



REPUBLIC OF KENYA

IN THE EMPLOYMENT AND LABOUR RELATIONS COURT OF KENYA

AT NAIROBI

CAUSE NO. 2041 OF 2016

(Before Hon. Justice Ocharo Kebira)

STEPHEN IRUNGU.....CLAIMANT

VERSUS

BRINKS SECURITY SERVICES LIMITED.....RESPONDENT

JUDGMENT

1. The Claimant was employed by the Respondent as a driver on 4th February 2008. At almost six years into the employee-employer relationship that were between them, the respondent summarily dismissed the Claimant. Holding the dismissal to be wrongful, the Claimant instituted the claim herein seeking for various reliefs and orders against it.
2. Upon being served with the summons to enter appearance the Respondent did enter appearance and file a memorandum of response and counterclaim. In the memorandum of response, the Respondent denied the Claimant's claim in toto and the Claimant's entitlement to the reliefs sought. In its counter-claim, the Respondent claimed against him for unreturned work gear and uniform, in the alternative the equivalent cost of the items.
3. At the close of the pleadings there was a joinder of issues, and consequently the matter took the path of getting to be heard on merit.

The claimant's case

4. In his statement of claim herein above mentioned, the Claimant sought for the following reliefs.

- (a) Kshs.346,278
- (b) Costs of the suit and interest.
- (c) Any other relief the Honourable Court may deem fit to grant.

5. When this matter came up for hearing, the claimant urged Court to adopt the contents of his witness statement dated 19th September 2016 as his evidence in chief, further that the documents that he filed under his list of documents of the even date, namely, a letter of employment dated 4th February 2016, letter of summary termination dated 27th March 2014, letter by him dated 31st March 2014 and a demand letter dated 27th April 2014, to be admitted as his documentary evidence. There was no protest from the Respondent, the contents and the documents were so adopted and admitted by the Court.

6. The Claimant orally testified in Court, briefly clarifying matters on his pleadings and witness statement that he held were necessary to. He was then cross examined by counsel for the Claimant before a re-examination by his counsel.

7. The Claimant stated that through its letter of appointment dated 4th February 2008, the Respondent offered him an employment to serve it as a driver, an offer that he accepted. His starting salary was Kshs.10,000.

8. The Claimant stated that after completion of his probationary period, he was confirmed as a permanent employee of the Respondent and his salary was increased to Kshs.27,480.

9. Six years after the commencement of the employee-employer relationship that was the product of the aforesaid letter of appointment, through its letter dated 27th March 2014, the Respondent summarily dismissed the Claimant from his employment.
10. Giving an account of the events that led to the issuance of the letter, the Claimant stated, that on the 27th March 2014, he was called to the office and tasked to go pay the police officers who were guarding a Safaricom shop at Moi Avenue, and Eastleigh.
11. After paying those officers who were guarding the Safaricom shop – Moi Avenue, he picked them, then proceeded to the next station, Eastleigh. As at the time they were reaching there, his phone had gone off due to low power. He had to wait for the officers, to close their day, so that he would drop them at Mathare where they were residing.
12. The Claimant contended that dropping the officers at their places of residence is a thing he used to do daily.
13. He further testified that while at Eastleigh, one of his crew informed him that there was an alarm activation from Buru Buru Uchumi Supermarket. That when he in turn informed the police about it, they refused to alight from his motor vehicle, claiming that they would not walk all the way to Mathare while carrying their guns.
14. He testified further that he then called the guard at the Buru Buru Safaricom and asked her to call the one who was at Uchumi Supermarket, to check on what the matter was. She subsequently called back and informed him that the activation was from a faulty alarm.
15. The Claimant further testified that at that juncture, he asked her to call the controller at the head office, for information. Just like the Claimant, she did not get through, the Head office line was engaged. The vehicle the he was driving did not have a radio call.
16. It was his case that he dropped the police officers at Mathare, then headed for Buru Buru. He and his crew reached Buru Buru almost after two hours of the time when they were called about the alarm activation.
17. The Claimant was called to the office later, the controller instructed him to do a statement regarding the events of that day. The instructions were not in written. The controller did not inform him that there was a contemplated disciplinary process.
18. After he wrote his statement, he was summoned to the head office where he was given a summary dismissal letter. The letter did not indicate to him of any right to appeal, he nonetheless wrote the Respondent letter urging them to consider reinstating him, the letter dated 3rd March 2014. The appeal was dismissed.
19. Cross examined by counsel for the Respondent, the witness testified that as at the time he and his crew were being called regarding the alarm activation, the police officers were on board the vehicle. He would not manage to force them out.
20. Questioned on the termination letter, the Claimant stated that, the same had a reason for the dismissal, as failure to obey superiors. He went ahead to state that his failure to proceed to the supermarket was not deliberate.
21. He stated that at the time of the incident he was with a colleague, Festus Mwema. Festus Mwema is the one who told him that the alarm was faulty. Shown the statement of one John Wandera, he stated that the contents therein were untrue. John never urged him to respond to the alarm, as alleged.
22. Asked on the reliefs he has sought against the Respondent, he stated that though he has sought for Driver dog section allowance, and risk allowance, those allowances were not provided for in the letter of appointment. He stated that the allowances came into being later.
23. He further stated that in the course of his employment with the Respondent, there were salary increments, and that the last increment pushed his salary up to Kshs.28,000. He however, would not tell whether or not the increments were as a result of the allowance factor.
24. The Claimant remembers that there is a time when he was faced with a disciplinary issue in the course of his employment. He did identify, three warning letters, among the documents filed by the Respondent.
25. On deductions for fuel, the Claimant stated that the rate was computed against distance. If the computation was at variance with the set rate, an employee would be deducted salary. He referred to his pay slip and stated that it was testament on the deductions.
26. On his claim for compensation for work done during 54 public holidays but not paid for, acceded that he did not specify the public holidays either in his statement of claim or witness statement.
27. He testified that he used to have off days. However, he did not enjoy all the offs that he was supposed to, hence his claim for the 72 days.
28. He did admit that he used to proceed on leave.
29. Concerning the counter claim by the Respondent, the Claimant stated that as a driver one would not be given those items that formed the subject matter of the counter-claim. The Respondent's counter claim is therefore without merit.
30. He testified that he returned all those items that he had, otherwise he wouldn't have been issued with a certificate to that effect.

