



**Ongoro v Stanbic Bank Kenya Ltd (Cause E059 of 2023)
[2025] KEELRC 2332 (KLR) (31 July 2025) (Ruling)**

Neutral citation: [2025] KEELRC 2332 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI
CAUSE E059 OF 2023**

**MN NDUMA, J
JULY 31, 2025**

BETWEEN

NOREEN LIZ ONGORO CLAIMANT

AND

STANBIC BANK KENYA LTD RESPONDENT

RULING

1. The Director of Occupational Health and Safety [DoSH] made an award upon assessment of the Claimant in terms of Work Injury Benefit Act [WIBA] dated 8th September 2023 in favour of the Claimant.
2. The Claimant has moved court to have the said award adopted as an order of the court by an application dated 18th February 2025. The Applicant seeks adoption of the award against the Respondent for a sum of Kshs. 2,459,260.00 assessed and awarded by the Director to the Claimant /Applicant.
3. The Applicant also seeks the court to award interest at court rates on the amount from the date of assessment/demand until payment in full and costs be granted.
4. The application is opposed by the Respondent vide a replying affidavit dated 2nd April 2025.
5. The Respondent states that they only became aware that the Claimant had filed a complaint with the Director, DoSH in October 2022 and that an assessment had been conducted on 26th October 2022 and a sum of Kshs. 2,459,260.00 had been awarded to the Claimant/Applicant. The Respondent alleges that it was never served with DoSH Form I and DoSH Form 4 in this matter and that its insurer AIG cannot pay the Applicant before conducting a second medical examination by its doctors.
6. In fact, the Respondent filed a separate application dated 24th January 2025 seeking an order that this court be pleased to order that the Claimant attend a second medical examination with the AIG's recommended doctor.



7. The Respondent states that the Applicant has refused to attend a 2nd medical examination despite invitation to do so by the Respondent. That the Applicant will not be prejudiced by a second medical examination. That the examination may lead to a partial settlement of the claim herein.
8. The Respondent further states that this court lack jurisdiction to adopt the DoSH award.
9. The parties have filed submissions which the court has carefully considered together with the deposition by the parties.
10. Section 10 [1] and [2] of WIBA No. 13 of 2007 provides as follows: -
 1. An employee who is involved in an accident resulting in the employee's disablement or death is subject to the provisions of this Act, and entitled to the benefits provided for under this Act.
 2. An employer is liable to pay compensation in accordance within the provisions of this Act to an employee injured while at work.
11. Section 51 on objections and appeals from the decisions of the Director provides as follows:
 1. Any person aggrieved by a decision of the Director on any matter under this Act, may within sixty days of such decision, lodge an objection with the Director against such decision.
 2. The objection shall be in writing in the prescribed form accompanied by particulars containing a concise statement of the circumstances in which the objection is made and the relief or order which the objector claims, or the question which he desires to have determined.
12. It is also clear that section 87 [1] [c] of the *Employment Act* gives this court powers to entertain a complaint touching on the personal injury of an employee.
13. The matter of adoption of DoSH awards has been considered by this court.
14. In *Richard Akama Nyambane v ICG Maltauro Spa* [2020 KEELRC 847 KLR the court observed that the law is silent on how to enforce the award by the Director and this being the case the party wishing to enforce the award must move the ELRC under section 87 of the *Employment Act* but within the limitation period to enforce the award. In the court's view, the ELRC has jurisdiction to entertain such claims.
15. It is apparent that an aggrieved Respondent's only option once an award has been made by the Director DoSH in favour of an employee is to file an objection to the Director within 60 days in terms of section 51 and 52 of the WIBA and if the Respondent is not satisfied with the decision of the Director upon consideration of the objection the only recourse to this court is by way of an appeal.
16. The court stated in the case of *Samson Chweya Mwendabole v Protective Custody Limited* [2021] eKLR as follows;

“the court appeared to take the view that once an award is made by the Director, any party aggrieved by it must follow the procedure set out under sections 51 and 52 of the WIBA to file an objection and subsequent appeal to the ELRC. If this does not happen, the opportunity to challenge such award is lost and the beneficiary of the award may apply to the ELRC summarily for adoption of the award for purposes of its enforcement. The court will assume jurisdiction over the matter under section 12 of the *Employment and Labour Relations Court Act* [ELRC Act] and article 162 of *the Constitution* as it is there was a distinction between its appellate jurisdiction when handling appeals from the Director under section 52 of WIBA and its original jurisdiction under article 162 of *the*



Constitution and section 12 of the ELRC Act when processing adoption of the Director’s award proceedings.”

17. This position has since been clarified by the Court of Appeal in the case of Charles v Cheto [2025] KECA 784 [KLR].

“Even though the appellant further alleged that he was notified by the respondent’s advocates of the Director’s award dated 5th September 2019 after the time for appealing the same had lapsed, his remedy still lay in orders staying the respondent’s suit, and in filing a judicial review motion to quash the Director’s award. He failed to do so despite his advocates having received a copy thereof via email from the respondent’s counsel on 26th January 2021; and despite the respondent proceeding to seek adoption of the Director’s award in the suit filed on 18th March 2021. In view of the foregoing, we find no fault in the learned Judge’s decision to adopt and pave way for enforcement of the award”.

18. The Court of Appeal has clearly stated that this court has jurisdiction to adopt the awards of Director DoSH.
19. The objection and the belated application by the Respondent employer is mis-conceived having failed to lodge an objection within 60 days to the Director, DoSH and subsequently file an appeal to this court.
20. This court is consequently bound to adopt the award of director DoSH in partial settlement of this suit and therefore adopts that award in favour of the Claimant/Applicant in the sum of Kshs. 2,459,260.00 as against the Respondent.
21. The issue of interest and costs shall be considered upon conclusion of the suit on pending matters in the final judgment of the court.
22. Accordingly, the Respondent is directed to pay the award of Kshs. 2,459,260.00 to the Claimant/Applicant forthwith.

DATED AT NAIROBI THIS 31ST DAY OF JULY 2025.

MATHEWS NDUMA

JUDGE

Appearance:

Ms. Kilima for the Claimant/Applicant

Ms. Kithinzi for the Respondent

Mr. Kemboi – Court Assistant

