



REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR
RELATIONS COURT AT MOMBASA

CAUSE NUMBER 521 OF 2015

BETWEEN

KAMAU MWAURA
CLAIMANT

VERSUS

VANGA EXPRESS LIMITED RESPONDENT

Rika J

Court Assistant: Benjamin Kombe

Ms. Nyawinda K. Aoko Advocate instructed by Kituo Cha Sheria Advocates for the Claimant

No appearance for the Respondent

JUDGMENT

1. This Claim, filed on 21st July 2015 is undefended. The Claimant was employed by the Respondent Transport Company as a Driver, earning a monthly salary of Kshs. 15,000. He was employed on 6th August 2010. He states he was charged with the offence of dangerous driving on 16th May 2012. He was dismissed after serving a custodial sentence, on 5th December 2013. He claims he was not paid salary for the period of 40 months. The total amount stood at Kshs. 600,000. He was paid Kshs. 60,000, with a balance of Kshs. 540,000 which he claims.

2. There is no response to the Claim.

3. The Claimant gave evidence on 21st February 2017. He told the Court he was jailed for the offence of dangerous driving. He was not paid for 36 months, out of 40 months worked. He was employed on 6th August 2010, and left on 5th December 2013.

The Court Finds:-

4. Although the Claim is undefended, there are certain gaps in the pleadings and evidence of the

Claimant, which makes it difficult to accept that he is owed arrears salary of 36 months.

5. He states, in his Witness Statement filed on 21st July 2015 that he was not paid his salary from August 2010, to April 2011.

6. At paragraph 1.2 of the Statement of Claim, a similar claim is made. He was not paid his salary from August 2010, to April 2011.

7. His letter of demand dated 8th March 2015, also states the Claimant was not paid his salary for August 2010 to April 2011.

8. This is a period of 8 months. It is not consistent with the claim made elsewhere for a period of 36 months. The Claimant was also not clear if he continued driving after being charged with dangerous driving, which he states happened on 16th May 2011.

9. Owing to these inconsistencies, the Court is only able to allow the claim to the extent of 8 months as pleaded.

10. Costs to the Claimant.

11. Interest on the arrears of salary granted at 14% per annum from 5th December 2013 when the Claimant left employment.

IT IS ORDERED:-

a) The Respondent shall pay to the Claimant 8 months' salary at 120,000

b) Costs to the Claimant.

c) Interest granted on the arrears of salary at 14% per annum from 5th December 2013 when the Claimant left employment, till payment is made in full.

Dated and delivered at Mombasa this 21st day of June 2017

James Rika

Judge