31. As regards the statements by his colleagues, statements that the Respondent placed reliance on in its decision to dismiss him, the he under re-examination by his counsel, stated that the same were not brought to his attention and or given to him.

32. He asserted that there are those days that he would be called back to work in the middle of his leave. Reason why he is claiming for unpaid leave days' compensation.

The Respondent's case

33. In its memorandum of response, the Respondent admitted that at all material times, the Claimant was its employee, but denied the allegation that the latter's dismissal was wrongful and unlawful.

34. The Respondent pleaded that on 26th March 2014, while the Claimant was on duty, the duty controller instructed him to attend to an emergency alarm activation at Uchumi Supermarket, Buru Buru. The Claimant ignored and failed to attend to the instructions. This amounted to insubordination and defiance of lawful instructions from his seniors. This culminated to his summary dismissal.

35. The Respondent presented Raymond Nzioka, its Human Resource Manager to testify on its defence and counter claim. The witness did adopt his witness statement as part of his evidence in chief, and then sought for admission of the documents that were filed under the Respondent's list of documents as the Respondent's documentary evidence. They were so admitted.

36. In his oral testimony, the witness reiterated the Respondent's pleadings and stated that the Claimant was dismissed because he, without any excuse failed to attend to an alarm activation from Uchumi Supermarket Buru Buru. This amounted to insubordination.

37. He stated that the Claimant was summarily dismissed through a letter dated 27th April 2014. The letter did put forth the reasons for the dismissal, insubordination and defying orders. The employment letter provided for summary dismissal and the grounds that the dismissal could be anchored on, in the event.

38. He alleged that the Claimant made a statement and it was considered before the decision to dismiss him terminate was arrived at.

39. The witness further stated that in his statement, the Claimant did not state that he was impeded by the officers from proceeding to the Supermarket.

40. The witness further stated that statements that were made by witnesses formed part of the investigations. The statements were done on the 27th March 2014. None of them mentioned about the police officers.

41. Leave allowance was not provided for in the letter of appointment. The other allowances sought for by the Claimant, too.

42. The witness further stated that the Claimant at all material times was allowed one day off duty weekly, and that he never worked overtime. Therefore, his claims related to these lacks merit.

43. The witness maintained that there were no salary deductions, asserting that the two pay slips the Respondent tendered in Court will attest to this.

