

to August 2011. The Director's will source for money from alternative sources to

> pay the outstanding dues. The Director's do not wish for the salaries to continue - accumulating beyond 31st August 2011. The Director's propose to pay for the outstanding final dues as follows;

By the end of November 2011, the Directors will pay the remaining members of staff Kshs.1,000,000.00 which will be apportioned amongst them. Thereafter the Directors will pay Kshs1,000,000.00 every quarter of the year until their final dues are paid in full.

The Directors of Bon Motors Co, Ltd request for your guidance in this matter so that we can solve it amicably with our members of staff.

Yours truly

For Bon Motors Limited

SIGNED

B. P. NDEGWA

MANAGING DIRECTOR"

3. The claim is a trauma and out the time of filing suit was engaged as a lecturer at Ramogi Institute of Technology.

4. The Respondent paid part of the decretal amount between the date of the letter and 30th April 2014 when the final payment of Kshs.90,000 was made to the District Labour Office as confirmed in a letter dated 30th April 2014 addressed to the 2nd Respondent by the Sub County Labour Officer. The letter is reproduced below –

"30th April 2014

The Managing Director

Bon Motors Co. Ltd

P.O. Box 17947-000100

NAIROBI

Dear Sir

RE: REDUNDANCY

Receipt of Ksh.90,000/= is hereby-acknowledged with thanks and distributed accordingly to the employees.

Could you kindly please clear the outstanding balance as per attached schedule to enable us close the file. Note that this issue has taken too long which is not in accordance with your agreement dated 6th September 2011.

Your quick response will be highly appreciated.

Yours Faithfully

SIGNED

R.A.O. LITABA

SUB COUNTRY LABOUR OFFICER

INDUSTRIAL AREA/NAIROBI"

5. At paragraph 6 of the memorandum of claim filed by the Claimants, it is pleaded as follows

“Between November 2011 and 30th April 2014, the Respondents have paid a total sum of Kshs.3,792,781 in settlement of the Claimants terminal dues the last payment of Kshs.90,000/= being made on 30th April 2014 leaving a balance of Kshs.5,207,219/= due and owing to the Claimants as follows:-

- (a) 1st Claimant..... Kshs.354,205
- (b) 2nd Claimant..... Kshs.1,885,594
- (c) 3rd Claimant..... Kshs.54,775
- (d) 4th Claimant..... Kshs.577,323
- (e) 5th Claimant..... Kshs.2,277,670

Total..... Kshs.5,207,219

6. It is this sum that is sought in this suit. Besides the said sum, the Claimants prays for interest and costs.

7. The Respondents were properly served with summons as is evident from the affidavit of service on record but did not file appearance or response to the claim. The Court therefore certified the suit for hearing as an undefended claim.

8. Based on the foregoing, this is an admitted sum and I therefore proceed to enter judgment for the Claimants against the Respondents jointly and severally in the sum of **Kshs.5,7207,219/-** as follows –

- 1. Patrick Maina Mungai..... Kshs.354,205**
- 2. George Gitangu Mbugua..... Kshs.1,885,594**
- 3. John Njuguna Irungu..... Kshs.54,775**
- 4. Edward Karanja Thiong'o..... Kshs.577,323**
- 5. Jackson Ndegwa Mugwe..... Kshs.2,277,670**

Total Award..... Kshs.5,207,219

9. The Respondents shall pay interest on decretal sum from date of judgment.

10. The Respondent will also pay costs of the suit.

DATED, SIGNED AND DELIVERED AT NAIROBI ON THIS 10TH DAY OF DECEMBER, 2021

MAUREEN ONYANGO

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 15th March 2020 and subsequent directions of 21st 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 had 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 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.

MAUREEN ONYANGO

JUDGE