



Awino (Suing as the Administratrix of the Estate of the Late Professor Fredrick Otieno) v Masinde Muliro University of Science and Technology & another (Cause 512 of 2019) [2025] KEELRC 1836 (KLR) (12 June 2025) (Judgment)

Neutral citation: [2025] KEELRC 1836 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI
CAUSE 512 OF 2019
K OCHARO, J
JUNE 12, 2025**

BETWEEN

**DR. FLORENCE AWINO CLAIMANT
SUING AS THE ADMINISTRATRIX OF THE ESTATE OF THE LATE
PROFESSOR FREDRICK OTIENO**

AND

**MASINDE MULIRO UNIVERSITY OF SCIENCE AND
TECHNOLOGY 1ST RESPONDENT
PROFESSOR JEREMMY BUNDI 2ND RESPONDENT**

JUDGMENT

Introduction

1. Professor Fredrick Otieno [hereinafter referred to as the deceased] initiated this claim via a Statement of Claim dated 7th August 2017 against the Respondent. However, prior to the hearing of the claim, he passed away. Following his demise, the widow [now the Claimant] approached the court seeking to substitute the deceased as an administratrix of his estate, through her application dated 16 July 2020. Her application was granted on 30 July 2020, resulting in the amendment of the Statement of Claim.
2. By the amended Statement of Claim, the Claimant sought:
 - a. A Declaration that the termination of the Claimant's employment was unfair, wrongful, unprocedural and unjust.
 - b. In the alternative:



- i. Compensation for unlawful termination [Vice Chancellor]-Twelve [12] months' salary- kshs. 15, 493,440.
 - ii. Three months' salary in lieu of notice of termination as Vice Chancellor- kshs. 3,873,360.
 - iii. Salary for the unserved term of 5 years – 77, 467,200.
 - iv. Gratuity -31% of the annual basic salary for the term served – kshs. 13,839,850.80.
 - v. End of contract package.
 - vi. Payment of salary as Professor from 21st January 2015 to 30th November 2018 at the rate of kshs. 413, 253.00 per month- kshs. 19,422 891.
 - vii. Compensation for unlawful termination of his employment as a Professor, kshs. 4,959,036.
 - viii. Three months' salary in lieu of notice -kshs. 1,239,759.
3. When served with the summons to enter appearance, the Respondent filed a Statement of Response dated 13th September 2019 to the original Statement of Claim, denying the Claimant's claim in toto.
 4. Subsequently, the parties were heard on their respective cases. The Claimant testified in support of the deceased's estate's claim, while the Respondent presented one witness, Mr Bundi, to testify in support of its case.

The Claimant's case.

5. The Claimant stated that, following a successful interview, the deceased was appointed Vice-Chancellor of the Respondent university, effective 1st December 2013. The appointment was for five years, with the appointed lapse date set for 30th November 2018. His employment contract stipulated that he would be eligible for reappointment for a further five years.
6. At the unlawful termination of his employment as the Vice-Chancellor, the deceased was earning a monthly remuneration of kshs. 1,291 120 made up as follows:
 - i. Basic Salary -kshs. 744,078.
 - ii. Telephone allowance- kshs. 15,000.
 - iii. Responsibility allowance-kshs. 75,000.
 - iv. Entertainment allowance- kshs. 50,000.
 - v. Extraneous allowance- kshs. 15,000.
 - vi. Domestic Servant and Gardener -kshs. 70,000.
 - vii. Risk allowance-kshs. 120,000.
 - viii. Professorial Allowance -kshs. 92,042.
 - ix. House allowance- kshs. 92, 042.
 - x. Management allowance-kshs. 100,000.



