



REPUBLIC OF KENYA



KENYA LAW
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**Kitonyi v Attorney General (Cause 1001 of 2014)
[2024] KEELRC 993 (KLR) (11 April 2024) (Ruling)**

Neutral citation: [2024] KEELRC 993 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI
CAUSE 1001 OF 2014
MN NDUMA, J
APRIL 11, 2024**

BETWEEN

OBADIAH MUTISYA KITONYI CLAIMANT

AND

THE HON ATTORNEY GENERAL RESPONDENT

RULING

1. The court delivered judgement on 6th April 2018 in favour of the claimant and directed the respondent as follows: -
 - a. Calculate and pay the Plaintiff, Lump sum pension due and owing to the Plaintiff from the date he attained the retirement age of fifty five (55) years.
 - b. Continue to pay the Plaintiff monthly pension in terms of the Applicable law and regulations.
 - c. Pay interest on the Lump sum pension awarded in (a) above from the date of filling the suit till payment in full.
 - d. The Defendant to pay costs of the suit. (emphasis added)
2. The court has considered the tabulation and submissions filed by the Claimant and the Respondent.
3. Both parties in the tabulation agreed that the total lumpsum payable was Kshs. 1, 586, 112.30/=.
4. The court is satisfied that the total Lump sum was paid to the Claimant on 13/8/2020 and that the suit was filed on 16/6/2007.
5. Interest is therefore to be calculated for a period of 13 years as from 16/7/2007 to 13/8/2020.
6. The Respondent has calculated interest payable at the court rate from date of judgement till payment in full as follows: -



- a. $1,586,112.30 = (\text{paid Lump sum}) \times 12\% (\text{court rate}) \times 13 (\text{accrued years}) / 100$
Total Ksh. 2,474,335.188/=.
7. The claimant has on the other hand calculated the interest payable on the Lump sum from 6/7/2007 using a compound interest of 12% to date of the tabulation being 6/12/2023.
8. The claimant found that the total interest payable on the Lump sum paid is Kshs. 7,848,050.78.
9. The court faults the calculation by the claimant in that the court directed that interest be paid on the Lump sum payable from date of filing suit till payment in full. The court is satisfied that the Lump sum of Ksh.1,586,112.30/= was fully paid on 13/8/2020 as indicated by the respondent.
10. The court found that the interest on the Lumpsum was to be paid at court rates up to 13/8/2020 and not up to 6/12/2022 as submitted by the claimant.
11. Furthermore, the court did not direct that interest on the Lump sum be compounded as per the tabulations by the claimant in their submissions which resulted in an erroneous tabulation of a total of Kshs. 7,884,050.78 interest payable.
12. The court agree and upholds the tabulation submitted by the respondent as follows: -
 $\text{Ksh.}1,586,112.30 (\text{lump sum already paid}) \times 12\% (\text{court rate}) \times 13 (\text{accrued years}) / 100$: bringing a total of Kshs. 2,474,335.188 as interest payable in terms of the Judgement of the court delivered on 6/4/2018.
13. Accordingly, the court finds that interest payable in terms of the Judgment of the court dated 6/4/2018 is Kshs. 2,474,335.188=.

It is so ordered.

DATED AND DELIVERED AT NAIROBI THIS 11TH DAY OF APRIL, 2024

Hon. Justice Nduma Nderi

JUDGE

Appearance:

Beatrice Akumo for Respondent

Ratemo Oira for Claimant

Court Assistant: Mr. Kemboi

