



**REPUBLIC OF KENYA**  
**IN THE SMALL CLAIMS COURT AT VOI**  
**SC CC NO. E064 OF 2025.**

**PANTALEO NGURA  
MWAMACHI.....CLAIMANT**

**-VERSUS-**

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

**JUDGEMENT.**

**INTRODUCTION.**

- 1)** By a statement of claim dated 11/9/2025 the claimant prays for the following prayers;
  - a) General damages for pain and suffering.
  - b) Future medical expenses of Kshs.38,400/=
  - 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 lawfully driving motor vehicle registration number KCM 862L along the Mwatate-Voi road and as the claimant approached Voi girls junction he slowed down and indicated his hazards as there was a vehicle that was ahead of him that was being pushed off the road by pedestrians when the respondent's driver and/or agent so negligently drove, managed and/or controlled motor vehicle registration number KBU568J such that the vehicle while over speeding lost control and rammed into motor vehicle registration number KCM 862L from the rear which was in turn was pushed forward and hit the said pedestrians and as a consequence thereof the claimant sustained soft tissue injury

to the posterior aspect of the neck 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 recorded a consent on liability in the ratio on 90:10 in favour of the accused. I have thus 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 this has been settled by the consent on liability in the ratio on 90:10 in favour of the complainant which consent is adopted as an order and 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 soft tissue injury of the posterior aspect of the neck.
- 7) A perusal of the medical documents and the P3 filed and the medical report dated 2/9/2025 confirm the injuries and opine that the nature of injuries were soft tissue injury of the posterior aspect of the neck that was assessed as harm. He further opined that the claimant will experience temporal partial disability for approximately 2 weeks and that the injuries will predispose him to chronic neck pain and neck stiffness with reduced range of motion.
- 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.350,000/= as compensation.

**9) In George Kinyanjui T/A Climax Coaches & Another Vs Hussein Mahad Kuyale (2016) eKLR** the trial court had awarded Kshs. 650,000/= for tenderness on the posterior neck, chest, lumbo saxral spine, left shoulder and knee. On appeal Kimondo J reduced the award to Kshs. 120,000/=.

**10) Kitale Hauliers Ltd vs Winston Wanyonyi Lugulu, Bungoma HCCA No. 106 of 2011,** in which the appellant had sustained soft tissue injuries in the form of neck pains, chest contusion, low back pains, painful swelling on the right shoulder, cut wound over the right leg and laceration over the right leg. The injuries had healed with no permanent incapacity. The lower court had awarded Kshs. 600,000/=. On the High Court reduced the award to Kshs. 300,000/=.

**11) Anas Baraza Vs Jesca Olala Kanani & Another Bungoma HCCA No. 62 of 2008** where the 1<sup>st</sup> respondent had sustained painful shoulder joint, painful neck, pain on the chest and right foot. The lower court awarded Kshs. 380,000/= in general damages. On appeal the High court reduced the award to Kshs. 250,000/-.

**12)** Having looked at the decided cases aforementioned, the nature of injuries sustained by the claimant and taking into consideration the effluxion of time, I award the claimant Kshs.350,000/=

**13)** 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.

**14)** There is a further prayer for future medical expenses at Kshs.38,400/=. 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?**

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

## **CONCLUSION AND DISPOSITION.**

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

**a) The claim contained in the statement of claim dated 11<sup>th</sup> September 2025 is allowed in the following terms.**

<b>Liability</b>	<b>90:10</b>
<b>General damages</b>	<b>Kshs.350,000/=</b>
<b>Special damages</b>	<b>Kshs. 3,550/=</b>
<b>Future medical expenses</b>	<b>Kshs.38,400/=</b>
<b>Sub Total</b>	<b>Kshs.391,950/=</b>
<b>Less 10% contribution</b>	<b>Kshs.39,195/=</b>
<b><u>Net total</u></b>	<b><u>Kshs.352,755/=</u></b>

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

**c) Let the file be closed forthwith.**

**17)** Orders accordingly.

**DATED, SIGNED AND DELIVERED VIRTUALLY AT VOI SMALL CLAIMS COURT THIS...10<sup>th</sup> .....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.