



Mativo v Mutua (Civil Appeal E434 of 2024)
[2026] KEHC 395 (KLR) (Civ) (26 January 2026) (Judgment)

Neutral citation: [2026] KEHC 395 (KLR)

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

CIVIL

CIVIL APPEAL E434 OF 2024

LP KASSAN, J

JANUARY 26, 2026

BETWEEN

MARGARET KANINI MATIVO APPELLANT

AND

NANCY NDINDI MUTUA RESPONDENT

JUDGMENT

1. This is an Appeal against quantum in a matter where parties agreed on liability. In deciding on what to award under this limp, this Court will look at the medical reports attached, authority and the evidence on record.
2. Dr Ndeti in his report dated the 29th day of August 2021 stated that the Plaintiff suffered fracture in the middle right cuneiform avulsion fracture, deep cut wound on the medial aspect of the right foot and blunt injuries to the right foot. He added that due to the injuries, the Plaintiff could not walk without support and rated the degree of injuries as grievous harm. Dr Ndeti added that the Plaintiff would not be able to do normal chores for a period of 6 Months and at the time he was not able to give opinion on the degree of permanent capacity.
3. The Plaintiff's injuries are grievous. The location of the injury, the foot complicates his healing process given that the plaintiff will have difficulties in walking because the foot normally carries the weight of the body. This Court can only interfere with the lower Court findings if the award is excessive. The trial magistrate appears to have taken into account the estimated period in which the Plaintiff will take to heal or return back to normal life in which period the Plaintiff would not be able to walk without support or work. This therefore means that to walk, the Plaintiff must be supported and of course in that state, the Plaintiff will not be able to Work. Having taken into account the injuries sustained and especially its location together with the six months' period of inactivity estimated by Dr Ndeti, I find that the award was not excessive.



4. The conclusion of the above is that the Appeal is dismissed with costs

DATED, DELIVERED VIRTUALLY AND SIGNED ON THIS 26TH DAY OF JANUARY 2026.

HON L P KASSAN

JUDGE

In the presence of;

Wamiko for Appellant

Chiwambae holding brief Nyongesa for Respondent

Carol – Court Assistant

