Appellant

Machoki for Respondent

Carol – Court Assistant

Stay of 30 days granted

