

REPUBLIC OF KENYA

**IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT
NAIROBI**

MISCELLANEOUS APPLICATION NO. E364 OF 2024

**TITUS KYALLO KAKOLI.....
APPLICANT**

VERSUS

**INTERWAYS WORKS LIMITED.....1ST
RESPONDENT**

**FOURWAY CONSTRUCTION COMPANY
LIMITED.....2ND
RESPONDENT**

RULING

Background

1. The Applicant filed the application dated 18th December 2024 seeking, inter alia, an order to enforce the award by the Director of Occupational Safety and Health Services (the Director) which was rendered on 9th April 2021. In the award, the Director awarded the Applicant the sum of Ksh. 230,400.00 as compensation for the injuries he sustained whilst on duty in the Respondents' employment.
2. The Applicant contends that despite the Director making the aforesaid award, the Respondents have not settled it. As such, he prays for an order to enable him to enforce the payment.

3. The Respondents contend that there is no dispute between the parties. They contend that after the Director made the aforesaid award to the Applicant, they prepared a cheque in his favour for the amount in the award. However, they aver that the Applicant did not collect the payments alleging that the amount was insufficient.
4. The Respondents further aver that the Applicant has filed other proceedings relating to the impugned payments. As such, they contend that the instant application is an abuse of the court process.

Analysis and Determination

5. The court notes that the award by the Director was made against the 2nd Respondent. As such, an order to enforce it can only issue against this particular Respondent.
6. The court further notes that the Respondents are not opposed to making good the award. As a matter of fact, they assert that they prepared a cheque to settle the matter but the Applicant is yet to collect it.
7. The court's role at this stage is limited to adopting the Director's award for purposes of enforcement (see ***Charles v Cheto [2025] KECA 784 (KLR)***). As such, it (the court) hereby adopts the aforesaid award as its judgment. For the avoidance of doubt, the award is adopted with respect to the 2nd Respondent.
8. Each party to bear own costs of the application.

Dated, signed and delivered on the 30th day of April, 2026

B. O. M. MANANI

JUDGE

In the presence of:

.....for the Applicant

.....for the Respondent

ORDER

In light of the directions issued on 12th July 2022 by her Ladyship, the Chief Justice with respect to online court proceedings, this decision has been delivered to the parties online with their consent, the parties having waived compliance with Rule 28 (3) of the ELRC Procedure Rules which requires that all judgments and rulings shall be dated, signed and delivered in the open court.

B. O. M MANANI