



Karuri & another (Both Suing as the Administratrix and Administrator of the Estate of Karuri Nganga Njiru – Deceased) v Mureithi & another (Civil Case 121 of 2009) [2026] KEHC 4832 (KLR) (14 April 2026) (Judgment)

Neutral citation: [2026] KEHC 4832 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAKURU
CIVIL CASE 121 OF 2009
JM NANG'EA, J
APRIL 14, 2026**

BETWEEN

MARY WANJIRU KARURI 1ST PLAINTIFF

ZAKARIA NGANGA KARURI 2ND PLAINTIFF

**BOTH SUING AS THE ADMINISTRATRIX AND ADMINISTRATOR OF THE
ESTATE OF KARURI NGANGA NJIRU – DECEASED**

AND

SAMUEL WACHIRA MUREITHI 1ST DEFENDANT

**WILFRED HIUHU NGARI T/A GOODHOPE MEDICAL
CENTRE 2ND DEFENDANT**

JUDGMENT

1. The Plaintiffs being the legal representatives of the estate of the deceased, instituted this suit against the Defendants following a road traffic accident that occurred on 22nd June, 2007 along the Nyahururu-Ol Kalou road. It is their case as per the suit that the 1st Defendant who was the driver of the 2nd Defendant's motor vehicle registration number KAW 642 B so carelessly or negligently drove and/or controlled the vehicle thereby causing it to hit and cause fatal injuries to the deceased fatal who was lawfully cycling along the road.
2. The Plaintiffs seek judgement against the Defendants jointly and severally as follows;
 - a. Damages under the *law reform Act* and the Fatal Accident's Act
 - b. Special Damages of Kshs. 50,700
 - c. Costs of the suit



- d. Interests on all the above at Court rates
3. The Defendants in their joint Defence dated 31st August, 2009 deny all the material allegations in the suit including occurrence of the accident and negligence attributed to them. In the alternative and on a without -prejudice basis they contend that any such accident as may be proven to have occurred was the consequence of the deceased's negligence.
 4. For these reasons inter alia the court is urged to dismiss the suit with costs.
 5. By Notice of Motion dated 3rd August 2020 the Defendants prayed for dismissal of the suit for non-prosecution complaining that the Plaintiffs had taken an unreasonably long period to have it heard and determined. In its Ruling dated 18th October, 2023, the Court dismissed the Application. It also found that the suit as against the 2nd Defendant had abated following his death and in line with Order 24 of the Civil Procedure Rules 2010. The suit thereafter proceeded only as against the 1st Defendant .
 6. On 17th April, 2024 the parties entered consent judgement on liability in favour of the Plaintiff in the ratio of 60:40.
 7. Both Plaintiffs testified. The 2nd Plaintiff (Zakaria Ng'ang'a Karuri) told the court that he was the son of the deceased while the 1st Plaintiff is his mother. He stated that on 22nd June, 2007 the deceased failed to return home at 6.30pm as was his usual routine, and at 8.00 pm they were informed by a villager that he was involved in a road accident and had been taken to a Nyahururu private hospital. Together with the 1st Plaintiff he went to the hospital where they found deceased admitted and receiving treatment . The 2nd Plaintiff further told the court that the deceased unfortunately succumbed to his injuries on 30th June, 2007.
 8. The Plaintiffs are said to have reported the accident to the police and recorded statements on circumstances leading to the death of their kin. As they were making burial arrangements they received a report of an accident involving motor vehicle registration number KAW 642 B that allegedly caused the deceased's death. The Plaintiffs obtained a police abstract report of the accident from the police.
 9. The 2nd Plaintiff added that the deceased was self – employed, doing wiring man and hardware business in Nyahururu town. The deceased maintained an account with Barclays bank and was earning about Kshs. 20,000 per month, using the money to maintain the family. Some of the deceased's children were still in secondary school and primary school. funeral expenses to the tune of Kshs 42,000/= were said to have been incurred but receipts in support were unavailable. The 2nd Plaintiff could not recall an advocate they hired to obtain Grant of Letters of Administration to enable them file suit on behalf of the deceased's Estate.
 10. The 1st Plaintiff (Mary Wanjiru Karuri) adopted her Witness Statement dated 2nd May, 2024 corroborating the 2nd Plaintiff's evidence. She also produced their bundle of documents dated 28th April, 2009 as exhibits in support of their case.
 11. In cross examination, she states that they spent over Kshs. 30,000/= in funeral costs and Kshs. 20,000/= in legal fees to obtaining Grant of Letters of Administration..
 12. The defendants didn't offer evidence.
 13. Under pain and suffering it is submitted that that the deceased died 8 days after the accident therefore an award of Kshs. 200,000/= would be fair, reference being made to the case of Letayoro & another vs JK (Suing as the Legal Representative of the Estate Of the CK (Deceased))[2022] KEHC 10309 (KLR).



