

REPUBLIC OF KENYA
IN THE EMPLOYMENT & LABOUR RELATIONS COURT
AT NAIROBI
ELRC CAUSE NO. 2063 OF 2015
(Before Hon. Lady Justice Hellen Wasilwa, J)

BERNARD OKEAH.....1ST
CLAIMANT

KENNEDY OTIENO.....2ND
CLAIMANT

BERNARD ROHO KIPROTICH.....3RD
CLAIMANT

PHOEBE WAITHIRA OMONDI.....4TH
CLAIMANT

BENSON MAINGI.....5TH
CLAIMANT

TERESIAH NJOKI KIRATU.....6TH
CLAIMANT

VS

THE NATIONAL NURSES ASSOCIATION
OF KENYA.....1ST
RESPONDENT

GEORGE ODHIAMBO, JAEL OCHIENG,
BONIFACE WACHIRA (Both sued jointly as Trustees
of the National Nurses Association of Kenya)...2ND
RESPONDENT

RULING

1 The Respondent/ Applicant filed a Notice of Motion dated 12th September 2025 seeking ORDERS: -

1. *THAT this Honourable court be pleased to enter judgment against the Respondents for the sum of Kenya Shillings Three Hundred and Eighty-Nine Thousand, Three Hundred and Seventy-Seven and Sixty-Eight Cents (Kshs.389,377.68/=) only being taxed and certified costs.*
2. *THAT this Honourable court be pleased to award interest at the court rate of 14% from 15/7/2025 being one month after the date of award/taxation until payment in full.*
3. *THAT costs of this application be assessed by this Honourable court and paid by the Respondent.*

Claimants/Applicants' Case

- 2 The Applicants aver that judgment in this matter was delivered on 4th July 2024 in their favour, wherein they were also awarded costs of the claim. Following the said judgment, they proceeded to file their Party and Party Bill of Costs dated 31st July 2024.
- 3 They aver that the said Bill of Costs was taxed on 15th July 2025 in the sum of Kshs. 389,377.68, thereby ascertaining the costs payable to them. The Applicants assert that a Certificate of Taxation was duly issued upon taxation.
- 4 The Applicants avers that despite service of the Certificate of Taxation together with a letter dated 4th August 2025 requesting settlement of the taxed costs through the Respondents' advocates, the Respondents have failed, refused and/or neglected to pay the said costs. They aver

that the Respondents are fully aware of the award but have declined to settle the same.

- 5 The Applicants assert that in the circumstances, they are entitled to have the taxed costs adopted as a judgment of this Court. They contend that the Certificate of Taxation is final as to the amount unless set aside or varied.
- 6 They therefore pray that the taxed costs be adopted as a judgment of this Court and that interest be awarded at court rates. The Applicants maintain that the application is merited and that it is fair and in the interest of justice that the orders sought be granted.

Respondents' Case

- 7 The application is unopposed.

Claimants/Applicants' Submissions

- 8 The Applicants submitted on two issues: Whether the motion dated 12/9/2025 has been proved on the balance of probability to warrant the orders sought; and whether the Applicant is entitled to costs of this application.
- 9 On the first issue, the Applicants submitted that from the annexures attached to the application, there is no dispute that a Certificate of Taxation was issued on 30th July 2025 by the Taxing Master in the sum of Kshs. 389,377.68. They argued that the said Certificate of Taxation, annexed as annexure 3, conclusively establishes the amount due and payable to them.

- 10 It was further submitted that the Certificate of Taxation was duly served upon the Respondents through their Advocates via email and letter both dated 4th August 2025, annexed as annexures 4A and 4B. The Applicants contended that despite such service, the Respondents have failed, refused and/or neglected to settle the taxed costs.
- 11 The Applicants submitted that pursuant to Section 26 of the Civil Procedure Act, the Court has discretion to award interest at such rate as it deems reasonable based on the circumstances of each case. They argued that although the trial Court in its judgment delivered on 4th July 2024 awarded interest on party and party costs, the applicable rate ought to be 12% and not 14% as earlier sought in the application. They thus prayed that the claim for interest be reviewed to 12% per annum.
- 12 It is the Applicants' submission that having been served with the certificate of taxation and not paid for, consequently, the application herein be allowed in terms of prayer 1 and 2 to pave way for recovery procedures.
- 13 On whether they are entitled to the costs of the present application, the Applicants submitted that costs are in the discretion of the Court, to be exercised judiciously and in accordance with the circumstances of each case. They argued that the present application has been filed because of failure by the Respondents to pay the taxed amount in the certificate of taxation.

- 14 I have examined all the averments and submissions of the parties herein. The fact that the bill of costs was taxed and a certificate of costs extracted and signed is established. The respondents did not file a response to the application which therefore remain unchallenged.
- 15 It is my finding that the application is merited and is therefore allowed. The taxed costs of kshs 389,377.68 is therefore entered as a judgment of this court against the respondents. The respondents to pay costs of this application.

**Dated, Signed and Delivered Virtually at Nairobi
this 20th Day of April, 2026.**

**HELLEN WASILWA
JUDGE**