



**Lang'at v Wabobia & another (Civil Appeal E1130 of 2023)
[2025] KEHC 18196 (KLR) (Civ) (3 December 2025) (Judgment)**

Neutral citation: [2025] KEHC 18196 (KLR)

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

CIVIL

CIVIL APPEAL E1130 OF 2023

WM MUSYOKA, J

DECEMBER 3, 2025

BETWEEN

WELDON KIPTOO LANG'AT APPELLANT

AND

DENNIS GITAU WABOBIA 1ST RESPONDENT

CHINA ROAD & BRIDGES CORPORATION LIMITED 2ND RESPONDENT

*(Appeal from the judgement and decree of Hon. ZK Kagenyo, Adjudicator/
Resident Magistrate, of 13th October 2023, in Milimani SCCC No. E2178 OF 2023)*

JUDGMENT

1. The claim, at the Small Claims Court was by the appellant, against the respondents. The appellant was working, at premises owned by the 2nd respondent, when he was run over, by a vehicle owned by the 2nd respondent, driven by the 1st respondent, who was a driver or agent of the 2nd respondent. He was injured, and sought compensation. The respondents resisted the claim, by denying liability, and attributing negligence on the appellant, in the alternative.
2. The proceedings were conducted on the basis of section 30 of the *Small Claims Court Act*, Cap 10A, Laws of Kenya, on the basis of documents only. A judgement was delivered, or a determination was made, on 31st November 2023, dismissing the claim, on the basis that it was an employment and labour relations case.
3. The appellant was aggrieved, hence the appeal. The appellant faults that determination, on the basis that the trial court misapprehended the evidence, particularly in finding that the dispute fell within the realm of employment and labour relations; misapprehended the law and facts in finding that the



- appeal had been filed at the wrong forum; failing to make a finding on liability; failing to pronounce general damages; and erred in ordering the parties to share costs.
4. Directions were taken, on 2nd May 2025, for disposal of the appeal by way of written submissions. Both sides have filed written submissions, which I have read and noted the arguments made.
 5. The facts of the instant case highlight the folly of proceeding under section 30 of the [Small Claims Court Act](#), by way of documents only, where liability has to be assessed, between the driver of a motor vehicle and a pedestrian, or a person in a like position. Such cases would require oral evidence, where both sides should avail witnesses to give a narrative of what exactly transpired. Evidence on how the accident happened cannot possibly be gotten from the sort of documents the appellant was relying on, the police abstract and the P3 form. Without oral evidence being presented, there was no way the trial court was going to assess liability.
 6. Secondly, this was a claim brought under the [Small Claims Court Act](#). By dint of section 34(1) of the [Small Claims Court Act](#), such matters are determined within 60 days of the filing of the claim. The claim herein was filed on 18th May 2023. The 60 days expired on 18th July 2023. The claim should have been determined on or before 18th July 2023. The copy of the judgement on record, in the record of the trial court, bears 2 dates, 13th October 2023 and 31st December 2023. I cannot tell which date is the effective date. Whatever is the case, the said determination was a nullity, as it came outside the 60 days allowed by section 34(1) of the [Small Claims Court Act](#). The appeal challenges that judgement or determination, on its merits, and, as it was an invalid judgment or determination, it would not be available for challenge on its merits. The appeal is, therefore, without foundation.
 7. Thirdly, the accident allegedly happened when the appellant was knocked down by a vehicle at his place of work, by a vehicle belonging to the owner of the premises. The issue raised by the appellant is that he was not an employee of the respondent, hence the matter of a labour relations dispute would not arise. He was there as an employee of an independent contractor. That issue would have resolved itself, if a formal trial was conducted, by way of a viva voce hearing, for the facts would have come out at the oral hearing. No trial or hearing was conducted on the issue, hence there was no basis upon which the trial court could make a determination on it.
 8. As the jurisdiction of the trial court lapsed before it could dispose of the matter, there is no valid appeal for me to determine.
 9. In view of the above, and to do justice to the parties, I do hereby direct, in exercise of supervisory powers, under Article 165(6)(7) of [the Constitution](#), that the suit at the trial court, being Nairobi SCCCOMM No. E217 of 2023, as it is still viable, be transferred, under section 18 of the [Civil Procedure Act](#), Cap 21, Laws of Kenya, to the Magistrate Court, at the Milimani Commercial Courts, for hearing and disposal. Orders accordingly.

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

WM MUSYOKA

JUDGE

Mr. Arthur Etyang, Court Assistant, Busia.

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

Advocates

Ms. Anyango, instructed by Onyango & Aywa, Advocates for the appellant.



Mr. Muhoro, instructed by VM & A Advocates LLP, Advocates for the respondent.

