



**Mutheni v Kariuki & another (Civil Case E115 of 2024)
[2025] KEMC 353 (KLR) (13 November 2025) (Judgment)**

Neutral citation: [2025] KEMC 353 (KLR)

**REPUBLIC OF KENYA
IN THE NAKURU LAW COURTS
CIVIL CASE E115 OF 2024
PA NDEGE, SPM
NOVEMBER 13, 2025**

BETWEEN

HANNAH NJERI MUTHENI PLAINTIFF

AND

MAINA KARIUKI 1ST DEFENDANT

AMOS MURIMI MUCHIRA 2ND DEFENDANT

JUDGMENT

1. The suit herein was initiated by the plaintiff, against the defendants, for compensation, arising from a road traffic accident, which happened on 1st September 2023, along the Gilgil – Nakuru Highway, involving the plaintiff and motor vehicle KDJ – 715 Nissan owned or controlled by the defendants at the material time. The plaintiff was a pedestrian along the said highway when at and or near Karura Area, the accident herein happened when she was violently hit with the aforesaid vehicle as a result of which she sustained serious bodily injuries. The plaintiff attributed the accident to negligence on the part of the defendants.
2. Return of Service on Record shows that the defendants were served with the suit papers but failed to enter appearance or file defence. As a result, judgment in default of appearance was entered against them. In my considered view therefore the claim in prayer (b) in the plaint is in the nature of a liquidated demand. And as the defendants failed to enter appearance within the required time, and also failed to file defence, I hold and do therefore enter judgment for the plaintiff for a total of Kshs 20,550/= being the special damages pleaded and hence prayed for, with interest and costs. The same being liquidated needed not to be subjected to this formal proof.



3. The suit is thus undefended and proceeded to formal proof hearing for purposes of assessing the general damages payable as per payer no. (a) in the Plaint. In *Nyambati Nyaswabu Erick v Toyota Kenya Ltd & 2 Others* (2019) eKLR, Justice DS Majanja held as doth:

General damages are damages at large and the Court does the best it can in reaching an award that reflects the nature and gravity of the injuries. In assessing damages, the general method approach should be that comparable injuries would as far as possible be compensated by comparable awards but it must be recalled that no two cases are exactly the same.

4. I have gone through the medical evidence adduced herein. I do find that the plaintiff herein sustained the injuries pleaded and from the accident herein. I thus therefore conclude herein that the plaintiff herein has been able to prove to the required standard that he sustained the following injuries as a consequence of the accident herein: -

- a. Blunt injury to the right shoulder joint leading to soft tissue injuries.
 - b. Blunt injury to the left shoulder joint leading to soft tissue injuries.
 - c. Blunt injury to the anterior chest wall leading to soft tissue injuries.
 - d. Soft tissue injuries to the left leg.
 - e. Soft tissue injuries to the left frontal region of the scalp (laceration).
 - f. Blunt injuries to the anterior abdominal wall leading to soft tissue injuries.
 - g. Soft tissue injuries of the lower back.
 - h. Soft tissue injuries of the left elbow joint (laceration).
 - i. Soft tissue injuries of the right elbow joint.
5. Learned counsel for the plaintiff relied on the authorities of *Samwel Martin Njoroge Kamunyu v Mildred Okweya Barasa* (2020) eKLR, *Poa Link Services Co Ltd & Anor v Sindani Boaz Bonzemo* [2021] eKLR and *Ochieng & Anor v Kariuki* [2024] KEHC 11930 (KLR) and submitted for an award of Kshs 500,000/=.
6. Upon review of the decisions mentioned above, it should be abundantly clear that the injuries sustained herein are almost commensurate to the ones sustained by the victims in the decisions cited. I shall, accordingly award Kshs 500,000, upon taking into account the seriousness of the injuries, the fluctuation of the local currency and the dates on the authorities reviewed. I therefore enter judgment in favour of the plaintiff and against the defendants for the sum of Kshs 520,550/-, costs and interest.

DELIVERED, DATED AND SIGNED IN OPEN COURT, AT NAKURU, THIS 13TH DAY OF NOVEMBER, 2025.

ALOYCE-PETER-NDEGE

SENIOR PRINCIPAL MAGISTRATE

In the presence of;

Plaintiff's Counsel: Kurere.

Plaintiff: N/A.

