



REPUBLIC OF KENYA



**PJ Dave Flora Limited v Wanjala (Civil Appeal 57 of 2018)
[2025] KEELRC 9 (KLR) (16 January 2025) (Judgment)**

Neutral citation: [2025] KEELRC 9 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI
CIVIL APPEAL 57 OF 2018
L NDOLO, J
JANUARY 16, 2025**

BETWEEN

PJ DAVE FLORA LIMITED APPELLANT

AND

EVERLINE MAJUMA WANJALA RESPONDENT

*(Appeal against part of the Judgment of Hon M. Chesang, RM
delivered on 14th August 2018 in Nairobi CMCC No 512 of 2016)*

JUDGMENT

1. On 14th August 2018, Hon M. Chesang, RM entered judgment in favour of the Respondent, in the sum of Kshs. 300,000 in general damages, in addition to special damages.
2. Being dissatisfied with the part of the judgment on quantum of general damages, the Appellant preferred the present appeal.
3. In its Memorandum of Appeal dated 16th November 2018, the Appellant raises the following grounds of appeal:
 - a. That the learned Magistrate erred in law and in fact in awarding the Respondent general damages in the sum of Kshs. 300,000;
 - b. That the learned Magistrate erred in law and in fact by awarding general damages that were too high in the circumstances;
 - c. That the learned Magistrate erred in law and in fact in failing to evaluate the evidence adduced by the Appellant;
 - d. That the learned Magistrate erred in law and in fact by failing to address the relevant issues that were raised by the Appellant;



- e. That the learned Magistrate erred in law and in fact in not considering the Appellant's evidence adduced at the hearing.
4. The issue of liability was settled by consent, leaving the only matter for determination as the quantum of damages, which the trial court assessed at Kshs. 300,000. The Appellant asks this Court to substitute this award with one for Kshs. 100,000.
5. The confines within which an appellate court may interfere with an award of damages by a trial court are well defined. In *Kemfro Africa Ltd t/a Meru Express & another v A.M. Lubia & another* (1982-88) KLR it was held that an appellate court should not interfere with an assessment of damages by a trial court unless it is evident that the award is either too low or too high, as to amount to a wholly erroneous estimate.
6. In making its award, the trial court relied on two medical reports. The first report dated 24th August 2016 by Dr. C.O. Okere, gave the following opinion and prognosis:
'She [Respondent] was exposed to chemicals without a protective gear and developed an allergic bronchitis. The injury can be classified as severe harm.'
7. In a second report dated 22nd June 2017, Dr. Maina Ruga gave the following opinion:
'This lady suffered harm. She suffered symptoms of allergy and intolerance to chemical sprays and dust in green houses. The symptoms improved after she stopped working in that environment. There is no permanent effect on her health.'
8. From both reports, it is evident that the Respondent was exposed to a hazardous work environment, and her condition only improved once she disengaged from that environment, which inevitably meant that she had to stop working. In light of this and the possibility of securing alternative employment being indeterminate, I find the award of Kshs. 300,000 handed down by the trial court reasonable.
9. The appeal therefore fails and is dismissed. The Appellant will meet the costs of the appeal and of the proceedings in the trial court.

DELIVERED VIRTUALLY AT NAIROBI THIS 16TH DAY OF JANUARY 2025

LINNET NDOLO

JUDGE

Appearance:

Ms. Modi for the Appellant

Mr. Kisia for the Respondent