7. His employment contract entitled him to a gratuity of 31% of his annual salary for the period worked and an end-of-contract package.
8. In addition to serving as a Vice Chancellor, the deceased was also appointed under a letter dated 21st January 2015, in the position of Professor of Civil Engineering Grade XV in the Department of Civil and Structural Engineering on a permanent and Pensionable basis.
9. In addition to his earnings as Vice Chancellor, he was to receive a monthly salary of kshs. 144,000, a housing allowance of kshs. 60,000, a commuting allowance of kshs. 2,000, or a car allowance of kshs. 4000.
10. His performance was assessed annually by the State Corporation Advisory Committee and was rated as "Very Good."
11. On 29 May 2018, the deceased applied to renew his contract as Vice Chancellor, as his employment contract, the Statute establishing the Respondent University, and the University Charter indicated that his contract was renewable for another five years.
12. His application for the renewal of his contract was submitted within the timeframe specified in Circular No. OP/CAB. 9/1A dated 23rd November 2010. According to the circular, the Council's role was to assess the deceased and produce a report for the appointing authority that recommended either the renewal or termination of his contract.
13. On 26 July 2018, the Council convened to consider his application. The deceased anticipated that the Council would evaluate his performance objectively, adhering to SCAC's guidelines and in accordance with the circulars issued on 23 November 2010 and 29 June 2011.
14. To his surprise, the Chairman of the Council introduced a letter dated 12 July 2017, allegedly written by the Ethics and Anti-Corruption Commission and addressed to Union Officials, a year prior to the aforementioned meeting. Although the letter was not part of the meeting's agenda, it proved to be a crucial factor in the council's decision. His excellent performance was irrelevant. The letter had never been disclosed to him.
15. It was further contended that the deceased was at all material times unaware of the fact that the EACC was investigating against him.
16. The allegations previously made against him, including biased recruitment and irregular receipt of house allowance, were satisfactorily explained to the EACC; this is why they, along with other agencies, cleared him to apply for the renewal of his term. The issue of house allowance was resolved internally when the Council decided that he would refund kshs 412,500, which he had earned by then.
17. The deceased was not permitted to defend himself against the false allegations in the orchestrated letter. He was instructed to leave the meeting so that the Council could deliberate on the letter.
18. Contrary to their mandate in the above circular, evaluate the CEO's performance and report to the appointing authority, recommending whether to renew or terminate the contract, the Council made a final resolution to discontinue the deceased's services. This was contrary to section 39 of the [Universities Act](#).
19. By its letter dated 29 November 2018, the 1st Respondent informed the deceased that after evaluating his 5-year performance and clarifying and confirming matters of concern to the university, it had been resolved that his contract as the Vice Chancellor would not be renewed. The letter further informed



him that from 1st December 2018, he would cease to be an employee and Vice Chancellor of the 1st Respondent.

20. It was further asserted that the letter not only terminated the deceased's services as Vice Chancellor but also as a professor of Civil Engineering in the Department of Civil and Structural Engineering of the 1st Respondent, despite the two roles being separate and distinct.
21. The deceased appealed against the Council's decision through a letter dated 17 August 2018. The appeal never elicited a response.
22. The termination of his services was contrary to the stipulations of the law. Due procedure was not adhered to. He was not issued a show cause letter, notified of the 1st Respondent's intention to terminate his contract and the reasons thereof, and allowed to be heard.
23. The deceased had a legitimate expectation that his contract would be renewed. His employment contract and the University Charter stipulated that he was eligible for reappointment for a five-year term, which constituted a non-conditional promise.
24. Terminating the deceased's services due to underperformance or corruption was unjustified. This decision stemmed from bad faith and the intent to appoint a preferred candidate to the position of Vice-Chancellor in his stead.
25. The 1st Respondent unlawfully withheld the deceased's salary for his position as professor from January 2015 to 30th November 2018.

The Respondent's case.

