



**Oyamo v Mash East Africa Limited & another (Civil Suit
E862 of 2021) [2026] KEMC 26 (KLR) (17 February 2026) (Judgment)**

Neutral citation: [2026] KEMC 26 (KLR)

**REPUBLIC OF KENYA
IN THE NAKURU LAW COURTS
CIVIL SUIT E862 OF 2021
PA NDEGE, SPM
FEBRUARY 17, 2026**

BETWEEN

PETER ODHIAMBO OYAMO PLAINTIFF

AND

MASH EAST AFRICA LIMITED 1ST DEFENDANT

ANADH KHAMIS 2ND DEFENDANT

JUDGMENT

1. On or about 24/01/2021, the Plaintiff was a lawful pillion passenger of motor cycle registration number KMFJ – 758Z BOXER) and while at St. Mary’s area along Gilgil-Nakuru road, when the Defendants and/or their driver/ employee/ servant and/or agent so carelessly, and /or negligently drove, managed and/or controlled motor vehicle registration number KCQ 170L Scania Bus thereby causing it to hit the aforesaid motor cycle as a result of which he sustained severe injuries.
2. The defendants have already agreed to be 85% liable for the accident and the resultant injuries and loss. The Plaintiff sued vide a Plaint dated 12/07/2021, and also pleaded special damages of Kshs. 25,750/- being the medical expenses of Kshs. 17,000/-, police abstract of Kshs. 200/-, medical report of Kshs. 8,000/- and search at KRA of Kshs. 550/-.¹
3. When the matter came up before me for defence hearing on 04/11/2025, the plaintiff was represented by Mr. Cheruiyot, while the Defence was represented by Mr. Ombeo. On that day, the parties herein entered the consent on liability wherein the plaintiff agreed to a partial liability of 15%. Parties also agreed to close the defence case without calling any witness.

¹ Refer to paragraph10 of the Plaint



4. In the submissions filed herein, parties appear to agree that the victim herein sustained the injuries pleaded, i.e. deep cut wound and haematoma on the left temporal region; and soft tissue injuries on the chest and knee joint. I will therefore go straight to the quantum.
5. Whereas there were authorities cited by both counsels herein, I find the injuries herein not comparable to any of them. General damages are however damages at large whose purpose is to compensate the injured to the extent that such injury can be assuaged by a money award. It has repeatedly been stated that money cannot renew a physical frame that has been injured and crushed hence the courts can only award sums which must be viewed as giving reasonable compensation. Awards ought to be reasonable and must be assessed with moderation bearing in mind that large and inordinate awards may injure the body politic. Furthermore, it is desirable that so far as possible comparable injuries should be compensated by comparable awards putting into consideration the current prevailing economic circumstances including inflation (see *Tayab Vrs Kinanu* [1983] Klr 114 And West (h) & Son Ltd Vrs Shepherd [1964] AC 326, 345). Damages must therefore be within limits set by decided cases and also within the limits that the Kenyan economy can afford (see *Nyota Tissue Products Vrs Lawrence Kuboka & 4 Others* [2020] eKLR)
6. There is however no one best formula of assessing damages in injury claims. Such assessment is an act of art rather than science. In HCCC NO. 752/1993 *Mutinda Matheka Vs Gulam YusuF* that was cited by Warsame, Ag. J (as he then was) in *Jenipher Milay O. Okuku Vrs Kenya Bus Services Ltd* (kisumu Hc Misc. Civil APPL. 172/2001), *Wambilyangah J.*, held that the court will essentially consider the nature of the injuries suffered, the period of recuperation etc.²
7. I am also aware of the other guiding principles in awarding general damages such as: - damages should be within the limits set out by decided cases, within my pecuniary jurisdiction, within the limits that the Kenyan economy can afford and must be commensurate to the kind of injury, and extent of pain and suffering. Guided by the above principles, I find that Kshs. 220,000/= shall adequately compensate the plaintiff herein. I do therefore award the same subject to his 15% contribution in liability as consented to herein.
8. On Special Damages, I have been able to find proof of Kshs. 8,000/- being medico-legal report vide PEXH. No. 8; Kshs. 49,450, being medical or treatment expenses vide the PEXH. 11; and Kshs. 550/- being vehicle inquiry fee vide PEXH. NO.10. The plaintiff however pleaded Kshs. 17,000/- only as the medical expenses. I shall therefore award him the damages only to that extent. I do therefore hereby award the plaintiff Kshs. 25,550/- as special damages and which is also subject to the plaintiff's 15% contribution as consented to herein.

Conclusion and Disposal Orders

9. Judgment is hereby therefore entered for the plaintiff against the defendants herein as follows:
 - i. General damages for pain and suffering of Kshs. 187,000/=
 - ii. Special damages of Kshs. 21,717/50=
 - iii. Costs of the suit and interest at court rates.

DATED, SIGNED AND DELIVERED AT NAKURU IN OPEN COURT THIS _17TH DAY OF FEBRUARY, 2026

² See *SIMON TAVETA VRS MERCY MUTITU NJERU* [2014] eKLR, as cited in *JAMES OKONGO VRS ELMAT SAGWE OGEKA* [2021] eKLR



ALOYCE-PETER-NDEGE

SENIOR PRINCIPAL MAGISTRATE

In the presence of;

Plaintiff's counsel: N/A

Defence counsel: N/A

Plaintiff: N/A

2nd Defendant: N/A

