



**Dennis v Cale Infrastructure Construction Co Ltd & another (Miscellaneous Application E305 of 2024) [2025] KEELRC 343 (KLR) (13 February 2025) (Ruling)**

Neutral citation: [2025] KEELRC 343 (KLR)

**REPUBLIC OF KENYA  
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI  
MISCELLANEOUS APPLICATION E305 OF 2024**

**S RADIDO, J**

**FEBRUARY 13, 2025**

**BETWEEN**

**GISEMBA OANDO DENNIS ..... APPLICANT**

**AND**

**CALE INFRASTRUCTURE CONSTRUCTION CO LTD ..... 1<sup>ST</sup> RESPONDENT**

**DIRECTOR OF OCCUPATIONAL SAFETY AND HEALTH**

**SERVICES ..... 2<sup>ND</sup> RESPONDENT**

**RULING**

1. Gisemba Oando Dennis (the applicant) was injured on 6 June 2021, in the course of work with Cale Infrastructure Construction Co Ltd (the Respondent).
2. The applicant asserted that a report was made to the Director, Occupational Safety and Health and he assessed the compensation due to the applicant as Kshs 457,289/28 on 11 July 2024. A demand for payment was made to the Respondent. Apparently, payment was not made.
3. On 30 October 2024, the applicant moved the Court seeking orders:
  - i. That the Honourable Court be pleased to adopt the assessment of the Directorate of Occupational Safety and Health Officer made in Claim Reference No. WIBA/NRB/00427/2022 on 11<sup>th</sup> July 2024 as judgment.
  - ii. That the judgment be and is hereby entered for the applicant against the 1<sup>st</sup> Respondent for Claim being the sum of Kshs Four Hundred and Fifty Thousand Seven Thousand Two Hundred and Eighty-Nine and Twenty-Eight cents (Kshs 457,289/28) assessed by the 2<sup>nd</sup> Respondent.
  - iii. That this Honourable Court be pleased to award interest on the amount from the date of assessment until payment in full.



- iv. That the cost of this application be borne by the 1<sup>st</sup> Respondent.
  - v. That this Honourable Court be pleased to award any other relief this Court deem fit and just to grant.
4. The 1<sup>st</sup> Respondent filed a replying affidavit on 21 November 2024. The deponent admitted that the applicant was injured in the course of work, a report was made and an assessment was done by the Director and payment was made through the applicant's bank account.
  5. The 1<sup>st</sup> Respondent disowned the records filed by the applicant in support of the instant Motion herein as forgeries.
  6. According to the 1<sup>st</sup> Respondent, the applicant was admitted at Mater Hospital from 6 June 2021 to 9 June 2021, and could not have attended a clinic he claimed to have attended on 8 June 2021.
  7. The 1<sup>st</sup> Respondent further contended that a search it conducted established that Muchatha Healthcare Clinic of Kangema which the applicant asserted he had attended did not exist in the portals maintained by the Ministry of Health and Kenya Medical and Practitioners Council.
  8. The applicant filed a supplementary affidavit reiterating that he was injured in the course of work and that he lost 3 teeth as well as an injury to the right little fingertip and that payment was made for injury to the finger and not loss of teeth.
  9. The applicant filed his submissions on 3 December 2024 and the 1<sup>st</sup> Respondent on 25 January 2025.
  10. It is not in doubt that this Court has the jurisdiction to adopt a compensation assessment by the Director, Occupational Safety and Health.
  11. However, the 1<sup>st</sup> Respondent has made allegations that the documents relied on by the applicant are forgeries.
  12. The applicant relied on a To Whom It May Concern note from Muchatha Healthcare Clinic of Kangema.
  13. The note does not disclose when the applicant visited the clinic or was attended to.
  14. However, significantly, the note is signed by a Clinical Officer on 08/06/2021. In his supporting affidavit, the applicant had deponed that he was injured on 6 June 2021. In the supplementary affidavit, the applicant deponed that upon injury he was admitted at Mater Hospital on 6 June 2021 and discharged on 8 June 2021.
  15. The Discharge Note from Mater Hospital tells a different story. The diagnosis on admission does not indicate any injury to the teeth. The Note also indicates that the applicant was discharged on 9 June 2021.
  16. It is inconceivable that the attending doctor at Mater Hospital would have missed out on the purported injuries to the applicant's teeth during his examination.
  17. The Court also finds it a stretch that the applicant was attended to at Muchatha Healthcare Clinic, Kangema while he was still under admission at the Mater Hospital.
  18. The authenticity of the documents relied on by the applicant cannot be ascertained. They are doubtful and possibly cooked for a purpose.
  19. The Court is wont to believe the Respondent's contention that the applicant has relied on doctored records to claim compensation a second time.



20. It is the sincere hope of the Court that the practice of ambulance chasing where accident and medical records were manufactured to seek compensation on behalf of people who had not been involved in accidents is not entering the *Work Injury Benefits Act* arena.

**Orders**

21. The Motion dated 30 October 2024 is dismissed with costs.

**DELIVERED VIRTUALLY, DATED AND SIGNED IN NAIROBI ON THIS 13TH DAY OF FEBRUARY 2025.**

**RADIDO STEPHEN, MCI Arb**

**JUDGE**

Appearances

For applicant Samuel Mburia & Co. Advocates

For Respondent Mutuohoro Gakuru & Co. Advocates

Court Assistant Wangu