26. The Respondents' case was presented through their pleadings and the evidence of the aforementioned witness. The witness identified himself as the Chairman of the 1st Respondent's Council and the official spokesman for the Council.
27. It was stated that the deceased was appointed Vice Chancellor of the 1st Respondent, effective from 1 December 2013, for a term of five years. This period lapsed on 30 November 2018. His terms of service were in accordance with his appointment letter.
28. The 1st Respondent never appointed the deceased as a Professor in the Civil and Structural Engineering Department. There was an attempt to recruit a civil and structural engineering Professor, but the recruitment was not conducted procedurally.
29. Furthermore, at no point during the tenure of the Council presided over by the witness was it ever brought to the Council's attention that the deceased held the position of Professor in that Department. The allegation regarding the appointment as Professor only came up when the 1st Respondent refused to renew his contract as Vice Chancellor.
30. When the matter sprang up, the 1st Respondent was prompted to initiate investigations to establish whether the deceased was truly appointed as a Professor in the Department.
31. It was contended that during the investigations, it emerged that the appointment letter presented by the deceased in this matter was not a true copy of the original that was internally available, which was the subject of the investigations. There was no appendage of the deceased's signature.
32. The Respondents contended in the alternative that, if indeed there was an appointment of the deceased as a Professor of Civil and Structural Engineering, such an appointment was unlawful. This is because the recruitment of a Vice Chancellor as a Professor in any Department is not within the powers of the



Appointment and Promotions Committee, but rather the Council. Furthermore, there are no minutes from the Council documenting a request for the recruitment of a Professor for the 1st Respondent in the Department of Civil and Structural Engineering. Additionally, the appointment letter was never signed by the deceased to accept the offer. By a circular dated 31st December 2013, the National Treasury froze all recruitment, among other things. The deceased personally received the circular and directed the acting Deputy Vice Chancellor of Administration and Finance to take note.

33. There was no evidence to indicate that the position was advertised with the approval of the Council of the 1st Respondent.
34. It was further stated that under Section C7 [a] and [b] of the 1st Respondent's Human Resources Manual, when a person is appointed to a position, there must be:
 - i. Offer of appointment.
 - ii. Job description
 - iii. Date of Commencement of the job.
 - iv. Term and duration of contract.
 - v. Place of work.
 - vi. Hours of work.
 - vii. Remuneration.
 - viii. Terms and conditions of employment.
 - ix. A condition that the appointment letter will be considered withdrawn if not accepted within the stipulated period.

All these were lacking in the deceased's case.

35. Based on the premises, the Council concluded that the deceased was never appointed to the Department of Civil and Structural Engineering.
36. The witness stated there is no dispute that by his letter dated 29th May 2018, the deceased applied for the renewal of his contract as Vice Chancellor. Even though his employment contract provided for renewal, the renewal was not automatic but subject to several factors.
37. The deceased's assertion that the witness and others conspired to deny him a renewed contract is, therefore, unfounded.
38. The deceased was being investigated by the Ethics and Anti-Corruption Commission and other investigative bodies over matters that related to the years 2014, 2015 and 2016. Yet, the witness was appointed as the Chairman of the Council in March 2017.
39. The latter, dated 12th July 2017, was copied to the witness as the 1st Respondent's Council chairperson. Statutorily, he was obliged to communicate to the Council all matters that came to his knowledge or information received, relevant to the 1st Respondent.
40. Contrary to the Claimant's assertion, there was no misrepresentation of the resolutions of the Council to the Cabinet Secretary. The Council convened on 26th July 2018 to deliberate on renewing the deceased's contract, among other matters. The Council discussed the issue, and by a majority, it was resolved that the contract would not be renewed. The resolution was duly signed by the Chairman of the Council, as provided for in the University Statute and Charter.



