



REPUBLIC OF KENYA
IN THE SMALL CLAIMS COURT AT VOI
SC CC NO. E065 OF 2025.

**MAXWELL
KIPKURUI.....
....CLAIMANT**

-VERSUS-

**REENAH KENYA LTD.....
RESPONDENT**

JUDGEMENT.

INTRODUCTION.

- 1)** By a statement of claim dated 16/9/2025 the claimant prays for the following prayers;
 - a) General damages for pain and suffering.
 - b) Future medical expenses of Kshs.329,520/=
 - c) Special damages of Kshs.3,550/=
 - d) Costs and interests

- 2)** The claimant avers that on or about 26/8/2025 AT 2030 hours the claimant was a lawful pedestrian along the Mwatate-Voi road and as he approached Voi girls junction the respondent's authorized agent and servant and/or driver so negligently drove and/or managed and/or controlled the motor vehicle registration number KBU 568J that was over speeding and as a result lost control and rammed into motor vehicle registration number KCM 862L from the rear which in turn was pushed forward and hit the claimant and as a consequence thereof the claimant sustained serious injuries to wit laceration to the scalp,

cut wound to the left leg and left mid shaft tibia and fibular fracture which he holds the respondent wholly liable for.

- 3) The claimant has pleaded particulars of negligence on the part of the respondent and which in his view led to the occurrence of the accident.
- 4) The matter proceeded by way of documents after parties reached a consent on liability in the ratio of 90:10 in favour of the claimant as against the respondent. I have perused and considered the documents and pleadings as filed as well as the submissions filed.

ISSUE FOR DETERMINATION.

- a) **Whether the Respondent is liable for the accident.**
- b) **What is the quantum of damages awardable if any.**
- c) **Who bears costs of the claim.**

ANALYSIS AND DETERMINATION.

- a) **Whether the respondent is liable for the accident.**

- 5) As already stated a consent order on liability was adopted by this court in the ratio on 90:10 in favour of the claimant as against the respondent and that is the judgment of the court on liability.

- b) **What is the quantum of damages awardable if any.**

- 6) It is the claimant's case that as a result of the accident he suffered the following injuries; wit laceration to the scalp, cut wound to the left leg and left mid shaft tibia and fibular fracture.
- 7) A perusal of the medical documents and the P3 filed and the medical report dated 3/9/2025 confirm the injuries and opine that the nature of injuries were assessed as greivous harm which resulted to significant physical pain and psychological distress. He concluded that there was a possibility of a temporary partial disability for approximately 3months and that the injuries will predispose him to a risk of long-term complications including left leg pain, gait abnormalities and reduced functional capacity of the affected limb.
- 8) It is trite law that no two cases can be completely similar but it is a settled principle that comparable injuries should attract comparable awards and courts simply exercise discretion in terms of awards to be

given but with the guidance of earlier decided cases that handled almost similar injuries. See the case of **Odinga Jacktone Ouma vs Moureen Achieng Odera [2016] eKLR**. The claimant has on his part proposed Kshs.900,000/= as compensation.

9) In the case of [RAZI AMIN KULATEN vs 1.CLAUS KRUGER 2.ROSEMARY NYAKINYUA \[2004\] KEHC 2239 \(KLR\)](#) the high court awarded Kshs.600,000/= for the following injuries and a further Kshs.250,000/= for future medical expenses as advised by the doctor ;

- (1) Fracture of tibia/fibula and patella on the right leg.
- (2) Potts fracture on left ankle.
- (3) Severe strain with rupture of cruciate ligaments (left knee)
- (4) Fracture of metatarsal bone (left foot)

10) In the case of **Sammy Mugo Kinyanjui & Ano.-vs-Kairo Thuo (2017) eKLR**, the Respondent sustained a slight tenderness in the forehead, neck, chest, abdomen, right knee and both legs, fracture of the right tibia, fracture of the left tibia and fibula. The trial court award of Kshs 1,000,000/= was set aside and substituted with Kshs 600,000/=.

11) Having looked at the decided cases, the nature of injuries sustained by the claimant and taking into consideration the effluxion of time, I award the claimant Kshs.500,000/=

12) On special damages, Kshs.3,550/= has been pleaded. That is for medical report, medical expenses and motor vehicle search. The same have been proved by way of receipts and are allowed.

13) There is a further prayer for future medical expenses at Kshs.329,520/=. These costs have been explained in details in the medical report and being from a specialist and being reasonable in the circumstances, they have been proved to certain degree of certainty and they are allowed as prayed

c) Who bears costs of the claim?

14)The claimant having been successful in the matter and that costs follow events she is awarded costs of the claim.

CONCLUSION AND DISPOSITION.

15) The upshot of the foregoing I make the following final orders;

a) The claim contained in the statement of claim dated 16th September 2025 is allowed in the following terms.

Liability	90:10
General damages	Kshs.500,000/=
Special damages	Kshs. 3,550/=
Future medical expenses	Kshs.329,520/=
Sub total	Kshs.833,070/=
Less 10% contributory	Kshs.83,307/=
<u>Grand Total</u>	<u>Kshs.749,763/=</u>

b) The claimant is awarded costs and interests from the date of judgment until payment in full.

c) Let the file be closed forthwith.

16) Orders accordingly.

DATED, SIGNED AND DELIVERED VIRTUALLY AT VOI SMALL CLAIMS COURT THIS...10th.....DAY OF ...December...2025

**F.M. MULAMA
ADJUDICATOR/RM**

In the presence of:

Court Assistant:- Vivian Wambui.

Kiwinga for the Claimant.

Mugo for the respondent.