



Karanja v Principal Secretary Ministry of Education & another (Miscellaneous Application E077 of 2025) [2026] KEELRC 573 (KLR) (27 February 2026) (Ruling)

Neutral citation: [2026] KEELRC 573 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI
MISCELLANEOUS APPLICATION E077 OF 2025**

AK NZEI, J

FEBRUARY 27, 2026

BETWEEN

DANIEL GITAU KARANJA APPLICANT

AND

**THE PRINCIPAL SECRETARY MINISTRY OF EDUCATION 1ST
RESPONDENT**

OFFICE OF THE ATTORNEY GENERAL 2ND RESPONDENT

RULING

1. The Application before me for determination is the Applicant's Notice of Motion dated 6th March, 2025. The Applicant seeks the following Orders:-
 - a. That the court be pleased to adopt as its Judgment the award of the Director of Occupational Safety Office dated 19th July, 2022.
 - b. That Judgment be entered for the Applicant against the 1st Respondent for Kshs.2,782,272/= being the balance on the amount assessed under the *Work Injury Benefits Act*.
 - c. That the Court be pleased to award interest at Court rates on the amount from the date of assessment/demand until payment in full.
 - d. That the Court be pleased to award any other relief that it may deem fit and just to grant.
 - e. That costs of the application be awarded to the Applicant.
2. The application sets out on its face the general grounds on which it is brought, and is based on the Applicant's affidavit sworn on 6th March, 2025 in support of the application. It is deponed in the said affidavit:-



- a. that in all relevant times, the Applicant was in the Respondent's employment as a Deputy Director.
 - b. that the Applicant was injured on or about 2nd December, 2021 while conducting official duties, and sustained a right ankle joint injury with a fracture of the fibula.
 - c. that on 19th July, 2022, the County Occupational Safety and Health Officer assessed the Applicant's permanent incapacity at 30%, and benefits payable thereon under the Work Injury Benefits Act at Kshs.4,173,408/=.
 - d. that the 1st Respondent's Insurer illegally administered a 2nd medical examination on the Applicant and unlawfully reduced the permanent incapacity percentage to 10%, and paid Kshs.1,391,136/=.
 - e. that the foregoing was not the lawful way for the said Insurer to appeal against the decision by DOSH.
 - f. that the Respondent has failed to pay the outstanding sum despite several follow-ups including demand letters.
 - g. that the 1st Respondent has refused and/or neglected to make good the outstanding award of Kshs.2,782,272/=, duly and rightfully owed.
3. Documents annexed to the said supporting affidavit include copies of the Applicant's payslip, a letter by County Director of Education dated 19th April, 2022 reporting the Applicant's injury in the office on 2nd December, 2021, Notice by Employer to the Directorate of Occupational Safety of an Occupational Accident, a duly filled and signed DOSH/WIBA 4 form dated 19th July, 2022 containing the Director's assessment of the Applicant's degree (30%) of permanent disablement and compensation (benefits) payable to him at Kshs.4,173,408/=, and a demand letter by the Applicant's Advocate dated 15th December, 2024.
 4. The application is opposed by the Respondent vide an undated and unsigned grounds of opposition filed herein. It is stated in the said grounds, for record purposes, that the application is poorly drawn and is fatally defective, as it seeks to have the Director's award as a Court order against the Respondents who were neither parties nor participants in the matter dated 19th July, 2022.
 5. It is not denied that the Applicant was the Respondents' employee at the material time, and that he was involved in an occupational accident while in the course of his duties, as a result of which he sustained the injuries in issue herein. Indeed, the Applicant has demonstrated that he is employed in the Ministry of Education by exhibiting herein his pay-slip for January 2025. The Claimant also demonstrated that on 19th April, 2022, the County Director of Education-Nyeri, wrote to the 1st Respondent informing him that on 2nd December, 2021, the Applicant slipped on the office stairs and broke his right leg and was treated at M.P. Shah Hospital. Documents in that regard are shown to have been attached to the letter.
 6. The Applicant has also demonstrated that subsequently, the Respondents issued a Notice by Employer of an Occupational Accident to the Directorate of Occupational Safety and Health Services and that on 19th July, 2022, the said Directorate (Director) made a decision on the Applicant's degree of permanent disablement (at 30%) and the amount of compensation payable to him by the Respondents; and on the said date sent to the Respondents a duly signed DOSH/WIBA 4 containing the said decision and a demand for payment of the assessed sum, Kshs.4,173,408/= . The Respondents did not