41. The witness duly communicated the resolution to the Cabinet Secretary through his letter dated 19th November 2018.
42. Subsequently, Professor Joseph Bosire of Jaramogi Oginga Odinga University of Science and Technology was appointed acting Vice Chancellor of the 1st Respondent, and the deceased handed over responsibilities to him.
43. Subsequently, the 1st Respondent advertised the position of Vice Chancellor. The deceased was among the Applicants who showed interest in the position. He was invited for an interview. It is illogical to assert that the process was unlawful, yet the deceased participated in it.
44. Cross-examined by Counsel for the Claimant, the witness testified that the renewal of the deceased's contract was subject not to a sole factor but several, as set out in the 1st Respondent's charter.
45. The letter to EACC was copied to him. He is the one who presented it to the Council. Dated 12 July 2017, this was a year before the meeting on 26th July 2018. Before this date, the letter had neither been brought to the attention of the deceased nor submitted to the Council for deliberation.
46. Before placing the letter before the Council, he had written to the investigating agency to inquire about the status of the investigations. However, he had nothing to show that he had made such an inquiry.
47. The witness stated that he could not recall whether the deceased was present in the Boardroom during their deliberations concerning the letter.
48. On 15 August 2018, he wrote to the Cabinet Secretary. In the letter, he expressed the reason for the non-renewal of the deceased's contract as the ongoing investigations by the EACC.
49. The witness stated that he was unaware that the deceased hadn't been paid his gratuity.
50. The termination letter referred to the termination of his contract as an employee and Vice Chancellor.
51. They didn't follow any procedure before terminating the deceased's employment as a Professor. There had not been any recruitment for the position.

Analysis and Determination.

52. I have carefully considered the pleadings and evidence by the parties, and submissions by their respective Counsel, and the following issues emerge for determination:
 - a. Was the non-renewal of the deceased's contract as Vice Chancellor unlawful and improper?
 - b. Was the deceased employed as a Professor of Civil and Structural Engineering at the 1st Respondent University?
 - c. Was the deceased's employment unfairly terminated?
 - d. Is the Claimant entitled to the reliefs sought or any of them?
53. Before I further consider the issues identified for determination, it is crucial to highlight that the Respondent's witness did not appear to this Court as candid and credible. He consistently avoided answering even the simplest questions, compelling this Court to intervene. This is duly noted in the record.



Of the non-renewal

54. It was common cause that the deceased was appointed as the 1st Respondent's Vice Chancellor under a fixed-term contract that was to run from 1 December 2013 to 30 November 2018. Further, the contract ran its full course.
55. It is well-established law that a fixed-term contract automatically terminates on the specified date, unless it can be shown that the contract has been novated to indefinite employment or another form of employment, and context is crucial.
56. The Claimant asserted that the 1st Respondent unlawfully and unfairly terminated this fixed-term contract. Having found that the contract had an appointed expiry date, and that it did expire automatically on the date, I am not convinced that there was any termination initiated by the 1st Respondent that can be deemed unlawful or unfair. The termination letter issued by the 1st Respondent regarding his position as Vice Chancellor was superfluous since the contract had already ceased.
57. In the case of *Margaret A. Ochieng v National Water Conservation & Pipeline Corporation* [2014] eKLR, cited by Counsel for the Respondents, held;
- “Automatic renewal would undermine the very purpose of the fixed-term contract and revert to indeterminate employment.... Courts have upheld the principle that fixed-term contracts carry no expectancy of renewal This Court is persuaded that the claim has no merit. The fixed-term contract had its own in-built termination notice, in that the date of termination was advised to the Claimant on execution of the three-year contract in December 2008. She knew termination would be upon lapse of the three years in 2011.”
58. The Claimant contended, and his Counsel submitted, that the deceased had a legitimate expectation that his employment contract for the Vice Chancellor role would be extended for five years. This Court's view is that after the agreed date, all rights and obligations tied to the fixed-term contract cease unless objective facts clearly indicate that the arrangement would continue.
59. Where an employee asserts that he or she had a legitimate expectation for renewal of a fixed-term contract, it becomes incumbent on the employee to demonstrate that he or she objectively expected the renewal and that the employer created the expectation.
60. In the case of *Teresa Carlo Omondi v Transparency International -Kenya* [2017] eKLR, cited by Counsel for the Respondent, addressing the employee's duty, elaborately stated;
- “The burden of proof, in legitimate expectation claims, is always on the employee. It must be shown that the Employer, through regular practice or through an express promise, leads the employee to legitimately expect there would be renewal. The expectation becomes legally protected and ought not to be ignored by the employer when managerial prerogative on the subject is exercised. Legitimate expectation is not the same thing as anticipation, desire or hope. It is a principle based on a right, grounded on the larger principle of reasonableness and fair dealing between employers and employees. The employee must demonstrate some rational and objective reason for her expectation. The representation underlying the expectation must be clear and unambiguous. The expectation must be induced by the decision maker. The decision maker must have the authority to renew. Repeated renewals, extended service beyond the period provided for the fixed-term contract and the promise of renewal are some of the elements that would amount to objective reasons