44. That the Claimant was issued with all those items forming the subject matter of the counter-claim. However, however, he did not have a document that would really demonstrate that he was issued with the same.

45. In his evidence under cross examination by counsel for the Claimant the witness stated that the salary increment was as a result of the good performance by the Claimant.

46. He contended that the Claimant was given an opportunity to write a letter to explain his side of the story, before the termination.

47. The witness asserted that he is familiar with the law regarding termination. Further that there was a disciplinary meeting, though he did not have a document to demonstrate the same.

48. The witness acceded to the suggestion by counsel that the Respondent had not placed anything before Court to show that the Claimant was given an opportunity to be accompanied by a colleague to any disciplinary hearing.

49. Counsel cross examined the witness on the issue of leave. The witness stated that on the 10th December 2013, the Claimant took 7 days, on 1st June 2013, 25 days, on 6th May 2015, 25 days, 6th July 2012, 1 day. He stated that the Respondent's documents page 14 – 24 indicate how and when the Claimant took his leave.

50. That the deduction of Kshs.75.00, appearing on the pay slip was in respect to a day when he was absent from duty.

51. There was nothing to show that the clearance certificate was issued to him.

Determination

52. From the pleadings herein, the evidence and material placed before this Court, the following broad issues commend themselves as the issues for determination by this Court, thus;

- (a) Whether the summary dismissal of the Claimant was procedurally fair.
- (b) Whether the summary dismissal was substantively fair.
- (c) Whether the Respondent did prove its counter claim.
- (d) If so, what reliefs are available to it on the counter claim?
- (e) What reliefs can be availed to the Claimant, if any?

53. In the case of **Lydia Moraa Obara vs Tusker Mattresses (2021) eKLR** this Court stated;

“31. Section 45 of the Employment Act dictates that no employer shall terminate the employment of an employee unfairly. Section 45 (2) (c) provides the foundation for insistence on engagement of a fair procedure, if a termination of employment were to be considered fair.”

54. Section 41 of the Employment Act supplies the structure for procedural fairness, it provides:

“(1) Subject to section 42 (1), an employer shall, before terminating the employment of an employee, on the grounds of misconduct, poor performance or physical incapacity explain to the employee, in a language the employee understands, the reason for which the employer is considering termination and the employee shall be entitled to have another employee or a shop floor union representative of his choice present during the explanation.

(2) Notwithstanding any other provision of this Part, an employer shall, before terminating the employment of an employee or summarily dismissing an employee under section 44 (3) or (4) hear and consider any representations which the employee may on the grounds of misconduct or poor performance, and the person, if any, chosen by the employee within subsection (1), make.”

55. In **Jane Nyandiko vs Kenya Commercial Bank Limited (2017) eKLR**, the Court held, and which was cited with approval by the Court of Appeal in the case of **National Bank of Kenya vs Anthony Njue (2019) eKLR**, thus;

“Section 45 of the Employment Act makes provision inter alia that no employer shall terminate the employment of an employee unfairly. In terms of the said section, a termination of an employee is deemed to be unfair if the employer fails to prove that the reason for the termination was valid; that the reason for the termination was a fair reason and that the same was related to the employee’s conduct, capacity, compatibility or alternatively that the employer did not act in accordance with justice and equity.

The parameters for determining whether the employer acted in accordance with justice and equity in determining the employment of the employee are inbuilt in the same provision. In determining either way, the adjudicating authority is enjoined to scrutinize the procedure adopted by the employer in reaching the decision to dismiss the employee; the communication of that decision to the employee and the handling of any appeal against the decision. Also, not to be overlooked is the conduct and capability of the employee up to the date of termination, the extent to which the employer has complied with the procedural requirements under section 41.....”

56. The mandatory elaborate procedure set up under section 41 of the Act, requires notification, a hearing and consideration of the employee’s representations and his co-worker’s before termination. Therefore, the process has three aspects, and absence of any one of them will definitely obliterate the fairness of the process leading to the decision to terminate an employee’s contract of service or summarily dismissing the employee.

57. The Claimant took a position that the dismissal was procedurally unfair. He contended that he was not notified of any disciplinary proceedings, and that he was not heard as he was not given an opportunity to make a representation on the happenings of the subject day. The Claimant further stated that he was not furnished with the alleged witness statements that the Respondent asserted were obtained in the course of investigations.

