

**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT NAIROBI**  
**CIVIL DIVISION**

**MISC. CIVIL APPLICATION NO. E292, E341 AND E479 OF**  
**2025**

SAMUEL GITONGA & ASSOCIATES.....  
APPLICANT

VERSUS

THE MONARCH INSURANCE COMPANY  
LIMITED.....RESPONDENT

**RULING**

**The Applications**

1. This Ruling relates to four applications in HCCCMISC/E292, E341 and E479 of 2025 between the parties herein. The applications under determination are the Notices of Motion dated 22/05/2025 in HCCCMISC/E292/2025, the Notice of Motion dated 22/05/2025 in HCCCMISC/E341/2025 and the Notice of Motion dated 15/7/2025 in HCCCMISC/479/2025.
2. In the Notice of Motion dated 22/05/2025 in HCCCMISC/E292/2025, the Application is seeking entry of judgment in the sum of Kshs 114,800 being the taxed amount as shown in the Certificate of Taxation issued on 20<sup>th</sup> May 2025. The Applicant has argued that this case was determined on 14/5/2024 when final judgment was

delivered; that a fee note was served on the Client for payment of the Adovates/Applicant's fees but the Respondent declined to pay, necessitating filing of the Advocate/Client Bill of Costs which Bill has been taxed at Kshs 114,800 sought in this application. It is deposed in support of the application that the Taxing Master's Ruling has not been set aside, reviewed or varied.

3. In the Notice of Motion in HCCCMISC/E341/2025, entry of judgment is being sought for Kshs 249,754.80 as shown in the Certificate of Taxation issued on 7/8/2025. The grounds supporting the Motion are that on 19/5/2023, final judgment was entered in this matter on appeal, upon which the Advocate/Applicant served a fee note to the Client/Respondent who has failed to settle the fee note necessitating this application.

4. It is stated that no reference has been filed in respect of the ruling by the Taxing Master nor has there been a review, variation or setting aside of the same been sought.

5. In HCCCMISC/E479 of 2025, the Notice of Motion is dated 15/7/2025. It seeks judgment in the sum of Kshs 225,304.45 as certified in the Certificate of Taxation dated 11/6/2025.
6. In support of the application, it is deposed that final judgment in this matter was delivered on 11/6/2021 after which the Applicant served a fee note for its fees to the Respondent; that upon failure to settle the fees, the Applicant filed the Bill of Costs which was taxed at the amount now being sought and that the Respondent has not challenged the Bill as taxed.

### **Oral submissions**

7. The three applications were argued together on 17/12/2025. In his oral submissions, Mr. Olunga, learned counsel for the Applicant/Advocate in the three matters told the court that there is no dispute that the Applicant was instructed by the Respondent to represent it in the three matters and that the Certificates of Taxation have not been disputed nor has the Certificates of Taxation set aside. He submitted that while the Service Level Agreement is not disputed, the

Respondent has not made any deposits towards the fees payable after the fee notes were served.

8. Mr. Kereto for the Respondent/Client in the three matters submitted in opposition that the Certificates of Taxation as drawn do not give the true picture for they failed to disclose that the Applicant/Client had paid Kshs 30,000, which amount should be taxed off.
9. In a rejoinder, Mr. Olunga argued that there is no evidence that the Respondent deposited Kshs 30,000 towards payment of fees.

### **Determination**

10. I have considered the three applications. There is no evidence presented as proof of payment by the Respondent of Kshs 30,000 to the Applicant in any of the three matters under determination. The Respondent is under the obligation to prove that it paid the Applicant the amount stated, which evidence has not been provided. Consequently, I allow the applications in all the three matters as prayed and enter judgment as follows:

***(a) Judgement is hereby entered in the sum of Kshs 114,800 in HCCCMISC E292/2025 plus costs of the instant application.***

***(b) Judgement is hereby entered in the sum of Kshs 249,754.80 in HCCCMISC E341/2025 plus costs of the instant application.***

***(c) Judgement is hereby entered in the sum of Kshs 225,304.45 in HCCCMISC E479/2025 plus costs of the instant application.***

11. It is so ordered.

**Dated, signed and delivered this 25/2/2026.**

**S. N. MUTUKU  
JUDGE**

**In the presence of:**

Mr. Olunga for the Applicant/Advocate

Mr. Kereto for the Respondent/Client