



**REPUBLIC OF KENYA**

**IN THE EMPLOYMENT & LABOUR RELATIONS**

**COURT OF KENYA AT NYERI**

**CAUSE NO. 133 OF 2017**

**MICHAEL NG'ANG'A RUIRIL.....CLAIMANT**

**VERSUS**

**KARANI MUTITU.....RESPONDENT**

**RULING**

1. The Claimant/Applicant seeks leave to amend the memorandum of claim. In the motion, the Claimant seeks to introduce particulars of the underpayment and overtime in 2014, 2015 till April 2016, the leave dues for 2014-2015, house allowance and salary in lieu of notice and service pay *inter alia*. The Respondent is opposed to the grant of the motion as the Respondent asserts the introduction of these fresh claims is an attempt to defeat the limitation period that has already set in.

2. The motion seeks to introduce particulars of the claim that were not pleaded at the inception of the suit on 28<sup>th</sup> June 2016. The Claimant is therefore time barred in terms of Section 90 of the Employment Act to introduce the claims on overtime and the like. The Claimant pleaded in his claim for house allowance, off days, holidays, salary in lieu of notice and leave days. The claim is therefore confined to those claims set out in his claim as pleaded in the claim filed before the court on 28<sup>th</sup> June 2016. The Claimant/Applicant's notice of motion application is dismissed but I make no order as to costs.

It is so ordered.

**Dated and delivered at Nyeri this 28<sup>th</sup> day of September 2018**

**Nzioki wa Makau**

**JUDGE**