14. Under the head of loss of expectation of life, it is argued that the deceased was in good health before his untimely death . Kshs. 200,000/= is proposed under this head.
15. The Plaintiffs state that the deceased was aged 55 years at the time of death and was survived by his wife and nine children, as confirmed by a letter from the area Chief and the death certificate produced in evidence.
16. It is argued further that following his death, the family lost financial support and life has never been the same. The Plaintiffs urge the Court to adopt a multiplier of fifteen years, arguing that the deceased would have worked until the age of seventy in accordance with the Laws of Kenya. Reliance is placed on Jacob Ayiga Maruja & Another vs Simeone Obayo [2005] eKLR, where the Court of Appeal held that documentary evidence is not the only way to prove profession or earnings and oral testimony may suffice.
17. As regards special damages, it was submitted that they were specifically pleaded and strictly proven as required in law.
18. The 1st Defendant submits that the deceased died immediately after the accident, and award of Kshs. 10,000/= is said to suffice for pain and suffering (see *Gabrile Mazera vs Husein Jama* [2014] eKLR referred to by Counsel.
19. On the claim for loss of expectation of life, the 1st Defendant proposes between Kshs. 80,000/= and Kshs. 100,000/=-, seeking support from the decisions in *Lucy Wambui Kihoro vs Elizabeth Njeri Obuong* [2015] eKLR as cited in *Odiambo vs Chado* [2022] KEHC 13356 (KLR) where the Court awarded Kshs. 100,000/= for loss of expectation of life.
20. Under the Fatal Accident' Act, it is submitted that the Plaintiffs have not adduced evidence to prove that the deceased was a mechanical wearing technician earning Kshs. 20,000/=-. It is suggested that the Court does apply the minimum wage as was opined in *Mary Njeri Murigi vs Peter Macharia and Another* [2016] eKLR and *Juma Kigambwi vs Loise Kahenya* [2017] eKLR.
21. The court is urged to adopt a multiplicand of Kshs. 15,201.65 as was done in the case of *Board of Governors of Kangubiri Girls High School & Another vs Jane Wanjiku & Another* [2014] eKLR. As regards the suitable multiplier, the 1st Defendant proposes five (5) years , on the strength of case of *Techard Steam & Power Limited vs Mutio Muli & Mutua Ngao* [2019] eKLR.
22. The 1st Defendant further submits that since there is no evidence proving the deceased's alleged earnings of Kshs. 20,000, the minimum wage of Kshs. 15,201.65, citing *Mary Njeri Murigi vs Peter Macharia & Another* [2016] eKLR and *Juma Kigambwi vs Loise Kahenya* [2017] eKLR. Five years is suggested as the proper multiplier.
23. It is also observed that the Plaintiff failed to prove marriage, paternity or dependency, citing *Mugo vs Ngari HCCC No. 5087 of 1990* and *Beatrice Wangui Thairu vs Ezekiel Barngetuny & Another* (HCCC No. 1638) as cited in *James Mutuma Kirimi vs PCEA Kikuyu Hospital & Another* [2017] eKLR where the Court held that there is no rule of law that two-thirds of a person's income is automatically available for family expenses and therefore a dependency ratio of one-third is appropriate.
24. On special damages, the Defendant contends that they were not proved with receipts.



Analysis and determination

25. The matter before me is one where liability has already been settled by consent and what remains for determination is the quantum of damages payable.

Pain and suffering

26. The Police Abstract confirms that the accident occurred on 22nd June 2007, while the death certificate shows that the deceased passed away on 30th June 2007. The death was not instantaneous. The deceased lived for eight days after the accident during which he underwent treatment before succumbing to increased intracranial pressure caused by blunt head injury.
27. In *Sukari Industries Limited vs Clyde Machimbo Juma Homa Bay* [2016] KEHC 8728 (KLR) the deceased died immediately after the accident and the trial Court awarded Kshs. 50,000/= for pain and suffering. On appeal, Majanja J. upheld that award, observing that compensation under this head is intended to reflect the period of agony endured between injury and death. He held that:

“(5) 5] On the first issue, I hold that it is natural that any person who suffers injury as a result of an accident will suffer some form of pain. The pain may be brief and fleeting but it is nevertheless pain for which the deceased’s estate is entitled to compensation. The generally accepted principle is that nominal damages will be awarded on this head for death occurring immediately after the accident. Higher damages will be awarded if the pain and suffering is prolonged before death. According to various decisions of the High Court, the sums have ranged from Kshs 10,000/= to Kshs 100,000/= over the last 20 years hence I cannot say that that the sum of Kshs 50,000/= awarded under this head is unreasonable.”

28. Where death is not immediate, compensation for pain and suffering must reflect the period the deceased endured before passing which is normally above the nominal sums given where death is instantaneous.
29. The deceased endured pain and suffering for eight days as he was undergoing treatment and enduring slow decline that ended in death.. The Court is persuaded that an award of Kshs. 100,000/= under this head is fair and reasonable.

