

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIVASHA

CIVIL APPEAL NO. E041 OF 2024

CROWN PETROLEUM
APPELLANT

VERSUS

IAN OCHOLI WESAH & DAVID OTIENO NEHEMIAH
(Suing as the legal representatives of the Estate of the
late DORSILLA AUCHA)

.....
RESPONDENTS

(Being an appeal from the judgment and decree of Hon.
Y. I. Khatambi (PM) delivered on 12th April 2024 in
Naivasha CMCC No. 552 of 2017)

JUDGMENT

1. The Respondents herein sued the Appellant before the trial court, in their capacity as the legal representatives of the deceased, for damages arising from a road traffic accident that occurred on or about 5th May 2017 involving motor vehicles KBQ 032E and KBR 425T/ZF 0051, allegedly driven negligently by the Appellant's servant or agent.
2. The trial court held the Appellant 100% liable and awarded a total of Kshs. 907,730.60 together with costs and interest.
3. Aggrieved by the finding on liability, the Appellant lodged the present appeal, raising five grounds which, in substance, fault the trial court for:

- i) ***Finding the Appellant 100% liable without sufficient evidential basis;***
- ii) ***Disregarding police and investigative evidence;***
- iii) ***Failing to analyse the totality of the evidence on record;***
- iv) ***Ignoring corroborative documentary evidence;***
and
- v) ***Failing to consider contributory negligence.***

4. Parties filed written submissions. By consent, Naivasha HCCA No. E040 of 2024 was designated as the lead file on liability, while quantum was not substantially contested in this appeal.

5. This court has already addressed and upheld the trial court's decision on the issue of liability in the lead file being Naivasha HCCA E040/2024 with directions that judgment in the said file shall apply in this case and all the other related cases. I have, in the said judgment, found that the trial court arrived at the correct finding on liability.

6. Accordingly, the trial court's finding of 100% liability is hereby upheld. This means that the instant appeal fails and is hereby dismissed with costs to the Respondent.

DATED, SIGNED AND DELIVERED AT NAIVASHA THIS 19TH DAY OF MARCH, 2026.

HON. W. A. OKWANY
JUDGE

19/03/2026

FOR APPELLANT Miss Mwangi

FOR RESPONDENT Ms Keberenge

COURT ASSISTANT Karani

30 days stay of execution granted

File closed

ORIGINAL