underlying the expectation of renewal. The presence of these elements, however, is not to be taken as conclusive proof of legitimate expectation.”

61. In the case of the United Nations Appeals Tribunal, UNAT, Case No. 2010-125, *Frenchon v The Secretary-General of the United Nations*, the Tribunal aptly captured it, thus;

“44. However, the jurisprudence of both the former Administrative Tribunal and this Tribunal has established that the administrative decision not to review a fixed-term contract may be challenged in certain circumstances, for example, where the actions of the Administration give rise to a legitimate expectation on the part of the staff member that his or her fixed-term contract may be renewed or extended. The case law has also established that an exception to the rules governing the expiry of fixed-term contracts will arise if the administrative decision not to renew is based on improper motives or if there are countervailing circumstances.”

62. The Claimant’s Counsel submitted that clause 2 of the deceased’s contract of employment read;

“The contract of employment will be for a period of five years, and you will be eligible for reappointment for a further period of 5 years”

63. The 1st Respondent’s Statute of 2017 at Statute V[2] provided that the deceased would serve for five years, renewable once for a further period of 5 years, subject to satisfactory performance.

64. The Government Circular No. OP/ CAB.9/1A of 23rd November 2010, obligated the Council to evaluate the deceased’s performance and report to the appointing authority either recommending renewal or termination.

65. The deceased’s performance for the five years was rated as ‘Very good’. In 2014/ 2015, he scored 86.5%, in 2015/2016 -89.34%, in 2016/2017-86.41%, and in 2017/2018-86.29%. Having performed well, he had a basis to expect the contract to be renewed legitimately.

66. There is no doubt that the State Corporation Advisory Commission conducted the performance appraisals. It is not demonstrated that they did so to ascertain the suitability of renewing the deceased’s contract. If I understand the Claimant correctly, she contended that the Council had the authority to appraise his performance and recommend the renewal or non-renewal of his contract. In the absence of a positive appraisal by the Council, which had the authority to appraise for the purpose of ascertaining suitability or otherwise, I find no difficulty in concluding that the deceased had no objective basis for the expectation that his contract could be renewed.

Of the Employment Contract for the Role of Professor.

67. This was the most contentious issue in this matter. The parties took diametrically opposite positions regarding whether the deceased was employed as a Professor of Civil and Structural Engineering. I have carefully considered the material placed before this Court and note that in their pleadings and witness statement, the Respondents pleaded and stated in the alternative whether an employment contract existed for the deceased for the position. Therefore, they did not plead conclusively, taking a single position. They first claimed that there was no contract and further contended that if there was, then it was unlawful and improper.

68. The issue of whether there was a contract was a material fact for the Respondents and the Claimant. A reasonable party, and more specifically, a custodian of documents in an employer-employee



relationship contract, could not be expected to couch their pleadings and present a witness statement in the manner above stated. To this Court, such amounts to evasive pleading and presenting of evidence, resulting in the adversary's pleadings and evidence on the issue being deemed not traversed, and discounted, respectively.