58. It is clear from the reading of section 41 of the Act that an employer contemplating dismissing an employee summarily must inform the employee to be affected, of the contemplation, and the reasons forming basis for the consideration. The information must be in a manner that the employee understands. It is upon this information that the employee shall then make a representation contemplated in section 41.

59. The question then that comes up, is, was the Claimant informed that the Respondent was considering to summarily dismiss him? From the material placed before this Court I fear not, the Claimant testified that he was told to write a statement by the controller. The controller never told him of any intended disciplinary action.

60. The Respondent was under an obligation to demonstrate to Court that, the Claimant was informed of the consideration to summarily dismiss him from employment and the reasons stirring the consideration. The Respondent failed to do this. The Claimant’s evidence remained uncontroverted.

61. The Respondent contended that the Claimant was given an opportunity to write a letter, explaining about the incident. Yes, he wrote the letter, but did it flow from an information that the Respondent was considering to dismiss him summarily and the reasons forming basis thereof? The Claimant said no and the Court agrees with him. Ordinarily one would expect a notice to show cause letter by an employer in circumstances like in the instance case. Here there was none.

62. The claimant asserted that he was not invited to any disciplinary hearing over the matter. The Respondent's witness stated that there was a disciplinary hearing. If indeed there was, nothing would have been easier than it tendering the minutes emanating there-from in Court. I am prepared to agree with the Claimant that there was no disciplinary hearing.

63. The Respondent's witness was clear that the statements obtained from witnesses prior to the summary dismissal were taken into account prior to the decision. The Claimant contended that he was at no time given copies of the statements. A fair hearing required that the statements, owing to their nature, be given to the claimant to enable him adequately prepare for his representation. The Respondent's witness stated that the statements were given to the Claimant. He did not state when and how. He just made a bald statement.

64. The Respondent did not avail any evidence to show that the provisions of section 41 of the Act regarding an employee being accompanied by a co-worker of his choice, to a forum where the employer's consideration to terminate and the grounds forming basis thereof would be explained to the employee, was complied with.

65. I note that the Respondent in its submissions have not dealt with the procedure aspect of the termination. In the aspect of termination fairness, one expects to see two units, procedural and substantive fairness. This view is fortified by the decision of the Court of Appeal in **Standard Group Limited vs Jenny Licesby [2018] Eklr**, where the Court stated;

45. With respect, we think the trial Court was on firm ground in such finding. As stated above, the procedure under section 41 of the Act is mandatory. Apart from a mere assertion that there was an attempt made on 14th November, 2013 in a meeting with the HR Director and Respondent in the CEO's office, where the incident was discussed and the Respondent is said to have apologized, there was nothing on record to show that the requirements of section 41 were complied with. Indeed, the HR Director admitted in evidence that:

"We did not write to Claimant that we were considering termination and call her for hearing. We did call the Claimant to collect dismissal letter."

It follows that the act of summarily dismissing the Claimant without giving her an opportunity to be heard amounted to unfair termination as defined in section 45 of the Act. The burden was on the Appellant to prove "that the employment was terminated in accordance with fair procedure." See Kenfreight [E.A.] Limited vs Benson K. Nguti, [2016] eKLR. As this Court stated in the CMC Aviation case (supra):

"Unfair termination involves breach of statutory law. Where there is a fair reason for terminating an employee's service but the employer does it in a procedure that does not conform with the provisions of a statute, that still amounts to unfair termination. On the other hand, wrongful dismissal involves breach of employment contract, like where an employer dismisses an employee without notice or without the right amount of notice contrary to the employment contract."

66. In the upshot, I find that the summary dismissal was procedurally unfair.

Of whether the termination was substantively fair.

67. Section 44 of the Employment Act, 2007 stipulates when summary dismissal can occur, thus;

(1) "Summary dismissal shall take place when an employer terminates the employment of an employee without notice or with less notice than that which the employee is entitled by any statutory provision or contractual term.

(2)

(3) Subject to provisions of this Act, an employer may dismiss an employee summarily where the employer has by his conduct indicated that he has fundamentally breached his obligation arising under the contract of service."

68. It is common cause that the Claimant's employment was brought to an end summarily. Whether or not his conduct was one which fundamentally breached his obligation arising under the contract, I shall delve into, shortly hereinafter.

69. Section 43 of the employment Act places an obligation upon the employer to prove the reason or reasons for the termination, and where the employer fails to do so the termination shall be deemed to have been unfair within the meaning of section 45.

