

REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT
NAIROBI

CAUSE NO. 2209 OF 2017

(Before Hon. Lady Justice Agnes Kitiku Nzei)

PATRICK MUOKA MUTHINI & 9 OTHERS.....CLAIMANT

VERSUS

TOUCH DOWN TOURS LIMITEDRESPONDENT

RULING

1. This Court, **(Dr. Jacob Gakeri, J)** delivered a Judgment in this matter on 1st February, 2024, and entered Judgment in favour of the Claimants in the following terms:-

“89. In the upshot, judgment is entered in favour of the Claimants against the Respondent as follows:-

- (a) Declaration that termination of the Claimant’s employment was unfair.*
- (b) One month’s salary in lieu of notice.*
- (c) Equivalent of 4 months’ salary for the 1st Claimant.*

(d) *Equivalent of 2 months' salary for the 2nd, 3rd, 4th, 5th, 6th, 7th, 8th and 9th Claimants.*

(e) *Costs of this suit.*

(f) *Interest at Court rates from the date hereof till payment in full."*

2. According to the said Judgment, the Hon. trial Judge did **not** state and/or calculate and state the amounts payable to each of the Claimants. Without such specifics in the Judgment, the Judgment delivered as aforesaid is **incomplete**.

3. The awarded costs of the suit are shown to have been taxed at **Kshs.201,610/=** vide the Taxing Officer's Ruling delivered on **24th October, 2024**.

4. Subsequently, the Claimants filed a Notice of Motion dated **15th November, 2024** seeking the following Orders:-

*1. That the Honourable Court do **adopt** the monetary amounts calculated **pursuant** to the Judgment of the Court as the decretal amount being:-*

1st Claimant

(a) One Month salary in lieu of notice

Kshs.40,000/=

(b) 4 month's salary.....

Kshs.120,000/=

Total

Kshs.160,000/=

2nd Claimant

(a) One month salary in lieu of notice

Kshs.20,000/=

(b) 2 months' salary

Kshs.40,000/=

Total

Kshs.60,000/=

3rd Claimant

(a) One month salary in lieu of notice

.....Kshs.25,000/=

(b) 2 months' salary

.....Kshs.50,000/=

Total

Kshs.75,000/=

4th Claimant

(a) One month salary in lieu of notice
.....Kshs.20,000/=

(b) 2 months' salary
Kshs.40,000/=

Total

Kshs.60,000/=

5th Claimant

(a) One month salary in lieu of notice
Kshs.20,000/=

(b) 2 months' salary
Kshs.40,000/=

Total

Kshs.60,000/=

6th Claimant

(a) One month salary in lieu of notice
.....Kshs.20,000/=

(b) 2 months' salary
Kshs.40,000/=

Total

Kshs.60,000/=

7th Claimant

(a) One month salary in lieu of notice
.....Kshs.20,000/=

(b) 2 months' salary.....Kshs.40,000/=

Total

Kshs.60,000/=

8th Claimant

(a) One month salary in lieu of notice
.....Kshs.20,000/=

(b) 2 months' salary

.....Kshs.40,000/=

Total

Kshs.60,000/=

9th Claimant

(a) One month salary in lieu of notice
.....Kshs.20,000/=

(b) 2 months' salary

.....Kshs.40,000/=

Total

Kshs.60,000/=

2. That costs of the application be in cause.

5. The application is supported by a supporting affidavit of **Namada Simoni Advocate** sworn on 15th November, 2025, and sets out on its face some two grounds upon which it is predicated:-

(a) The Judgment has no figures as compensation to the applicants.

(b) The decree issued on 6th November, 2024 is not executable since it has no figures.

6. The foregoing is the application that has been placed before me for determination, and the Respondent is **not** shown to have filed any response to the same.

7. On **3rd March, 2025**, I gave the following Orders:-

“(1) Let this matter be mentioned before the **Principal Judge (Court No. 1)** for directions on the possibility of the matter herein being forwarded to the **Hon. Justice Gakeri**, in view of the Orders being sought regarding the Judge’s Judgment delivered on **1st February, 2024**.

(2) Mention before **Court No. 1 on 25th March, 2025.**

(3) Notice to issue, and an affidavit of service to be filed.”

8. According to the Court’s record, when Counsel for both parties appeared before the **Hon. Principal Judge on 8th May, 2025, they recorded a consent in the following terms:-**

“(1) By consent, the Judge who replaced Dr. Gakeri, J to hear and determine the application and all consequential processes.

(2) Mention in Court 8 on 20/5/2025 for further directions.”

9. It is to be noted that the application herein is not for **review** of the Court’s Judgment pursuant to Rule 74 of this Court’s Rules of Procedure 2024, but seeks **“adoption of monetary amounts calculated pursuant to the Judgment of the Court as the decretal amount”**.

10. In my view, **only the trial Judge can re-open his Judgment/decreed and place therein figures that ought to have been calculated by him, based on the evidence taken by him and his findings thereon, and included in the Judgment at the time of its delivery.**

11. For the foregoing reasons, I **decline** to determine the Notice of Motion dated **15th November, 2024**, and instead make the following Orders:-

(a) The Court file herein shall forthwith be placed before the trial Judge, the Hon. Dr. Jacob Gakeri, J for purposes of dealing with the Claimants' Notice of Motion dated 15th November, 2024.

(b) Mention before the Court's Deputy Registrar on 4th March, 2026 for purposes of fixing a date before the Hon. trial Judge.

12. Orders accordingly.

DATED, SIGNED AND DELIVERED AT NAIROBI THIS

30TH DAY OF JANUARY 2026

AGNES KITIKU NZEI

JUDGE

ORDER

This Ruling has been delivered via Microsoft Teams Online Platform. A signed copy will be availed to each party upon payment of the applicable Court fees.

AGNES KITIKU NZEI

JUDGE

Appearance:

Mr. Wanyangu for the Claimant/Applicant

No appearance for the Respondent