

REPUBLIC OF KENYA
IN THE EMPLOYMENT & LABOUR RELATIONS
COURT AT NAKURU

ELRC MISCELLANEOUS APPLICATION NO. E067 OF
2025

***(Before Hon. Lady Justice Anna Ngibuini
Mwaure)***

ALFRED OWINO ONYANGO

APPLICANT

VERSUS

COUNTY GOVERNMENT OF NAKURU.....

RESPONDENT

RULING

Introduction

1. The Applicant filed a Notice of Motion dated 3rd December 2025 seeking the following orders that:

1. Spent.

2. The Honourable Court be pleased to adopt as judgment of the court, the assessment/award of the Director of Occupational Safety and Health Services, Naivasha, made on 8th September, 2020

3. A Decree do issue for:

a. The sum of Kshs.2,980,950/= being the Director's award/assessment made on 8th September, 2020; and

b. Interests thereon at court rates (14%) from the date of the award (8th September 2020) until payment in full.

4. The Applicant forgoes costs of this Application and/or each party to beat their own costs.

2. The application is brought under ***Articles Article 159(2)(d) and 162 of the Constitution, section 12 of the Employment and Labour Relations Act, 2007, Rule 69 of the Employment and Labour Relations Court (Procedure) Rules, 2024, sections 7, 19(2), 26 and 51 of the Work Injury Benefits Act, Order 40 and 51 of the Civil Procedure Rules 2010, and all other enabling provisions of the law.***

Applicant's case

3. The application is supported by the affidavit of Applicant dated the same date as the application.
4. The Applicant avers that the Respondent employed him as a law enforcement officer and the work-related injuries he sustained on 23rd December 2017, which were assessed by the Directorate of

Occupational Safety and Health Services (DOSHS) at 50% liability.

5. Following this, the Applicant avers that DOSHS issued an award on 8th September 2020, requiring the Respondent to compensate him in the sum of Kshs.2,980,950/=, payable within 90 days.
6. The Applicant avers that the Respondent neither lodged an objection nor appealed within the statutory timelines under **section 51(1) of the Work Injury Benefits Act (WIBA)**, and has failed to comply with section 26(4) requiring timely payment.
7. The Applicant argues that this non-compliance amounts to a criminal offence under section 26(6) of WIBA, infringes his constitutional rights under Articles 27 and 41, and violates his legitimate expectation of compensation.
8. The Applicant therefore urges the court to prioritize the matter and issue a decree enforcing the Director's award.
9. Despite the Respondent being served with the application, it did not respond to the said application; thus, the application is unopposed.

Analysis and determination

10. The court has considered the application, supporting affidavit and the annexures; the singular issue for determination is whether the application is merited.

11. **Rule 69(1) of the Employment and Labour Relation Court (Procedure) Rules 2024** provides as follows:

“Where parties have entered into a conciliation, negotiation or mediation agreement, or, are bound by an arbitral award or a lawful decision reached in Alternative Justice Systems, a party may file the award, decision or agreement for adoption and enforcement as an order of the Court.”

12. In **Charles v Cheto [2025] KECA 784 [KLR]**, the Court of Appeal held as follows:

“As the learned Judge correctly observed, there is a lacuna in the law with regard to the procedure for the enforcement of the Director’s decision in that there is no express provision of the WIBA stipulating the procedure for the enforcement of the Director’s award. Be that as it may, Employment and Labour Relations Courts have aptly held that enforcement of the

Director's decisions lies with the ELRC as the court with the jurisdiction to deal with employment and labour relations claims and connected purposes as provided for under sections 86 and 89 [formerly 87 and 90] of the Employment Act."

13. In ***Samson Chweya Mwendabole v Protective Custody Limited [2021] KEELRC 1809 (KLR)***, the court stated as follows:

".... There is a lacuna in law with respect to the procedure for the enforcement of the awards made by the Director under WIBA. However, this court, being endowed with unlimited original and appellate jurisdiction in disputes related to employment and labour relations pursuant to Article 162(2) (a) of the Constitution and section 12 of the Employment and Labour Relations Court Act, I hold that it has the inherent jurisdiction to adopt as a judgment the Director's award for purposes of execution. This jurisdiction should not be confused with appellate jurisdiction,

which is expressly donated under section 52 (2) of the WIBA in respect of the Director's reply to objection made under section 51(1) of the WIBA."

14. In this instant case, the Applicant, employed as a law enforcement officer, sustained injuries at work on 23rd December 2017. DOSH on 8th September 2020 assessed his injury at 50% and awarded him Kshs.2,980,950/=, payable within 90 days. The Respondent did not appeal against the award in accordance with ***sections 51(1) and 52 of WIBA.***
15. Despite being served with the application the Respondent has not filed any response or opposition to date.
16. The court is satisfied that it is duly empowered under ***Rule 69 of the Employment and Labour Relations Court (Procedure) Rules, 2024***, to adopt awards issued by the Directorate of Occupational Safety and Health Services, together with the cited authorities.
17. The court has considered the application and the submissions of the Applicant and so finds the application dated 3rd December 2025 is merited and allowed as prayed as supported by Section 69 of the

Employment and Labour Relations (Procedure) Rules
2024.

18. There will be no orders as to costs.

Orders accordingly.

**Dated, Signed and Delivered virtually at Nakuru
this 13th Day of
March, 2026.**

**ANNA NGIBUINI MWAURE
JUDGE**

ORDER

In view of the declaration of measures restricting Court operations due to the COVID-19 pandemic and in light of the directions issued by His Lordship, the Chief Justice on 15th March 2020 and subsequent directions of 21st April 2020 that judgments and rulings shall be delivered through video conferencing or via email. They have waived compliance with **Order 21 Rule 1 of the Civil Procedure Rules**, which requires that all judgments and rulings be pronounced in open Court. In permitting this course, this Court has been guided by Article 159(2)(d) of the Constitution which requires the Court to eschew undue technicalities in delivering justice, the right of access to justice guaranteed to

every person under Article 48 of the Constitution and the provisions of **Section 1B** of the **Civil Procedure Act (Chapter 21 of the Laws of Kenya)** which impose on this Court the duty of the Court, inter alia, to use suitable technology to enhance the overriding objective which is to facilitate just, expeditious, proportionate and affordable resolution of civil disputes.

A signed copy will be availed to each party upon payment of Court fees.

ANNA NGIBUINI MWAURE
JUDGE