Loss of expectation of life

30. The death certificate confirms the deceased was aged 55 years at the time of his death. He was in good health and his life was cut short abruptly robbing him of the joys and fulfilment of living. Every life has intrinsic value and a premature death diminishes that expectation. In the circumstances, I am persuaded that the conventional award of Kshs. 200,000 is fair and reasonable compensation for the loss of expectation of life.

Loss of dependency

31. The Plaintiffs testified that the deceased was a wiring technician and businessman earning about Kshs. 20,000 per month which was used to take care of his family. In this case, the deceased’s trade certificate and business permit show that he was engaged in meaningful work but without bank statements or receipts, the Court cannot safely adopt the pleaded income.



32. The decision by Ringera, J. in *Mwanzia v Ngalali Mutua & Kenya Bus Service (Msa) Ltd & another* quoted by Koome J. (as she then was) in *Albert Odawa vs Gichimu Gichenji* [2007] KEHC 1358 (KLR) offers useful guidance on assessment of damages for loss of dependency.. The learned Judge was of this view:

“The multiplier approach is just a method of assessing damages. It is not a principle of law or a dogma. It can, and must be abandoned where the facts do not facilitate its application. It is plain that it is a useful and practical method where factors such as the age of the deceased, the amount of annual or monthly dependency, and the expected length of the dependency are known or are knowable without undue speculation. Where that is not possible, to insist on the multiplier approach would be to sacrifice justice on the altar of methodology, something a Court of justice should never do.”

33. In the present case, a person particularly one working within the informal sector otherwise known as Jua Kali often lacks the formal trappings of employment such as contracts or pay slips. Nonetheless absence of paperwork does not negate the reality of their trade or the fact that they earn their living by their skill and effort. To insist on documentary proof alone would be to deny the lived reality of thousands who work outside the formal economy but nonetheless sustain families and contribute meaningfully to society.

34. The deceased income cannot, however, be ascertained with reasonable precision. Even if he was a skilled artisan his level is not defined. Nothing has been shown to prove the alleged income. To apply the multiplier approach in such circumstances would be to engage in guess work. The award of damages being in the discretion of the court I am inclined to award a global lump sum figure.

35. In *Rishi Hauliers Limited vs Josiah Boundi Onyanacha* [2015] KEHC 4986 (KLR) the Court awarded Kshs. 500,000/= in loss of dependency where the deceased died at the age of 50 years. In *John Wamae & 2 Others v Jane Kituku Nziva & Others* [2017] eKLR, the High Court while awarded a global sum of Kshs. 400,000/= to dependants of a 61- year old deceased. In *Moses Maina Waweru vs Esther Wanjiru Githae* (Suing as the personal representative of the Estate of the late David Githae Kiririo Taiti [2022] KEHC 1430 (KLR), the deceased’s dependants were granted Kshs. 800,000/=, the deceased having died aged 68 years. In the case of *Cheruiyot* (Suing as the legal representative of the Estate of Julius Kemeli Laboso - Deceased) vs *Mbote* [2025] KEHC 3978 (KLR) the Court awarded Kshs. 1,000,000 for a 51- year old’s dependants.

36. Guided by the above authorities, the deceased’s age, the prevailing economic conditions and inflationary trends, I am persuaded that a global sum of Kshs. 1,300,000 under the head of loss of dependency is just and reasonable.

Special damages

37. The record shows that there is a receipt from the firm of E.M. Juma Advocates for services rendered in obtaining the Grant. The Defendant sought to challenge this by alleging that the Plaintiffs were in fact represented by Kimatta Advocates. The Plaintiffs denied this assertion. The 2nd Plaintiff admitted that he might not have been entirely sure who represented them, but maintained that the documents were signed in the office of E.M. Juma Advocates. I accept the claim for Kshs.20,000/= in legal fees paid to obtain Grant of Letters of Administration.

38. The funeral and motor vehicle search expenses claims were not strictly proven and are rejected.



39. The Plaintiffs are therefore awarded as follows;

Loss of expectation of life - Kshs. 200,000/=

Pain and sufferings - Kshs. 100,000/=

Loss of dependency - Kshs. 1, 300,000/=

Special damages - Kshs. 20,000/=

Total - Kshs. 1,620,000/=

Less 40% - Kshs. 648,000/=

Net Award - Kshs. 972,000/=

40. Judgement accordingly.

JUDGEMENT DELIVERED VIRTUALLY THIS 14TH DAY OF APRIL, 2026.

J. M. NANG'EA - JUDGE.

In the presence of:

Plaintiff's Advocate, Ms Juma

1st Defendant's Advocate, Mr. Mbugua

Court Assistant (Ng'eno)

