



REPUBLIC OF KENYA
IN THE SMALL CLAIMS COURT AT VOI
SC CC NO. E094 OF 2025.

RAPHAEL KILONZI
LIVU.....
....CLAIMANT

-VERSUS-

GIBRAN MWANDEMBO KARAMBU.....
.....RESPONDENT

JUDGEMENT.

INTRODUCTION.

- 1)** This is a claim for compensation for damages to the claimant's motor vehicle KBT 655A Toyota Land cruiser caused by the respondent's motor cycle registration number KMGE 154D.
- 2)** The claimant states that on 22/7/2025 at around 0820hours the claimant was lawfully driving his vehicle at AIC area along Voi-Kaloleni road when the respondent's motor cycle that was recklessly driven that it hit the claimant's motor vehicle causing it extensive damages. Particulars of negligence have been pleaded.
- 3)** The claim is not opposed despite service and there is interlocutory judgment in place.
- 4)** The claimant opted to proceed under section 30 of the Small claims Court and as such I have considered the pleadings and the documents in support of the claim.

ISSUE FOR DETERMINATION.

- a) **Whether the Respondent is liable for the accident.**
- b) **What is the quantum of damages awardable if.**
- c) **Who bears costs of the claim.**

ANALYSIS AND DETERMINATION.

- a) **Whether the respondent is liable for the accident.**

5) As already stated interlocutory judgment was entered as against the respondent. In the case of **William Wagura Maigua vs Elbur Flora Limited(2012)eKLR** Justice William Ouko(as he then was) held thus;

“the defendant though served with summons to enter appearance or file defence within the stipulated time on 21/10/2011 interlocutory judgment was entered in favour of the plaintiff and the matter was fixed for formal proof. In this case as no appearance or response was filed. The issue of liability was settled in favour of the plaintiff through entry of interlocutory judgement on 21/10/2011 and the plaintiff was under no obligation to call evidence to prove it”

6) In this matter, similar situation obtains. The respondent was served but to date he has not entered appearance and interlocutory judgement having been entered settles the issue of liability. The court therefore makes a finding that the respondent is 100% liable for the accident.

- b) **What is the quantum of damages awardable if.**

7) The claim of quantum is for Kshs.81,380/=. The amount is made up of costs of spare parts. Labour and paintings. Further it also includes fees for assessment.

8) I have perused the documents and of the amount pleaded to wit Kshs.81,380/= only Kshs.71,380/= has been specifically proved.

9) In the case of **Waruingi v Nyambura & another (Civil Appeal 904 of 2022) [2025] KEHC 866 (KLR) (Civ) (31 January 2025) (Judgment)** where the learned judge stated as follows in relying upon the assessment report:-

"It is now settled that the assessor's report is sufficient proof and the failure to provide receipts for any repairs done is not fatal to the claim. (See the Court of Appeal's decision in David Bagine v Martin Bundi (1996) eKLR). I am constrained to agree with the submissions of the appellant that he provided sufficient evidence for the material claim and the decision in Nkuene Dairy Farmer Co-operative Society Ltd -vs- Ngacha Ndeiya(2010) eKLR where the court held;"special damages in a material damage claim need not be shown to have actually been incurred, that the claimant is only required to show the extent of damage and what would cost to restore the damaged item as near as possible to the condition it was before the accident."

- 10)** It is clear that the standard therefore in material damages is for the claimant to demonstrate the extent of damage and what it would cost to restore the damaged item as near as possible to the condition it was before the accident.
- 11)** The claimant in my view and with the guidance of the cited authority has met this test. The amount has been estimated by an expert and there being no contrary report for comparison purposes, I find that the claimant has proved on a balance of probabilities the estimate of the damage suffered.
- 12)** The claim on quantum is thus allowed as prayed save for the claim for car hire charges which have not been proved.

c) Who bears costs of the claim.

- 13)** It is clear the claimant is successful in this claim and since costs follow event, he is awarded costs of the claim.

CONCLUSION AND DISPOSITION.

- 14)** The upshot of the foregoing I make the following final orders;
- a) The claim contained in the statement of claim dated 15th December 2025 is allowed in the sum of Kshs.71,380/=.**

b) Costs and interest at court rates is awarded to the claimant.

c) The interest to accrue from the date of filing the claim until payment in full

15) Those shall be the orders of the court.

DATED, SIGNED AND DELIVERED VIRTUALLY AT VOI SMALL CLAIMS COURT THIS....16th.....DAY OF .JANUARY...2026

**F.M. MULAMA
ADJUDICATOR/RM**

In the presence of:

Court Assistant:- Daniel Joshua.

Mr. Ngure H/B for Ms. Ngige for the Claimant.

N/A for the respondent.