



**Ancient v Ole Kenteiya & another (Civil Appeal E010 of 2025)
[2026] KEHC 2822 (KLR) (5 February 2026) (Judgment)**

Neutral citation: [2026] KEHC 2822 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIVASHA
CIVIL APPEAL E010 OF 2025
WA OKWANY, J
FEBRUARY 5, 2026**

BETWEEN

TABITHA NDANU ANCIENT APPELLANT

AND

SAMSON OLE KENTEIYA 1ST RESPONDENT

JOSEPH NG'ANG'A 2ND RESPONDENT

*(Being an appeal from the judgment delivered Hon. Wilson Rading
(PM) on 3rd January 2025 in Naivasha CMCC No. 96 of 2021)*

JUDGMENT

1. This is an appeal against the trial court's decision wherein the Appellant was awarded Kshs. 5,000 as special damages and Kshs. 450,000 as general damages for injuries that she sustained in a road traffic accident.
2. Aggrieved by the award on quantum, the Appellant filed a Memorandum of Appeal dated 27th January 2025, raising three grounds, all challenging the sufficiency and propriety of the award for general damages.
3. The Appellant's injuries included blunt head injury leading to brain concussion, multiple rib fractures leading to haemothorax and pneumothorax, deep cut wound on the right leg and other soft tissue injuries. Medical reports indicated a 20% permanent disability, although a later report also suggested that the Appellant could be functioning normally and had no permanent physical disability.
4. As a first appellate court, I am guided by the authority of *Selle & Another vs. Associated Motor Boat Co. Ltd* [1968] EA 123, which requires this court to re-evaluate the evidence afresh while bearing in mind it did not see or hear the witnesses.



5. The principles governing interference with an award of damages are well settled. An appellate court will only interfere where the trial court acted on wrong principles or misapprehended the evidence, thereby arriving at an award that is inordinately high or low. This is the position that was affirmed in *Nduiga & Another vs. Mukimba* [2022] KEHC 11793 (KLR).
6. The main issue for determination is whether the award of Kshs. 450,000 as general damages was inordinately low.
7. The Appellant argued that the Learned Magistrate misdirected himself by applying wrong principles, ignored comparable judicial authorities, and failed to appreciate the severity and long-term consequences of the injuries. She relied on several authorities to support a higher award, including: -
 - i. *Joseph Kimathi Nzau vs. Johnson Macharia* [2019] eKLR where an award of Kshs. 800,000 was made for rib fractures, clavicle fracture, and soft-tissue injuries.
 - ii. *Christine Mwejina Akonya vs. Samuel Kairu Chege* [2017] eKLR where an award of Kshs. 1,400,000 was made for rib fractures and chest trauma.
 - iii. *Hellen Atieno Oduor vs. S.S. Mehta & Sons Ltd* [2015] eKLR where an award of Kshs. 1,400,000 was made for tibia/fibula fractures and chest injuries.
8. The Appellant urged this court to enhance general damages to Kshs. 2,000,000 arguing that the trial court's award of Kshs. 450,000 was punitive and did not reflect the seriousness of the injuries.
9. The Respondents, on their part, opposed the appeal and supported the trial court's award, arguing that the Appellant failed to show that the award was inordinately low or that the Magistrate erred in principle. They relied on the medical reports showing the injuries, including a report by Dr. Obed Omuyoma classifying the injuries as grievous harm with 20% incapacity, and another report by Dr. Malik, which found that the Appellant had no permanent physical disability.
10. The Respondents submitted that six years have passed since the accident and that the Appellant appears to have reasonably recovered. They cited the following authorities as appropriate comparators: -
 - a. *Blue Horizon Travel Co. Ltd vs. Kenneth Njoroge* [2020] eKLR where an award was reduced to Kshs. 400,000 for multiple soft-tissue injuries and rib fractures.
 - b. *West Kenya Sugar Co. Ltd vs. David Lukka Shirandula* [2017] eKLR where an award of Kshs. 180,000 was made for rib fractures and blunt injuries.
 - c. *Lyaka Mwombe vs. Francis Namtsi & 2 Others* [2019] eKLR where an award of Kshs. 300,000 was made for head injury, spinal injury, tibia/fibula fracture, and facial cut.
11. The Respondents argued that the injuries in the above cited cases were more severe yet attracted lower awards, hence Kshs. 450,000 was reasonable and should not be disturbed.

Analysis and Determination

12. Having considered the record, medical reports, and authorities cited by both parties, it is evident that the Appellant suffered significant injuries, including rib fractures and haemothorax which are injuries that typically attract moderately high awards. A subsequent medical report however indicates no permanent disability, as the Appellant appears to have largely recovered, which must also be taken into account.



13. The comparable authorities cited by the Appellant involve more severe and multiple fractures or longer-term complications than the injuries herein. Conversely, the authorities cited by the Respondents involve similar or slightly less severe injuries but significantly lower awards.
14. I find that even though the award of Kshs. 450,000 falls within the reasonable band for multiple rib fractures accompanied by soft-tissue injuries, based on prevailing jurisprudence, this court cannot turn a blind eye to the severity of the Appellant's injuries as indicated in the initial medical report.
15. While I am not persuaded that the Learned Magistrate acted on wrong principles, misapprehended the evidence, or arrived at a wholly erroneous estimate, the nature of the Appellant's injuries calls for an enhancement of the award more so in the face of the high inflationary trends that have taken a toll on the value of the Kenyan Shilling.
16. In conclusion, the appeal succeeds and the award of Kshs. 450,000 general damages is hereby set aside and is substituted with an award of Kshs. 800,000.
17. The Appellant is awarded the costs of the appeal.

DATED, SIGNED AND DELIVERED AT NAIVASHA THIS 5TH DAY OF FEBRUARY, 2026.

HON. W. A. OKWANY

JUDGE

05/02/2026

For Appellant Teresa Holding For Otieno

For Respondent Agata

Court Assistant Karani

