



REPUBLIC OF KENYA

IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI

MISCELLANEOUS APPLICATION NUMBER E221 OF 2021

FORD AMUGUNI KITUTSI.....APPLICANT

VERSUS

LABORATORY AND ALLIED LIMITED.....1ST RESPONDENT

DIRECTORATE OF OCCUPATIONAL SAFETY

AND HEALTH SERVICE NAIROBI COUNTY.....2ND RESPONDENT

RULING

1. The applicant seeks to enforce an award of the Director of Occupational Safety and Health Service (**DOSH**) in the sum of Kshs 685,753.84 in the applicant's claim form Reference Number **WIBA/NRB/070/2020**.
2. It is not in dispute that the applicant was an employee of the 1st respondent at the time he suffered injuries in course of duty.
3. It is also not in dispute that a report of the accident that led to the work injuries was duly made and assessment done by the 2nd respondent and an award granted to the applicant.
4. The applicant has not been paid the award to-date by the 1st respondent nor its insurer, hence the application.
5. The Court has not received any opposing affidavit by the respondents and finds no impediment whatsoever in adopting the award of the 2nd respondent in favour of the applicant as an order of this Court.
6. If the 1st respondent was not satisfied with the award of the Director would have filed an appeal to this Court.
7. We are not aware of any such appeal filed against the award herein.
8. Accordingly, the application is granted and the Court makes the following final orders:-

(a) The award for compensation by the 2nd respondent in favour of the Applicant in the sum of Kshs. 685,753.84 is adopted as a judgment of this Court.

(b) Costs of the application are awarded against the 1st respondent.

DATED AND DELIVERED AT NAIROBI THIS 21ST DAY OF APRIL, 2022

MATHEWS N. NDUMA

JUDGE

ORDER

In view of the declaration of measures restricting court of operations due to the COVID-19 pandemic and in light of the directions issued by his Lordship, the Chief Justice on 15th March 2020, this ruling has been delivered to the parties online with their consent. 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 18 of the Civil 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.

MATHEWS N. NDUMA

JUDGE

APPEARANCES

OKOTH OBERA FOR APPLICANT

EKALE – COURT ASSISTANT