



**Kitambasi v Transbell Limited alias Branaflores (Miscellaneous Application
E029 of 2025) [2026] KEELRC 320 (KLR) (4 February 2026) (Ruling)**

Neutral citation: [2026] KEELRC 320 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT MACHAKOS
MISCELLANEOUS APPLICATION E029 OF 2025
SC RUTTO & RC RUTTO, JJ
FEBRUARY 4, 2026**

BETWEEN

JOSPAHT LUMUMBA KITAMBASI APPLICANT

AND

TRANSBELL LIMITED ALIAS BRANAFLOWERS RESPONDENT

RULING

1. By way of a Notice of Motion dated 18th June 2025, the Applicant seeks the following orders:
 1. That this Court adopts the assessment of the Director of Occupational Health and Safety dated 23rd December, 2021 as an order of the court;
 2. That a decree be issued in accordance with the assessment of the Director of Occupational Health and Safety for the sum of Kenya Shillings Ksh 949,862.40 (Nine hundred and forty-nine thousand eighty hundred and sixty-two and forty cents);
 3. That costs of the application be paid by the Respondents.
2. The Motion is premised on the grounds set out therein and supported by the Affidavit of Josphat Lumumba Kitambasi, the Applicant herein. The Applicant avers that he has been employed by the Respondent as a pump attendant for over 25 years, serving diligently in that capacity.
3. That on 28th July 2018, the Applicant sustained a severe injury when struck by a blunt object while performing his official duties. The incident was reported to the Directorate of Occupational Safety and Health Services (Director) on 20th August 2018.
4. Following a medical examination, the Applicant was found to have suffered a severe soft tissue injury to the left eye, resulting in permanent blindness. He was admitted to Thika Level 5 Hospital for treatment related to this work-related injury.



5. A subsequent Medical Report dated 23rd December 2021 assessed the Applicant's permanent incapacity at 80%, owing to the loss of vision in the left eye.
6. The Applicant further avers that the Murang'a County Occupational Safety and Health Officer evaluated and confirmed the compensation due under the *Work Injury Benefits Act*, at Ksh 949,862.40.
7. Despite repeated efforts since 2021, the Applicant has been unable to secure payment of the assessed compensation from the Respondent. Consequently, he escalated the matter to the County Government of Kiambu Health Services Department, which acknowledged the continued non-payment through a letter dated 22nd November 2022.
8. The Applicant further avers that he duly served the Respondent with the Director's assessment. However, no payment has been made, necessitating the present Motion.
9. Notably, the Respondent did not file a response to the Motion despite being granted leave to do so on 31st October 2025.

Submissions

10. The Application was canvassed by way of written submissions. Only the Applicant filed written submissions.

Analysis and Determination

11. Upon consideration of the Notice of Motion and the supporting grounds, it is apparent that the central issue for determination is whether this Court ought to adopt the award issued by the Director, WIBA, on 23rd December 2021.
12. It is instructive to note that Sections 51 and 52 of the *Work Injury Benefits Act* provide a clear statutory framework for resolving disputes arising from the Director's award. Under Section 51, a party dissatisfied with an award may file an objection, obliging the Director to issue a written response. Should the objecting party remain dissatisfied with the Director's decision, Section 52(2) permits an appeal to this Court within thirty (30) days from the date of the Director's ruling.
13. The record does not reflect any objection by the Respondent, nor any appeal to this Court against the Director's decision as provided under the *Work Injury Benefits Act*. In view of the foregoing, the Court finds no basis to refuse the Applicant's Motion.
14. In so finding, I concur with the Court's ruling in *Mwangata v Shyam General Merchants Limited* (Cause E086 of 2024) [2025] KEELRC 616 (KLR) (16 January 2025), which held that:

“Absent an objection and/or appeal by the respondent against the award dated May 30, 2023, this court's jurisdiction to enforce the said award in the face of the respondent's non-settlement of the same, has matured.”
15. It is undisputed that the Director issued an award in favour of the Applicant on 23rd December 2024, and that the Respondent did not challenge the award through the procedures prescribed under the *Work Injury Benefits Act*. In the absence of any action by the Respondent to satisfy the award, the Court sees no basis to refuse the Applicant's Motion.
16. Accordingly, the Court hereby allows the Motion dated 18th June 2025 and finds that the Applicant is lawfully entitled to the award of Kshs. 949,862.40, as assessed by the Director on 23rd December 2021.



17. The Court further awards interest on the said sum at court rates from the date of this Ruling until payment in full.

18. The Respondent shall also bear the costs of the suit.

DATED, SIGNED AND DELIVERED AT NAIROBI THIS 4TH DAY OF FEBRUARY 2026.

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STELLA RUTTO

JUDGE

In the presence of:

For the Applicant Mr. Keverenge

For the Respondent No appearance

Court Assistant Catherine

ORDER

In view of the declaration of measures restricting court operations due to the COVID-19 pandemic and in light of the directions issued by His Lordship, the Chief Justice on 15th March 2020 and subsequent directions of 21st April 2020 that judgments and rulings shall be delivered through video conferencing or via email. They have waived compliance with Order 21 Rule 1 of the Civil Procedure Rules, which requires that all judgments and rulings be pronounced in open court. In permitting this course, this court had been guided by Article 159(2)(d) of *the Constitution* which requires the court to eschew undue technicalities in delivering justice, the right of access to justice guaranteed to every person under Article 48 of *the Constitution* and the provisions of Section 1B of the *Civil Procedure Act* (Chapter 21 of the Laws of Kenya) which impose on this court the duty of the court, inter alia, to use suitable technology to enhance the overriding objective which is to facilitate just, expeditious, proportionate and affordable resolution of civil disputes.

STELLA RUTTO

JUDGE