69. Assuming I am mistaken regarding the preceding position, I will still conclude that a contract existed for the reasons outlined shortly.
70. The material presented by the Claimant demonstrates, and the Respondents have not rebutted this, that there was an advertisement for the position, and interviews were conducted. The deceased received a letter of appointment.
71. The Respondents doubted the process leading to the alleged appointment. They took the view that the appointment letter was a product of fraud. Additionally, they contended that following these, the 1st Respondent initiated investigations. Evidence on the scope of the inquiry on this grave matter of fraud by a Professor remained sketchy. No document in the form of a report or minutes was presented before this Court from which it can be deduced that there was an investigation, and its outcome.
72. An allegation of fraud against a professional or any other individual is a serious matter; it constitutes a criminal accusation, and one cannot afford to assert it lightly against another, as did the Respondents.
73. I have carefully considered the submissions made by the Respondents' Counsel, presented with admirable industry, regarding the need for competitive, procedural, and accountable recruitment processes. Furthermore, these processes must embody integrity. While this may be true, I am not convinced that they are relevant to the current matter, where the Council of the 1st Respondent does not seem to have conclusively determined that the appointment of the good Professor, God rest his soul in peace, was improper or fraudulent, and where no counterclaim has been filed to challenge the appointment.
74. The Respondents contended that the employment letter was suspicious as it did not contain several particulars that a contract of employment is supposed to contain, per section 10 of the [Employment Act](#). This position is ignorant of the fact that the letter of appointment specifically pointed out that the deceased was being appointed as a Professor of Civil Engineering Grade XV in the Department of Civil and Structural Engineering, and that his terms of engagement were as set out in the letter and the Terms of Service Document. The Respondents did not dispute that those particulars that weren't on the letter could be contained elsewhere- the Terms of Service Document.
75. The letter by the then Acting Vice Chancellor, Prof. Joseph Bosire, Secretary of the Council, captioned "Report to the Human Resource Committee on the Employment Status of Professor Fredrick Otieno," spoke to the employment of the deceased, thus;

“Professor Fredrick Otieno, the immediate former MMUST Vice Chancellor, was interviewed and appointed a MMUST Professor of Civil Engineering Grade XV on 21st November 2014, on permanent and pensionable terms.

Consequently, after the lapse of his contract as a Vice Chancellor, Prof. Otieno filled a staff movement report to the Civil and Structural Engineering department as is required.

However, a letter from the Chairman of the Council dated 29th November 2018, to Prof. Otieno and copied to the Ag. Registrar Administration stated that Professor ceased to be an employee of MMUST with effect from 1st December 2018.....”



76. In light of the foregoing, I am convinced that the deceased was appointed on January 21st,2015, to the Position mentioned above, in the Department of Civil and Structural Engineering on a permanent and pensionable basis.
77. I now turn to consider whether the contract for this role was terminated and, if so, whether it was unfairly terminated. I see it in no other way. The deceased's employment contract in respect of this position was terminated by the 1st Respondent's letter dated 29th November 2018.
78. Was the termination fair? Undoubtedly, what occurred was a summary dismissal against the deceased. No termination notice was issued as section 35 of the *Employment Act* required. When assessing the fairness of dismissing an employee by their employer, the Court is enjoined to consider substantive and procedural fairness. Substantive fairness pertains to the decision itself, whilst procedural fairness concerns the process leading to that decision.
79. Section 43 of the *Employment Act*, 2007, places upon the employer a legal burden to prove reason[s] for terminating an employee's employment.
80. Section 45[2] of the *Employment Act*, 2007, states that for a termination to be considered substantively fair, the reasons for the dismissal must be shown to be fair and valid. In this case, it is clear that the 1st Respondent failed to prove the reason for the summary dismissal. Therefore, it did not satisfy the burden of proof under section 43. Since the burden was not met, the dismissal is deemed unfair by operation of the law.
81. The summary dismissal was substantively unfair.
82. Section 41 of the *Employment Act* stipulates the procedure that an employer contemplating terminating an employee's employment must follow. The procedure is mandatory. Any deviation from or non-adherence to it renders the termination unfair by dint of the provisions of section 45[2] of the *Act*. The procedure embodies three components: the notification component, the hearing component, and the consideration component.
83. It is essential to note that the 2nd Respondent admitted that the 1st Respondent didn't conform to the procedure. Without much ado, a conclusion that the dismissal was not procedurally fair cannot be said to be off the mark.

