



**Mwadia v Kenya School of Government, Maguta & another (Miscellaneous Application E127 of 2025) [2026] KEELRC 793 (KLR) (19 March 2026) (Ruling)**

Neutral citation: [2026] KEELRC 793 (KLR)

**REPUBLIC OF KENYA  
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT MOMBASA  
MISCELLANEOUS APPLICATION E127 OF 2025**

**M MBARÚ, J  
MARCH 19, 2026**

**BETWEEN**

**JEPHERSON MALICHO MWADIA ..... APPLICANT**

**AND**

**KENYA SCHOOL OF GOVERNMENT, MAGUTA ..... RESPONDENT**

**AND**

**GEMINIA INSURANCE CO. LIMITED ..... THIRD PARTY**

**RULING**

1. The applicant filed an application dated 6 November 2025 seeking to enforce the Director, Occupational Safety and Health Services (DOSHS) award for Ksh. 787,302 of 24 October 2024. The respondent also filed an application dated 5 December 2025 for third-party proceedings against Geminia Insurance Company Limited on the basis that the DOSHS award should be settled by them, since the respondent maintained an insurance cover and policy under section 7 of the *Work Injury Benefits Act* (WIBA).
2. There is no response from the third party. They did not attend these proceedings, despite service and returns confirming the same.
3. The applicant maintains that a follow-on work injury occurred on 20 July 2023, and the respondent reported the matter to DOSHS, who assessed and made an award. Notice was issued to the respondent, but no payment was made within the WIBA timelines. There are no objections or appeals against the DOSHS award, and therefore, the respondent should settle the same.
4. The respondent maintains that, indeed, the applicant was an employee and suffered work-related injuries. The third party held Policy cover under Policy No. WIP/NBI/2020/000130 for work-related injuries to its employees, and hence is contractually liable to settle the DOSHS award of Ksh. 787,302.



5. In reply to the applicant's application, the respondent filed the Replying Affidavit of Gichunge Gideon Irura, the acting human resources officer, who avers that the third party, Geminia Insurance Co. Limited, should be directed to settle the DOSH award. However, the applicant is guilty of material non-disclosure, as at the time of the work injury, he was covered under a valid Work Injury Benefits Act (Plus) Insurance Policy, which entitled him to compensation. Pursuant to section 7 of WIBA, the third party under Policy No. WIP/NBI/2020/000130 should settle the liability.

Both parties attended and made oral submissions on each application.

6. As stated above, the third party, although served, did not attend the proceedings.

7. Indeed, under WIBA, where an employee suffers a work-related injury, the employer, such as the respondent, has the duty to report the same to DOSH. In this case, the respondent made a report but failed to state the Insurance policy cover as required under section 7 of the WIBA. This is then cured under the Third Party application dated 5 December 2025.

8. The respondent does not deny the applicant's right to be compensated pursuant to the DOSH award.

9. Section 7(1) of WIBA mandates every employer to obtain and maintain an insurance policy in respect of liability for work injury to its employees.

(1) Every employer shall obtain and maintain an insurance policy, with insurer approved by the Minister in respect of any liability that the employer may incur under this Act to any of his employees.

In this case, Policy No. exists. WIP/NBI/2020/000130.

10. Under section 10(1) of WIBA, an employee who is injured at work is entitled to compensation:

(1) An employee who is involved in an accident resulting in the employee's disablement or death is subject to the provisions of this Act, and is entitled to the benefits provided for under this Act.

11. Further, under section 10(2) of the Act, the employer is liable to make the payment, and where the employer has an insurance policy, the insurer is enjoined under sections 17 and 26(4) of the Act:

(2) An employer is liable to pay compensation in accordance with the provisions of this Act to an employee injured while at work.

And:

(4) An employer or insurer against whom a claim for compensation is lodged by the Director under this section, shall settle the claim within ninety days of the lodging of the claim.

12. In this regard, the third party, Geminia Insurance Co. Limited, is hereby ordered to pay the applicant under Policy No. WIP/NBI/2020/000130 held by the respondent, the DOSH award for Ksh. 787,302 within 45 days from the date hereof, after which time the same shall accrue costs plus interest from the date of the judgment.

13. Applications dated 6 November 2025 and 5 December 2025 are allowed to this extent.

**DELIVERED IN OPEN COURT AT MOMBASA, THIS 19<sup>TH</sup> DAY OF MARCH 2026.**

**M. MBARŪ**

**JUDGE**

In the presence of:



Court Assistant: Omar

..... and .....

