

**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT ELDORET**

**CIVIL APPEAL NO.E025 OF 2025**

**GREATRIFT**

**EXPRESS**

**SHUTTLE**

.....**APPELLANT**

**VERSUS**

**CLAUDIA**

**NAMGOSA**

**AVISA**

.....

**RESPONDENT**

*(Being an appeal from the Judgment/Decree of the Honorable L. KASSAM  
(CM) delivered in Eldoret CMCC No.854 of 2017)*

**JUDGMENT**

1. Aggrieved by the judgment in **Eldoret Chief Magistrate’s Court Civil Case No. 854 of 2017** dated 30<sup>th</sup> October 2020, the Appellant filed the Memorandum of Appeal dated 17<sup>th</sup> November 2020 on 18<sup>th</sup> November 2020 premised on the following grounds:

- 1) **The learned Magistrate erred in law and fact in awarding a sum of Kshs. 820,000/= as general damages for the injuries sustained by the Plaintiff which is on the higher side considering the injuries sustained by the Plaintiff.**

- 2) The learned Magistrate erred in law and in fact in failing to accord due regard to the Appellant submissions on quantum on applicable principles for assessment of damages.**
- 3) The learned Magistrate erred in law and fact in failing to consider the authorities attached to the Appellant’s submissions that were guiding on the amount of quantum that is appropriate and applicable in similar cases.**
2. The Appellant however did not file its Record of Appeal as required as such there is nothing on record to guide the Court in rendering its determination on the matter. I find it noteworthy to mention that the on 26<sup>th</sup> June 2025 when the matter herein was schedule for dismissal, Mr. Kabata holding brief for Ms. Njuguna for the Appellant informed the Court that they had filed their Record of Appeal.
3. However, the said Record of Appeal is not in the physical record of the court and is also not in the virtual record of the court known as the CTS platform. on the not on the Court’s record. No reason for the non-filing of the same has been advanced and in actual fact, as herein above stated the matter had been listed for dismissal for want of prosecution of the appeal when the above indication was made to court which then directed that the parties file their submissions. The court also notes that the appellant did also not comply with the directions on submissions.

4. From the foregoing, it is evident that the Appellant was never keen in prosecuting this appeal in the first place. In the premises, the appeal herein is now hereby dismissed for want of compliance and prosecution. The Respondent having filed their submissions on the Appeal in compliance with the directions of the court are awarded the costs of the Appeal.

**Read Dated and Signed at ELDORET on 20<sup>th</sup> February 2026**

**E. OMINDE**  
**JUDGE**