



REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT OF
KENYA AT NAIROBI
CAUSE NO 356 OF 2013

PETER WAMBUA MWINZI.....CLAIMANT

VERSUS

LOAD RUNNERS LIMITED.....RESPONDENT

JUDGEMENT

1. The claimant through a memorandum of claim filed on 18th March, 2013 averred that he was employed in 2009 by the respondent as a driver at a salary of Kshs 17,676. He worked until 3rd September, 2010 when his services were terminated by the respondent.

2. The claimant further pleaded that upon termination the respondent refused to pay hi his terminal dues. The claimant further stated that the allegations against him were that while on transit, the lorry he was driving lost unspecified amount of litres of diesel and other unspecified devises but no thorough investigations were carried out by the respondent into these allegations.

3. The respondent entered appearance through FKE but did not file a response to the claim. FKE subsequently applied to cease acting for the respondent for lack of instructions. This application was granted and the matter therefore proceeded undefended. The claimant subsequently filed submissions in the matter in which he urged the court to grant the prayers sought in the memorandum of claim.

4. The matter being undefended, the court never had the benefit of getting the respondent’s version of events. However, they were duly served and appointed an advocate who unfortunately had to pull out of the matter for lack of instructions.

5. The court will therefore award the claimant as follows:

- | | |
|---|---------------|
| a. One month’s salary in lieu of notice | 17,676 |
| b. Pro rata leave | 13,257 |
| c. February& March salary | 35,352 |
| d. 2 months gross pay as compensation
for unfair dismissal | <u>35,352</u> |

101,637

- e. Costs of the suit
- f. Interest on the decretal sum at court rates from date of judgement.

6. The respondent shall further issue the claimant with a certificate of service.

7. Items (a) (b) (c) and (d) shall be subject to statutory deductions.

8. It is so ordered.

Dated at Nairobi this 6th day of July, 2018

Abuodha J. N.

Judge

Delivered this 6th day of July, 2018

Abuodha J. N.

Judge

In the presence of:-

..... for the Claimant

.....for the Respondent