



Dafric Logistics Company v Mangerere (Suing as personal representative and legal administrator of the Estate of Reuben Maati Tongi - Deceased) (Civil Appeal E002 of 2025) [2026] KEHC 2819 (KLR) (26 February 2026) (Judgment)

Neutral citation: [2026] KEHC 2819 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NYAMIRA
CIVIL APPEAL E002 OF 2025
TW CHERERE, J
FEBRUARY 26, 2026**

BETWEEN

DAFRIC LOGISTICS COMPANY APPELLANT

AND

PRICILLAH MORAA MANGERERE (SUING AS PERSONAL REPRESENTATIVE AND LEGAL ADMINISTRATOR OF THE ESTATE OF REUBEN MAATI TONGI - DECEASED) RESPONDENT

(Being an appeal from Judgment/Decree in Nyamira MCCC E071 of 2023 by Hon. B. Okong'o (R.M on 19th December 2024)

JUDGMENT

1. The Respondent, Priscillah Moraa Mangerere, suing as the personal representative and legal administrator of the estate of the late Reuben Maati Tongi (deceased), instituted Nyamira MCCC E071 of 2023 against the Appellant, Dafric Logistics Company, seeking recovery of general damages, special damages and costs arising from a fatal road traffic accident.
2. The accident in issue involved motor vehicle registration number KCJ 289U associated with the Appellant and motorcycle registration number KMDT 414G, ridden by the deceased.
3. At the time of his death, the deceased was 33 years old, in good health, and engaged in farming and business. He was survived by his wife and two children who were dependent on him for their subsistence. The Respondent averred that the deceased earned KES. 30,000 per month, though no documentary proof of this income was placed before the trial court.
4. The Appellant called no witness to counter the Respondent's case. The learned trial Magistrate evaluated the evidence presented in a judgment dated 19th December 2024 and apportioned liability at 80:20 in favour of the Respondent and awarded general and special damages as follows:



- a) Pain and suffering: KES. 30,000
 - b) Loss of expectation of life: KES. 100,000
 - c) Loss of dependency: KES. 3,000,000
 - d) Special damages: KES. 109,880
- Sub-Total: KES. 3,239,880/=
- Less 20% contributory negligence: KES. 647,976/=
- Net Total: KES. 2,591,904
5. Being aggrieved by the quantum of damages, the Appellant filed this appeal via a Memorandum of Appeal dated 17th January 2025 setting out six grounds, which may be summarised as follows:
- 1. The trial Magistrate failed to appreciate and apply the correct legal principles in the assessment of damages
 - 2. The award of KES. 3,000,000 for loss of dependency was inordinately high, unjustified and contrary to the evidence on record
 - 3. The award of KES. 100,000 for loss of expectation of life was excessive and unjustified
6. The jurisdiction and duty of this Court as the first appellate court are well settled in law. This Court is required to re-evaluate, re-analyse and re-consider all the evidence that was before the trial court and arrive at its own independent conclusions, while giving due allowance for the fact that it did not have the benefit of seeing and hearing the witnesses testify. The Court of Appeal for Eastern Africa in *Peters v Sunday Post Ltd* [1958] EA 424 stated the principle thus:
- “Whilst an appellate court has jurisdiction to review the evidence to determine whether the conclusions of the trial judge should stand, this jurisdiction is exercised with caution; if there is no evidence to support a particular conclusion, or if it is shown that the trial judge has failed to appreciate the weight or bearing of circumstances admitted or proved, or had plainly gone wrong, the appellate court will not hesitate so to decide.”
7. This principle was similarly affirmed in *Abok James Odera t/a A.J Odera & Associates v John Patrick Machira t/a Machira & Co. Advocates* [2013] eKLR, where the court held that the primary role of the first appellate court is to re-evaluate, re-assess and re-analyse the record and then determine whether the conclusions reached by the learned trial Judge are to stand or not, giving reasons either way.
8. The circumstances under which an appellate court may disturb a trial court's award of general damages are equally well established. In *Paul Kipsang Koech & Another v Titus Osule Osore* [2013] eKLR, the court restated the principle derived from *Kanga v Manyoka* [1961] EA 705 and *Lukenya Ranching and Farming Coop Society Ltd v Kavoloto* [1979] EA as follows:
- “The appellate court may interfere with the exercise of discretion by the trial court in assessing general damages if the trial court (a) took into account an irrelevant factor; or (b) left out of account a relevant factor; or (c) made an award so inordinately low or so inordinately high that it must be a wholly erroneous estimate of the damages.”
9. With these guiding principles in mind, I turn to the specific contested awards.



