

**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT GARISSA**

**CIVIL MISC APPLICATION NO. E006 OF 2024**

**AMADI & AMADI ADVOCATES.....**  
**.....APPLICANT**

**VS**

**MONARCH INSURANCE COMPANY LIMITED.....**  
**RESPONDENT**

**RULING**

1. The matter for determination before me is a notice of motion dated 20.06.2025 seeking orders that:
  - i. **Judgment be entered for the applicant against the respondent in the sum of Kes 167,800/- being the certified costs due to the applicant as per the certificate of taxation issued on 28.04.2025 by the Honourable Court.**
  - ii. **Interest at court rates on 1 above from 17.12.2024 until payment in full.**
  - iii. **That costs of this application be awarded to the applicant.**
  
2. The application is supported by the affidavit of Eddie Amadi who deposed that at all material times relevant to this suit, the respondent instructed them to act for and on its behalf in defending its interest in **Garissa SPMCC No. E006 of 2023 Barut Kassim Ibrahim (Suing as the legal representative of Gaboy Muhamud Andi - deceased- vs Kenya Red Cross & Another**, consequences whereof the applicant lodged a bill of costs on 28.06.2024 to be taxed as between advocate and client.

That the same was taxed on 17.12.2024 in the sum of Kes. 167,800/-.

3. That subsequently, a certificate of taxation was issued by the Deputy Registrar for the sum of Kes. 167,800/-. That despite several reminders, the respondent has failed to make good the said amount. This court was therefore urged to allow the motion as prayed.
4. Mr. Peter Waweru, Legal Officer on behalf of the respondent filed a replying affidavit sworn on 03.10.2025 conceding that indeed, the respondent instructed the applicant to represent its interests in Garissa SPMCC No. E006 of 2023. That there was no engagement with the applicant regarding payment of the legal fees or the certificate of taxation.
5. He further stated that the respondent is committed to settling any legal fees owed to its service providers including the applicant herein on condition of confirmation of provision of the services utilized. That the respondent's position is that the settlement of legal fees between itself and the applicant has always been guided by the Service Level Agreement between the parties and thus, it was committed to pay the applicant in line with the same terms.
6. That the filing of this motion is an attempt to arm twist the respondent as there exists an agreement between the parties on how the applicant would be compensated for its services.
7. The applicant filed submissions dated 29.10.2025 urging that the advocate - client bill of costs dated 28.06.2024 was taxed on

17.12.2024 at Kes. 167,800 and a certificate of taxation issued on 28.04.2025. That the said certificate of taxation has never been reviewed or set aside and therefore, the prayers herein ought to be allowed. To that end, reliance was placed on the case of **High Court of Kenya at Nairobi Misc. Civil Application No. 667 of 2017 Waiganjo Wachira & Co. Advocates vs Pacis Insurance Co. Ltd [2020] eKLR** where the court stated that:

**“The provision of section 51(2) of the Advocates Act is well settled that a certificate of taxation is final unless and until its set aside or varied”.**

8. That the respondent does not dispute instructing the applicant and further, the certificate of taxation has never been set aside or varied. That to that end, this application be allowed.
9. I have considered the application herein together with the respondent’s response and submissions by both parties. The only issue for determination is whether the application herein is merited.
10. It is trite that once a taxing master has taxed the costs, issued a certificate of costs and there is no reference filed against his ruling or there has been a ruling and a determination made and not set aside and/or altered, no other action would be required from the court save to enter judgment. The certificate of costs is final as to the amounts of the costs and the court would be quite in order to enter judgment in favour of the Applicant against the Respondent. [See **HC Misc 486 of 2012 E.W. Njeru & Co**

**Advocates vs Zakhem Construction (K) Limited  
(2013)KECH3376(KLR).**

11. This position is based on the provisions of Section 51 (2) of the Advocates Act Cap 16 (Laws of Kenya) and Section 48 (3) of the Advocates Act, the latter which provides as follows: -

**“Notwithstanding any other provision of this Act, a bill of costs between an advocate and a client may be taxed notwithstanding that no suit for recovery of costs had been filed.”**

12. While the court has noted that the respondent does not deny instructing the applicant save for the allegation that payment was allegedly pegged on an agreement which the respondent refers as Service Legal Agreement, there is no dispute that the certificate of costs herein has not been appealed against, varied or set aside. See **Lubulellah & Associates Advocates v N K Limited brothers (2014)e KLR** where the court held that; once a taxing master has taxed the bill of costs and issued a certificate of costs and there is no reference against its ruling, no other action would be expected from the court save to enter judgment.
13. The respondent in their submission basically reiterated the content contained in their replying affidavit.
14. In the instant case, the respondent is seeking to challenge the bill of costs already taxed and a certificate issued instead of filing a reference. The court is being asked to replay the role of the taxing master which role is already spent. In the absence of a reference or an order setting aside the taxation order, this court

can not interfere with the taxation certificate issued directing payment of the amount due.

15. Noting that the respondent did not file a reference, the applicant thus ought to enjoy the fruits of its labour.
16. Further, the applicant sought interest as plainly provided for under Section 51(2) of the Advocates Act which empowers this court to make any order that it deems fit. Entry of judgment and award of interest at court rates is within the ambit of what this court can do. The Applicant has claimed for interest on the taxed amount which is Kes. 167,800/-, Rule 7 of the Advocates Remuneration Order provides as follows: -

**“An advocate may charge interest at 14% per annum on his disbursements and costs, whether by scale or otherwise, from the expiration of one month from the delivery of his bill to the client, provided that such claim for interest is raised before the amount of the bill shall have been paid or tendered in full.”**

17. Additionally, in the case of **HC Misc No 486 and 487 of 2012 E.W. Njeru & Co Advocates** (Supra), it can be easily gleaned that if an advocate files his Bill of Costs without raising the issue of interest, then he forfeits interest as provided for under Rule 7 of the Advocates Remuneration Order. The court can only award the interest at court rates. In this case, the same was properly raised and therefore awarded.
18. Accordingly, the court finds that the application herein is merited and the same is hereby allowed as prayed with costs.

Dated, signed and delivered virtually this 12<sup>th</sup> day of March 2026.

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**J. N. ONYIEGO**  
**JUDGE**