



**REPUBLIC OF KENYA**  
**IN THE EMPLOYMENT AND LABOUR RELATIONS COURT**

**AT NAIROBI**

**MISCELLANEOUS APPLICATION NO.E.465 OF 2021**

**(Before Hon. Lady Justice Anna Ngibuini Mwaure)**

**STEPHEN NJUGUNA MWANGI.....CLAIMANT**

**VERSUS**

**BOB MORGAN SERVICES LIMITED.....RESPONDENT**

**RULING**

1. The Claimant has brought his application via notice of motion dated the 28<sup>th</sup> May, 2021. He is praying inter alia that the Honourable court be pleased to adopt as its judgment the award of the Directorate of occupational safety and health services. Further he is praying that judgment be entered in favour of the applicant against the Respondent at Kshs.564,607/69 being the sum assessed under work injury benefits Act.
2. The applicant states he was employed by the Respondent on permanent basis.  
He says that he sustained injuries on 28<sup>th</sup> May, 2018 in the Respondent's premises.  
He says the injuries were assessed by the Directorate of occupational health and safety services at Kshs.564,607/69.
3. He says the Respondent has refused to pay the same and the court has inherent jurisdiction to enforce the said assessment as its own judgment.
4. He prays the Respondent be compelled to pay the same.

**DECISION**

5. The court has considered the applicants application and supporting affidavit. The Respondent instructed **WAINAINA IRERI ADVOCATES** who put a notice of appointment of advocates on 4<sup>th</sup> November, 2021 and was asked to put in his submissions. At the time of writing the Ruling there were no submissions or response by the Respondent.
6. The court therefore is obliged as guided by articles 48 and 50 of the Constitution and Sections 1a and 1b of the Civil Procedure Act to make the following orders;-
  - (1) That this Honourable court adopts as its judgment the award of the Directorate of Occupations Safety and Health Services.
  - (2) That judgment be entered in favour of the applicant against the Respondent at Kshs.564,607/69 being the sum assessed under the Work Injury Benefits Act.
  - (3) That the interest to accrue from the date of this assessment till full payment.
  - (4) That the costs also be awarded to the applicant.
  - (5) The court declines to order punitive damages as is not appropriate at this point.

Order accordingly.

**DELIVERED, DATED AND SIGNED IN NAIROBI THIS 11TH DAY OF FEBRUARY 2022.**

**ANNA NGIBUINI MWAURE**

**JUDGE**

**ORDER**

In view of the declaration of measures restricting court operations due to the COVID-19 pandemic and in light of the directions issued by His Lordship, the Chief Justice on 15<sup>th</sup> March 2020 and subsequent directions of 21<sup>st</sup> April 2020 that judgments and rulings shall be delivered through video conferencing or via email. They have waived compliance with **Order 21 Rule 1 of the Civil Procedure Rules**, which requires that all judgments and rulings be pronounced in open court. In permitting this course, this court has been guided by Article 159(2) (d) of the Constitution which requires the court to eschew undue technicalities in delivering justice, the right of access to justice guaranteed to every person under Article 48 of the Constitution and the provisions of **Section 1B** of the **Procedure Act (Chapter 21 of the Laws of Kenya)** which impose on this court the duty of the court, inter alia, to use suitable technology to enhance the overriding objective which is to facilitate just, expeditious, proportionate and affordable resolution of civil disputes.

A signed copy will be availed to each party upon payment of court fees.

**ANNA NGIBUINI MWAURE**

**JUDGE**