10. The award for loss of expectation of life is a conventional award payable to the estate of a deceased person under the *Law Reform Act* (Cap. 26, Laws of Kenya). It compensates the estate for the deprivation of the years of life that the deceased would otherwise have lived. Courts have, over time, settled on a range of conventional figures for this head of damages, which necessarily evolve to take account of inflation and changing economic conditions.
11. The Appellant proposed KES. 60,000 under this head, relying on persuasive decisions in *David Ngunje Mwangi v Chairman of the Board of Governors of Njiri High School* [2001] eKLR and *Eliud Sindani Majimbo Matumbai v Cleophas Wanyonyi Simiyu & Gilbert Ojema Olale* [2004] KEHC 574 (KLR) both of which awarded KES. 60,000.
12. The Respondent submitted that KES.100,000 was appropriate and relied on *Jackson Kariuki Ndegwa (Suing as Administrator of the Estate of Fabius Munga Kariuki) v Peter Kungu Mwangi* [2016] eKLR *Benedeta Wanjiku Kimani v Changwon Cheboi & Another* [2013] eKLR and *Easy Coach Bus Services & Another v Henry Charles Tsuma & Another (Suing as Administrators and Personal Representatives of the Estate of Josephine Weyanga Tsuma-Deceased)* [2019] eKLR, the latter two supporting an award of KES. 100,000/= after accounting for the lapse of time and inflation.
13. The authorities cited by the Appellant are more than two decades old and do not adequately reflect the current economic environment. The trial court relied on the authorities cited by the Respondent and having properly considered the age of the deceased (33 years), the inflation factor and the trajectory of awards in similar recent cases awarded KES. 100,000 under this heading.
14. I am satisfied that the award is within the current range of conventional awards by courts of comparable jurisdiction and thus find no basis to interfere with it.
15. The claim for loss of dependency is brought under the *Fatal Accidents Act* (Cap. 32, Laws of Kenya). It compensates the dependants of the deceased for the financial support they would have continued to receive had the deceased not died. The conventional method of computation involves determining the multiplicand (the annual net dependency) and applying a multiplier (the number of years of dependency). The lump sum approach may also be adopted, but it too must be grounded in evidence and guided by comparable awards.
16. On the multiplicand the Respondent asserted that the deceased earned KES. 30,000 per month as a farmer and businessman but no documentary evidence was produced to substantiate this figure. Where actual earnings are not proved by cogent evidence, the court is guided to adopt the applicable minimum wage as the base multiplicand. I am persuaded that the appropriate figure to use is the minimum wage for an unskilled labourer as per Legal Notice No. 125 of 2022, being KES. 8,109.90 per month. The Respondent did not demonstrate that the deceased worked in a regulated sector attracting the higher driver minimum wage. The adoption of the unskilled labourer rate is also consistent with the principle that claimants must prove their case on a balance of probabilities.
17. On the multiplier, the deceased died at the age of 33 years. The expectation of life, taking into account the actuarial retirement age of 60 years, would suggest a working life of 27 years remaining. However, courts have consistently applied discounts to account for the contingencies and vicissitudes of life. Having considered the relevant authorities including *Mars Logistics Limited v Susan Kavogoi* [2021] eKLR where a 20-year multiplier was adopted for a deceased aged 25 years), *Siyaram Enterprises & Another v Samuel Nyachani Nyachani* [2015] eKLR where a 16-year multiplier was adopted for a deceased aged 31 years), and *Broadway Bakery Ltd v Phylis Wakonyu Waweru* [2019] eKLR where a 15-year multiplier was adopted for a deceased aged 30 years), I find that a multiplier of 18 years is



appropriate in the circumstances of this case, accounting for the fact that the deceased was 33 years old, relatively older than the deceased in most of the cited authorities.

18. A dependency ratio of 2/3 is uncontested and is consistent with the fact that the deceased was survived by a wife and two children.
19. From the foregoing, the computation therefore stands as follows:
Monthly multiplicand: KES. 8,109.90
Annual multiplicand: KES. 8,109.90 x 12 = KES. 97,318.80
Net annual dependency (2/3): KES. 97,318.80 x 2/3 = KES. 64,879.20
Multiplier: 18 years
Loss of Dependency: KES. 64,879.20 x 18 = KES. 1,167,825.60
Rounded up to: KES. 1,167,826/=
20. From the foregoing, I am satisfied that the trial court's award of KES. 3,000,000 for loss of dependency was inordinately high and constituted a wholly erroneous estimate of the damages.
21. Even accepting the lump sum approach and benchmarking against the authorities the trial court itself relied on where the awards were KES. 1,500,000 and KES. 1,700,000 for comparable deceased persons, an award of KES. 3,000,000 is not sustainable. The trial court failed to adequately explain the basis for more than doubling the figures in those authorities. I accordingly set aside the award of KES. 3,000,000 for loss of dependency and substitute it with the sum of KES. 1,167,826 as computed above.
22. On the question of whether the trial court over-relied on the Respondent's submissions and failed to independently analyse the evidence, I have reviewed the judgment of the trial court. The trial court did consider both parties' submissions and authorities cited.
23. However, as I have found above, the manner in which it arrived at the loss of dependency figure of KES. 3,000,000 without an adequately explained analytical framework tied to the evidence indicates that the trial court was insufficiently rigorous in its analysis. The award was not adequately justified in terms of the multiplicand, multiplier and dependency ratio, nor does it accord with the conventional awards in comparable cases.
24. To that limited extent, the appeal partially succeeds, but only in respect of the award for loss of dependency. The awards under the heads of pain and suffering and special damages, not having been challenged, remain undisturbed.
25. Consequently, I make the following orders:
 1. The appeal is hereby partially allowed.
 2. The sum of KES. 30,000 for pain and suffering is upheld
 3. Special damages in the sum of KES. 109,880 is equally upheld
 4. The award of KES. 100,000 for loss of expectation of life is likewise upheld
 5. The award of KES. 3,000,000 for loss of dependency is set aside and substituted with KES. 1,167,826
 6. The awards are subject to 20% contributory negligence
 7. Each party shall bear its own costs of the appeal



8. The costs of the trial court shall remain as awarded by the trial court.

9. There shall be 30 days stay of execution from today's date

DELIVERED AT NYAMIRA THIS 26TH DAY OF FEBRUARY 2026

WAMAE.T. W. CHERERE

JUDGE

Appearances

Court Assistant - Hilda

For Appellant - Ms. Moraa for KRK Advocates LLP

For Respondent – Ms. Shilwatso for G.B.Shilwatso & Co. Advocates

