

**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT MOMBASA**  
**CIVIL APPEAL NO. 157 OF 2025**

**NATHANIEL KAHINDI SIKU.....APPELLANT**

**-VERSUS-**

**KILIFI PLANTATION.....RESPONDENT**

**RULING**

1. The appellant has filed an application dated 4 September 2025 asking this Honourable Court to *“be pleased to issue clarification on the issue of interest payable by the respondent on the enhanced sum and cost in the sum of Kshs 820,000.00 awarded in the judgement delivered on the 6/06/2024, and from which period the same should run”*.
2. The application is made under article 159 of the Constitution; sections 1A, 1B, 3A, 63 (e), 99 and 100 of the Civil Procedure Act and order 51 rule 1 of the Civil Procedure Rules.
3. According to the affidavit sworn by the appellant in support of the application, the appellant successfully appealed for enhancement of an award made by the magistrates’ court in Mombasa Chief Magistrates’ Court Civil Case No. 44 of 2011.
4. In the judgment delivered on 6 June 2024, the Magare. J, made the following orders:

***“a) The appeal is allowed to the extent that the award of general damages is set aside and in lieu thereof I substitute with a sum of Ksh 1,500,000/=***

***b) I dismiss the Appeal on loss of earning capacity.***

***c) Costs of Ksh 225,000/= to the Appellant.***

***d) The file is closed.”***

5. The respondent paid the enhanced amount but did not pay the interest accruing from the time the award was made in the lower court. The respondent did not contest the application and, therefore, there is no much of a dispute on whether the appellant is entitled to interest from the date judgment was delivered in lower court.
6. The final award of the judgment of the lower court was in the following terms:

***“In summary therefore, I enter Judgment for the plaintiff against the defendant as follows;***

<b><i>(a) General damages</i></b>	<b><i>Kshs 800,000.00</i></b>
<b><i>(b) Loss of earning capacity</i></b>	<b><i>Kshs 866,746.80</i></b>
<b><i>TOTAL</i></b>	<b><i>Kshs. 1,666, 764.80</i></b>
<b><i>Less 15% contribution</i></b>	<b><i>Kshs 250,014.70</i></b>
<b><i>Balance</i></b>	<b><i>Kshs 1,538,750.10</i></b>
<b><i>(c) Cost of artificial limb</i></b>	<b><i>Kshs 120,000.00</i></b>
<b><i>(d) Special damages</i></b>	<b><i>Kshs 2,000.00</i></b>

**Total Payable**

**Kshs 1,538,750.10**

***The sum of Kshs. 1,416,750.10 will earn interest from the date of judgment till payment in full while the sum of Kshs 122,000.00 will earn interest from the date of the suit till payment in full. I also award costs to the plaintiff to which figure, the sum or Kshs 3,000 paid to the doctor will be awarded as witness expenses.”***

7. The figure of Kshs. 1,416, 750 was made up of the awards under the heads of general damages and loss of earning capacity. This court set aside the award under the head of loss of earning capacity but enhanced the award under the head of general damages to Kshs. 1,500,000/=.
8. According to the lower court judgment, interest on this amount was to accrue from the date of judgment till payment in full. This Honourable Court did not disturb this aspect of the learned magistrate’s judgment and, therefore, there shouldn’t have been any doubt that the interest on the enhanced amount and costs accrues from the date of judgment in the lower court till payment in full. The withheld interest shall be paid accordingly. For the avoidance of doubt, it shall be calculated at court rates and shall continue to accrue till payment is made in full. It is so ordered.

**Signed, dated and delivered on 17 April 2026**

Ngaah Jairus

## **JUDGE**