Of the reliefs

84. I have carefully considered the reliefs sought by the Claimant. There are those related to the role of Vice-Chancellor and the alleged unfair termination of the contract. Having found, as I have hereinabove, that there was no termination of the contract but that it ended by effluxion of time, most of those reliefs must be declined. Those that must be rejected include the three months' pay in lieu of notice, compensation pursuant to section 49[1][c] of the *Employment Act* for unfair termination, and remuneration for the unserved term of five years.
85. Clause 14 of the deceased's employment contract for the position of Vice Chancellor provided for Gratuity, thus;
- “Upon successful completion of this contract, you will qualify for gratuity calculated at a rate of 31% of your annual basic salary or for the period served. This gratuity is taxable.”
86. The Claimant contended that this benefit was not paid to the deceased. Cross-examined, the 2nd Respondent stated that he was unaware that the gratuity wasn't paid, essentially not discounting the Claimant's claim. I hold that the relief is entitled to, and award kshs. 744,078 x12 x5x31%=13,



- 839,850.80, with interest at court rates from the date of the lapse of the deceased's Vice Chancellor position, 30th November 2018, till full payment.
87. Section 49[1][c] of the *Employment Act* empowers the Court to grant compensatory relief for unfair termination of an employee's employment or wrongful dismissal. However, it is pertinent to note that the power is discretionarily exercised depending on the circumstances of each case. I have carefully considered how he was summarily dismissed with want of adherence to procedural and substantive fairness, and that his contract was on permanent and pensionable terms. Yet, it was terminated summarily without cause. This Court concludes that the compensatory award is entitled to, to an extent of four months.
88. In the amended statement of claim, paragraph 15, the Claimant set forth the deceased's remuneration for his service as Professor of Civil and Structural Engineering. This is the figure that the Court shall have to use to compute the awardable amount. However, the Court deliberately excludes the house allowance. I award thus, kshs. 150,000x4=600,000.
89. Having found that the statutory notice under section 35 of the *Employment Act* was not issued, I award the Claimant salary in lieu of notice, one month's salary under section 36 of the *Employment Act*, kshs.150,000.
90. The Claimant's claim for salary for the role of professor for the period 21st January 2015 was not sufficiently challenged in my view. The 1st Respondent stated that it couldn't understand why the deceased didn't pursue the payment when he was still serving the University. This cannot be said to be a reasonable defence to the claim. The Claimant is awarded kshs. 150,000x 48=7,200,000.
91. By reason of the premises, judgment is hereby entered in favour of the Claimant for;
- i. A declaration that the dismissal of the deceased from his employment as a Professor in the Department of Civil and Structural Engineering was unfair.
 - ii. Compensation pursuant to the provisions of section 49[1][c] of the *Employment Act*, four months' gross salary, kshs. 600,000/-.
 - iii. Salary for the period 21st November 2015 to 1st December 2018, kshs. 7,200,000.
 - iv. One month's salary in lieu of notice, kshs. 150,000.
 - v. Gratuity per the deceased's employment contract for Vice Chancellor role, kshs. 13, 839,850.80.
 - vi. Costs of this suit.
 - vii. Interest at Court rates on the awarded sum in [II], [III] and [iv], above from the date of this judgment till full payment.
 - viii. Interest at court rates on the awarded amount in [v]above, from the date of the expiry of the contract of employment for professor role, 30th November 2018, till full payment.

READ SIGNED AND DELIVERED THIS 12TH DAY OF JUNE 2025.

OCHARO KEBIRA

JUDGE.