70. Section 44 (4) of the Act, provides for actions and inactions of an employee that may amount to gross misconduct so as to justify a summary dismissal against him or her. However, it is imperative to state that the list therein is not an exhaustive list. An employer can summarily dismiss an employee on an account outside those in the catalogue for as long as the account has characteristics such as I will demonstrate shortly hereinafter.

71. It was the Respondent's position that the Claimant's conduct, the subject matter of the summary dismissal was in nature one that

justified a summary dismissal both under the law and the contract that were between it and the latter.

72. It is not in contention that the alarm activation from Uchumi Buru Buru Supermarket, set the events that led to the dismissal rolling. The Respondent contended that the claimant did not act by moving to the source of the alarm as was directed by the controller. While admitting that he did not act, the Claimant argued that this was not deliberate, he had police officers whom he had to drop at Mathare, and that indeed he did, consequently arriving at the place where the alarm was activated almost after two hours of the time he received the direction.

73. With all due respect, the reason given by the Claimant as to why he did not proceed to Uchumi Supermarket immediately upon receiving the information and instructions makes very little sense. He had to choose between working for the employer as per his job description or dropping the police officers a thing which was not an item in his job description. He chose the latter.

74. The Claimant contended that the police officers would not walk all the way to Mathare on foot. There is no evidence that was brought forth by him, to the effect that those police officers would not for one reason or the other get alternative means to their place of residence. It was not the Claimant's case that the officers were transported from their respective residences that morning using the vehicle that the Claimant was driving or any other vehicle belonging to the Respondent. In sum, I am not convinced that the explanation given was reasonable, considering the industry within which the Claimant was working and the circumstances at the material time.

75. Whether an employee's misconduct warrants dismissal requires assessment of the degree and the surrounding circumstances, the contextual approach. In **Mickinly vs BC Tel** it was held;

“29. When examining whether an employee's misconduct justifies his or her dismissal, courts have considered the context of the alleged insubordination. Within this analysis, a finding of misconduct does not, by itself, give rise to a just cause. Rather, the question to be addressed is whether in the circumstances, the behaviour was such that the employment relationship could no longer viably subsist.”

39. To summarize, this first line of case law establishes that the question whether dishonesty provides just cause for summary dismissal is a matter to be decided by the trier of fact, and to be addressed through an analysis of the particular circumstances surrounding the employee's behaviour. In this respect, courts have held that factors such as the nature and degree of the misconduct, and whether it violated the “essential conditions” of the employment contract or breaches an employer's faith in an employee, must be considered in drawing a factual conclusion as to the existence of just cause.”

76. I have considered the circumstances of this matter, including but not limited to the industry that the Respondent trades in, the industry in which the Claimant was working in therefore, the negative impact that incidents such as the one that were the subject matter would have on the confidence of the Respondent's clients on it, the fact that the Claimant's act was without prudence and apparently without care, and find that dismissal on the account of gross misconduct as was brought out in the summary dismissal letter would be valid, fair and justified.

77. The Claimant alleged that his phone was off as at the time he was being sought for, by the controller. He made a big issue out of this. To this Court, this does not seem to be a “big issue”. The vital issue is that he got the information, and this he admitted, of the alarm activation but never proceeded to Uchumi Supermarket as was expected of him.

78. Consequently, I find that the dismissal was with a fair and valid reason. The dismissal was substantively fair.

Whether the Respondent did prove their counter claim.

79. In absence of any evidence by way of a record, demonstrating that the Claimant was at a certain time(s) given the items forming the subject matter of the counter claim, it is difficult to see any justification for a grant of the relief sought in the counter claim. I have not lost sight of the fact that the Respondent's witness did admit in his evidence under cross-examination that he did not have such a record.

80. The Claimant made a claim for a couple of allowances. Driver dog section allowance, cash in transit risk allowance and back up risk allowance, looking at the evidence and material that he placed before this Court, there is absent any foundation for the claim and upon which this Court can grant the same. Consequently, I decline to award the specific amounts that were sought in regard thereof.

81. He did claim for one month's salary in lieu of notice, Kshs.27,480, having found that the summary dismissal was with a valid, fair and justified, the Claimant is not entitled to notice pay.

82. There was no evidence placed before this Court that the claimant was a member of any of those schemes or entity mentioned in section 35 (b) of the Act, to disentitle the claimant his claim for service pay. There was no contractual term to the effect that should he be summarily dismissed he would lose his entitlement to service pay either. I consequently grant him service pay computed at 15 days pay for each year worked, therefore Kshs.82,440.

