



**REPUBLIC OF KENYA**

**IN THE EMPLOYMENT AND LABOUR RELATIONS COURT**

**AT NAIROBI**

**C. A. NO. 90 OF 2016**

**AMALGAMATED UNION OF KENYA METAL WORKERS.....CLAIMANT**

**VERSUS**

**ABSON MOTORS LIMITED.....RESPONDENT**

**Mr. Tom Maobe for the union**

**M/rs Nasimiyu for employer**

**Mr. Benson Okwayo for CPMU**

**JUDGMENT**

1. The union and the employer signed a Collective Agreement for the period 1<sup>st</sup> March 2016 to 28<sup>th</sup> February 2018, a period of 24 months.
2. The Central planning and Monitoring Unit (CPMU) of the Ministry of Labour and East African Community Affairs, scrutinised the Collective Bargaining Agreement and upon being satisfied that it was in compliance with wage guidelines issued on 29<sup>th</sup> August 1973 and subsequently amended on 23<sup>rd</sup> November 2005, approved the same and submitted it for registration by the court.
3. On 23<sup>rd</sup> January 2017, when matter came for registration before court. Mr. Tom Maobe for the union and Mr. Benson Okwayo for CPMU did into object to the registration of the union. However, M/rs Nasimiyu for the employer objected to the registration of the CBA and stated that matter be transferred to Mombasa.
4. The court noted that the CBA had been signed by the Managing Director of the employer Mr. Twaha Zubedi and directed that he appears in court on 6<sup>th</sup> February 2017. Mr. Zubedi did not appear, however M/s Nasimiyu told the court that the employees were no longer union members.
5. The court directed CPMU to visit both parties and file a status report with the court. A report dated 25<sup>th</sup> April 2017 was filed on 2<sup>nd</sup> May 2017 and the CPMU conducted a ballot and the outcome of the ballot exercise was as follows: -

(i) Total number of unionisable employees who balloted was 41.

(ii) 15 were members of the union.

(iii) 4 more were willing to join.

(iv) 26 were not union members.

6. The fact of the matter is that the union has a Recognition Agreement with the employer in place and was entitled to conclude a CBA for all unionisable workers.

7. There is no tangible reason put forth by the employer not to have a CBA duly executed by both parties and verified by the Ministry of Labour registered.

8. Accordingly, the CBA concluded by the parties for the period 1<sup>st</sup> March 2016 to 28<sup>th</sup> February 2018 is duly registered. The requisite forms to be filled accordingly.

**Dated, Signed and Delivered at Nairobi this 13<sup>th</sup> day of October 2017**

**MATHEWS NDERI NDUMA**

**JUDGE**