



**REPUBLIC OF KENYA**

**IN THE INDUSTRIAL COURT AT MOMBASA**

**CAUSE NUMBER 333 OF 2014**

**BETWEEN**

**PETER KILATYA .....CLAIMANT**

**VERSUS**

**BAMBURI CEMENT LIMITED.....RESPONDENT**

**RULING**

1. This dispute was initiated at the High Court Mombasa in the year 2004. It was transferred to the E&LRC Mombasa in 2014, and determined in a Judgment delivered on 28<sup>th</sup> June 2017.

2. Instead of assisting themselves by implementing Judgment the Parties disagreed on a minor issue, on whether interest of the principal amount of Kshs. 99,943, granted at 14% per annum from 21<sup>st</sup> April 1998, should be calculated based on simple or compound rate of interest.

3. The Claimant filed an Application on 21<sup>st</sup> March 2018, asking the Court to review its Judgment and indicate whether interest is on compound or simple rate.

4. The answer is that interest was granted, as traditionally is, in the Judgments of the E&LRC, based on simple interest. The Claimant, whose Advocates have obtained other Judgments from the Court, ought to be aware that interest, unless otherwise stated in the Judgment, is made based on simple interest.

5. To be clear, the Claimant was granted a principal sum of Kshs. 99, 943. Interest is calculated from 21<sup>st</sup> April 1998, which at 14% per annum, is Kshs. 13,992. Every year, there would be an interest of Kshs. 13,992. Compound interest would be based on the principal amount and cumulative interest. Interest from previous years would earn interest on subsequent years. This sort of computation may apply with respect to bank interest rates, and other commercial transactions, underpinned by usurious contracts. The employer-employment relationship, is a special relationship which is not based on usury. It is not based on greed. The Claimant should be grateful to the Court that he has interest from 1998, and not from the date of Judgment. Why does he wish to prolong this dispute, with this unnecessary application? Parties must assist the Judiciary not only in ensuring old disputes are expeditiously heard, and determined, but also by avoiding reopening of closed files.

6. *Judgment shall be satisfied based on simple interest rate.*

**Dated and delivered at Mombasa this 13<sup>th</sup> day of June 2019.**

**James Rika**

**Judge**