83. The claim for overtime finds no foundation in the Claimant's pleadings and evidence. It is just “thrown to Court.” The Claimant wants the Court to venture into the realms of speculation. The Court declines the temptation.

84. The remedies for wrongful dismissal and unfair termination are provided for in section 49 as read with section 50 of the Act. Among them is an award of “the equivalent of a number of months' wages or salaries not exceeding twelve months based on the gross monthly wage or salary of the employee at the time of the dismissal” - **Standard Group Limited vs Jenny Luesby [2018] eKLR**.

85. It is imperative to state that an award of this remedy is discretionary. The extent of its award would depend on the circumstances of each case looked at in line with those factors put forth in section 49(1) of the Act. Counsel for the Respondent has submitted that the Claimant did

not make any prayer whatsoever for compensation for unfair/unlawful dismissal in his claim, and therefore this Court cannot grant the compensatory relief. In this submission counsel sought fortification from the holding in **Otieno Ragot & Company Advocates vs National Bank of Kenya [2020] eKLR**.

86. The Court has taken consideration of the reliefs' section of the Claimant's pleadings, his written witness statements (turned evidence in chief). The oral testimony in Court, and the submissions filed by his counsel, none of them has content upon which this Court can justifiably grant the compensatory relief pursuant to section 49(1)(c) of the Act, which otherwise I would have granted. It cannot be the business of this Court to grant reliefs not sought, ours being an adversarial system. The Respondent's counsel's submissions on this, are not on loose grounds.

87. Counsel for the Claimant has submitted that the Claimant is entitled to compensation for 54 untaken leave days. In the submissions he has beautifully tabulated from the bundle of leave forms that the Claimant placed before Court and arrived at the 54 days. The submission appears to be flowing from the Claimant's pleadings and subsequent evidence to support the pleadings. I note that the memorandum of claim does mention at paragraph 9 that;

"The Claimant claims that at the time of his dismissal he had worked for 6 years without leave allowance, and claims a total of Kshs. 164,880.00."

This was reiterated in his witness statement. In his oral testimony in Court, he stated that there were some leave days for which he was not paid.

88. The Respondent deemed it fit to place before Court a bundle of leave forms in a bid to demonstrate that the Claimant had no outstanding leave days. The Respondent's witness testified on the aspect.

89. It cannot therefore be difficult to state that issue was an issue in the matter and it was left for Court's determination. I do not agree with counsel for the Respondent that the issue was not pleaded, and canvassed by the parties.

90. According to the leave form that the Respondent tendered, dated 11th February 2013, the balance of leave days as at that date was 18 days. The Claimant did not challenge this number of days. In fact, he exhibited same document before Court. The Respondent on the other hand does not demonstrate that those days were ever utilized.

91. Section 28 of the Employment Act provides that;

"1. An employee shall be entitled –

(a) After every twelve consecutive months of service with his employer not less than twenty-one working days of leave with full pay.

(b)

Annual leave is a statutory entitlement. It cannot be out contracted. The fact that a contract of employment has not provided for annual leave does not in any manner, deprive of an employee this statutory right.

92. The Claimant was in the employment of the Respondent up to 31st March 2014 prorated, seven leave days were earned.

93. I am prepared to grant the Claimant compensation for 25 days unutilized leave days therefore Kshs.32,619.04.

94. The Claimant did not prove the alleged deduction of Kshs.7,500. He attempted to rely on a pay slip which showed only Kshs.75.00 as the deduction. I decline to award him the sum he has sought or at all.

95. In the upshot, Judgment is hereby entered in favour of the Claimant in the following terms:

- a) **The termination of the Claimant's employment was procedurally unfair.**
- b) **Compensation for unutilized leave days – Kshs. 32,619.04.**
- c) **Severance pay – Kshs. 82,440.00.**
- d) **Interest on (b) and (c) at Court rates from the date of filing suit till full payment.**
- e) **Costs of the suit.**

DATED, SIGNED AND DELIVERED VIRTUALLY AT NAIROBI THIS 15TH DAY OF DECEMBER, 2021

OCHARO KEBIRA

JUDGE

DELIVERED IN PRESENCE OF;

MS. MUTUA FOR THE RESPONDENT.

MS. NO APPEARANCE FOR THE CLAIMANT.