



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

**AT NAIROBI**

**CAUSE NO. 468 OF 2013**

(Before Hon. Lady Justice Maureen Onyango)

**JOHH ELEGO AND 103 OTHERS.....CLAIMANT**

**VERSUS**

**PRESS MASTER LIMITED.....RESPONDENT**

**RULING NO. 2**

Judgment in this matter was delivered on 10<sup>th</sup> August 2018 by myself on behalf of Nduma J. who heard the case and prepared the judgment. Following the delivery of judgment both parties filed applications seeking various orders.

The application by the Respondent dated 28<sup>th</sup> January 2019 sought stay of execution while the application by the claimants dated 6<sup>th</sup> February 2019 sought review of this court's orders issued on 28<sup>th</sup> January 2018 adopting the computation by the claimants' tabulation of the decretal sum arising from the judgment herein on grounds that the court adopted the wrong computation.

The two applications were disposed of simultaneously and a ruling delivered on 20<sup>th</sup> December 2019. In the ruling I dismissed the respondent's application for stay of execution on grounds that there was no immediate threat of execution as the decretal sum had not been ascertained. With respect to the claimant's application I directed that the claimants do prepare a fresh tabulation of the terminal dues in line with clarifications made in the ruling as follows –

1. Computation of gratuity to be based on 15 days basic salary calculated thus *(15 days/26 days worked in a month) x month salary x total number of years worked*.
2. Years of service to be reckoned from actual date of continuous service including the period before the employee was issued with a contract of service.
3. 19 claimants who had left the company were not entitled to compensation.

In spite of the above clarifications the parties again failed to agree on the tabulation and the court directed that each of them compute and file their tabulation. This ruling is therefore in respect of the tabulations filed by the claimants on the one hand and the Respondent on the other.

Counsel for each party made both written and oral submissions in support of their computation and reasons why the other party's computation should not be adopted. I do not wish to reiterate the submissions which are on record.

Both parties in their submissions sought prayers which were outside the issue before the court. The claimants attempted to pray for a review of the court's decision in the ruling on 20<sup>th</sup> December 2019 while the Respondent attempted to revive its application for stay of execution dated 28<sup>th</sup> January 2019. Both submissions relate to matters which were not before the court and therefore no determination has been made with respect thereto.

Having considered the submissions by the parties and taking into account the directions in the ruling of 20<sup>th</sup> December 2019, and further having scrutinized the computation as filed by the parties, I order as follows –

- 1. The tabulation on gratuity is adopted as per claimants' tabulations with the exclusion of the 19 claimants (as per paragraph 42, 62 and 67 of judgment).**

**2. The tabulation of the respondent is adopted on all other items, that is to say notice, increment, transport/travelling allowance, bus fare, house allowance and 4 months' compensation.**

I therefore make the final award as follows –

- i. Gratuity ..... Kshs 6,269,639.38
- ii. Notice ..... Kshs.2,105,112.00
- iii. Increment ..... Kshs.732,443.90
- iv. Travelling/Transport allowance..... Kshs.121,200.00
- v. 4 months' pay..... Kshs.4,867,524.00
- vi. Bus fare..... Kshs.1,656,250.00
- vii. House allowance..... Kshs.671,950.00

**Total Kshs.16,424,119.28**

It is so ordered.

**DATED, SIGNED AND DELIVERED AT NAIROBI ON THIS 25<sup>TH</sup> DAY OF SEPTEMBER 2020**

**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 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 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**