- deny having received the said document, and are not shown to have objected to the Director's said decision, either as provided in Section 51 of the *Work Injury Benefits Act* (WIBA) or at all.
7. Once the Director of Occupational Safety and Health Services (Director) makes his decision pursuant to Sections 23, 28 and 30 of the *Work Injury Benefits Act* and the decision is not objected to within a period of sixty days pursuant to Section 51 of the Act, the assessed sum becomes payable to the injured employee. It becomes the injured employee's right and entitlement; one which can be enforced by the Court; if moved by the employee in that regard.
 8. An employer who does not object to an award by the Director cannot, long after the Director's decision is made, purport to cause the employee to undergo a further/another medical examination with a view to reducing the award made by the Director.
 9. The process of medical examination of an injured employee and/or further medical examination/review is, according to provisions of WIBA, completed before the Director makes his decision. Once the decision is made, an aggrieved party can only object pursuant to Section 51 of WIBA which provides as follows:--
 - “(1) Any person aggrieved by a decision of the Director on any matter under this Act, may within sixty days of such decision, lodge an objection with the Director against such decision.
 - (2) The objection shall be in writing in the prescribed form accompanied by particulars containing a concise statement of the circumstances in which the objection is made and the relief or order which the objector claims, or the question which he desires to have determined.”
 10. The Respondents' alleged act of having the Director's award of Kshs.4,173,408/= reduced to Kshs.1,391,136/=, by any means other than by way of an objection or an appeal pursuant to Sections 51 and 52(2) of the WIBA was an illegality, and therefore null and void. The unpaid balance of the Director's said award must be paid by the Respondents to the Applicant.
 11. Section 12(1)(a) of the *Employment and Labour Relations Court Act* extends Jurisdiction to this Court to hear and to determine “disputes relating to or arising out of employment between an employer and employee.”
 12. In *Marcus Curvey Ojango – v– Kenya Revenue Authority* [2024] eKLR, this Court stated as follows:--

“Pursuant to Article 162(2)(a) of *the Constitution* of Kenya 2010, this Court has inherent jurisdiction over all employment and labour relations matters, except where that Jurisdiction is expressly ousted by the statute over particular matters specified in that statute. A good example of such a statutory provision is Section 16 of the *Work Injury Benefits Act* (WIBA) which expressly ousts courts' jurisdiction to determine issues of liability and assessment of compensation payable in cases involving work injuries and occupational deceases. Section 23 mandates the Director to undertake such inquiries as may be necessary to decide upon any claim or liability in accordance with the Act; while Sections 28 and 30 of the Act make provision on assessment of compensation by the Director.”



13. Further, I stated as follows in *Amir Swaleh Omar – v– Mackezie Maritime (E.A) Limited* [2022] eKLR:-

“ 17. The Act (WIBA) is silent on how the awards of compensation made by the Director in favour of employees involved in occupational accidents or who suffer occupational deceases are to be enforced. At the same time, the Act does not expressly divest this court of Jurisdiction to enforce such awards; and especially where the award of compensation by the Director has not been objected to and the employer has refused to pay the assessed compensation. Did Parliament intend that an employee caught up in such a situation would be left at the mercy of an employer who may choose either to pay or not to pay the assessed sum? I do not think so.

18. What would be the purpose of the Director making or undertaking enquiries in order to determine the issue of liability and proceeding to assess the compensation payable if the compensation assessed by the Director was not meant to be paid to the injured employee? In my view, once the Director assesses the compensation payable and the same is not objected to pursuant to Section 51 of WIBA, the assessed sum becomes the injured employee’s right and entitlement regarding which the employee can move to Court and seek enforcement of that right by seeking entry of Judgment in terms of the Director’s assessment, and issuance of a decree which can then be executed to realise that right.

19. Indeed, failure by an employer to pay a demanded compensation that has been assessed by the Director and to which no objection has been lodged creates a dispute over a liquidated claim, which this court can entertain and determine. Article 50(1) of *the Constitution* of Kenya 2010 provides:-

“Every person has the right to have any dispute that can be resolved by the application of law decided in a fair and public hearing before a court, or if appropriate, another independent and impartial tribunal or body.”

14. In view of all the foregoing, and having considered written submissions filed on behalf of both parties herein, the Notice of Motion dated 6th March, 2025 is hereby allowed in the following terms:-

- a. The Director’s decision dated 19th July, 2022 is hereby adopted by this Court and accordingly, Judgment is hereby entered for the Applicant against the Respondents, jointly and severally, for Kshs.2,782,272/= being the balance of the award made in favour of the Applicant by the Director.
- b. A decree shall issue, and shall be enforceable in accordance with the Civil Procedure Rules pursuant to Section 13 of the *Employment and Labour Relations Court Act*.
- c. The decreed sum shall attract interest at Court rates, to be calculated from the date of this Ruling until payment in full.
- d. The Applicant is awarded costs of these proceedings, to be agreed or taxed.

15. Orders accordingly.

DATED, SIGNED AND DELIVERED AT NAIROBI THIS



27TH DAY OF FEBRUARY 2026

AGNES KITIKU NZEI

JUDGE

ORDER

This Ruling has been delivered via Microsoft Teams Online Platform. A signed copy will be availed to each party upon payment of the applicable Court fees.

AGNES KITIKU NZEI

JUDGE

Appearance:

Mr. Makau for the Applicant

No appearance for the 1st Respondent

No appearance for the 2nd Respondent

DRAFT

