



REPUBLIC OF KENYA



**Mwangi v Gichuki (Civil Appeal E276 of 2024)
[2026] KEHC 618 (KLR) (30 January 2026) (Judgment)**

Neutral citation: [2026] KEHC 618 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT THIKA
CIVIL APPEAL E276 OF 2024
BM MUSYOKI, J
JANUARY 30, 2026**

BETWEEN

CHRISTINE WAMUYU MWANGI APPELLANT

AND

LUKE KIMINDA GICHUKI RESPONDENT

(Being an appeal from judgment and decree in the Small Claim's Court at Ruiru (Hon. J.K. Tawai, Adjudicator/RM) dated 16th September 2024 in claim number E328 of 2024)

JUDGMENT

1. The appellant sued the respondent in the lower court claiming special damages amounting to Kshs 377,030.00 being damage to her motor vehicle registration number KCZ 735F. The damage arose from an accident that occurred on 25th December 2021 involving the appellant's said motor vehicle and motor vehicles registration numbers KBM 166X belonging to the respondent, KCZ 435L and MNBLMF050F.
2. The trial court dismissed the claim for lack of proof of negligence which sparked this appeal based on the following grounds;
 1. That the learned trial Magistrate erred in law in disregarding the expert evidence in regard to the chain of causation.
 2. That the learned trial Magistrate erred in law and in fact in the way that she analysed the evidence as led by the appellant's witnesses and in so doing she arrived at an erroneous decision.
 3. That the learned trial Magistrate misdirected herself in law and in fact by holding that the appellant had failed to prove her case on a balance of probabilities or at all.



4. That the learned trial Magistrate erred in law by failing to consider the oral and documentary evidence tendered by the claimant hence dismissing the claimant's claim in its entirety.
3. It is evident from the grounds of appeal and the submissions of the parties which I have carefully gone through that the only issue in this appeal is whether the trial court erred in finding that the appellant had not proved liability against the respondent.
4. This is an appeal from the Small Claims Court and by virtue of Section 38(1) of the *Small Claims Court Act*, this court's jurisdiction is limited to matters of law. The Section provides that;

‘A person aggrieved by the decision or an order of the Court may appeal against that decision or order to the High Court on matters of law.’
5. The appellant has faulted the trial court for allegedly ignoring her evidence and submissions. Indeed, if it is demonstrated that the trial court ignored some material evidence and hence arrived at a decision that was perverse and so unreasonable that no court of law or tribunal properly applying its mind would arrive at, this court would assume jurisdiction irrespective of the issues seemingly being matters of facts. That is an established principle which has been pronounced in many judicial authorities one of them being *Ojwang & another v Kagunya* [2025] KEHC 6153 (KLR) where it was held that;

“From the above provision of law, it is clear that this court can only entertain an appeal from the Small Claims Court, if the said appeal is on matters of law only. This therefore means that the duty of the High Court in dealing with appeals from the Small Claims Court is akin to that of the Court of Appeal in its capacity as a second appellate court.
6. This duty was reiterated by the Court of Appeal, in the case of *Kenya Breweries Ltd versus Godfrey Odoyo* [2010] eKLR; where the court expressed itself as follows: ‘This Court, on second appeal, confines itself to matters of law unless it is shown that the two courts below considered matters they should not have considered or failed to consider matters they should have considered or looking at the entire decision, it is perverse.’”
7. In order to establish whether the trial court ignored material evidence, I will have to look into the nature of the evidence the parties produced against the judgement of the court. The appellant's witnesses on liability were a police officer known as Tom Atinda who testified as CW1 and James Ngugi (CW2) who was the driver of her motor vehicle at the time of the accident.
8. The police officer told the court that according to their records, motor vehicle registration number KCZ 735F was ahead of the other vehicles and when it slowed down to give way to a motor vehicle that was making a U-turn, motor vehicle KBM 166X hit motor vehicle MNBLMF050F which was pushed and hit KCZ 435L which in turn pushed it to hit KCZ 735F. He stated further that the police abstract issued in respect of the accident blamed motor vehicle registration number KBM 166X. He added that he was not the investigating officer and did not visit the scene neither was there a sketch map of the scene. He maintained in cross-examination that motor vehicle registration number KBM 166X was the one that started the trail of the pile up.
9. James Ngugi who describe himself as an IT expert told the court that on the material day, he was lawfully and carefully driving along Nairobi-Naivasha road when the driver of motor vehicle registration number KBM 166X suddenly and without warning lost control and rammed onto a motor vehicle which in turn rammed onto KCZ 435L and pushed it to the rear of his motor vehicle. He added that after carrying out investigations, the police blamed the respondent's motor vehicle. He had slowed down before KCZ 435L hit him from behind.



10. On his part, the respondent told the court that KCZ 435F and KCZ 435L had an accident first before the last two vehicles and denied that his vehicle caused the accident. He explained that in front of him there were four vehicles following each other and KCZ 735F slowed down and tried to turn to the other road to Nairobi which caused the vehicles ending up with a chain of accidents. According to him, KCZ 435L hit KCZ 735F from behind and MNBLM5050F hit KCZ 435L followed by KBM 166X hitting the MNBLM5050F. He added that after he hit MNBLM5050F, it did not move to knock any other vehicle. He insisted that he maintained a distance of 70 meters.
11. Having gone through the judgement of the trial court, I note that the court analysed the evidence of both parties and in my opinion, it cannot be said to have ignored any. The Honourable Adjudicator reproduced the facts and evidence of the parties and made a conclusion that the appellant had not proved her case on a balance of probabilities. The court even cited judicial authorities in its analysis on whether a police abstract could alone prove negligence. She also went on to observe that the appellant's driver gave evidence which contradicted what he had stated in the claim forms filed with the appellant's insurer. Such an analysis cannot be consistent with the allegations by the appellant that the court ignored material evidence. She may have erred in her decision on the facts of the case but going into that will be stretching my jurisdiction beyond the boundaries set by the law.
12. The upshot of the above is that, this appeal is not merited and it is hereby dismissed with costs to the respondent.

DATED, SIGNED AND DELIVERED AT NAIROBI THIS 30TH DAY OF JANUARY 2026.

B.M. MUSYOKI

JUDGE OF THE HIGH COURT.

Judgment delivered in presence of Miss Kanyi holding brief for Miss Kariuki for the appellant and Miss Alwanga for the respondent.

