

REPUBLIC OF KENYA

IN THE EMPLOYMENT AND LABOUR RELATIONS

COURT OF KENYA AT NAIROBI

CAUSE NO. 50 OF 2012

JOHN KENNEDY ONGADI CLAIMANT

VERSUS

KENYA POWER & LIGHTING COMPANY LIMITED RESPONDENT

Mr. K'opere for the Claimant / Applicant

Mr. Moleje for the Respondent

RULING

1. The Judgment of the Court delivered on 25th February 2015 authorised deduction of kshs.715,038.18 owed to the Respondent as a car loan, car insurance, fridge and cooker loan, sales ledger and electricity bill from the decretal amount.
2. By Amended Application filed on 30th September 2015, under Rule 32 of the Employment and Labour Relations Court (Procedure) Rules, 2010 it has been drawn to the attention of the Court that the sum of Kshs.633,670.15 being balance of the car loan and kshs.43,067.94 in respect of insurance, totaling Kshs.676,738.09 was erroneously deducted from the final award of the Court since the Claimant had already paid the sum of Kshs.676,738.00 to the Respondent.
3. That the Respondent's Advocates were served with a letter pointing out the error immediately Judgment was entered on 25th February 2015, on 3rd March 2015.
4. That the Respondent ignored the letter and the Respondent proceeded to settle the decretal amount less the said amount.
5. The Claimant / Applicant prays that the Judgment and Decree herein be corrected under Section 99 of the Civil Procedure Act and Rule 32 of Employment and Labour Relations Court (Procedure) Rule, 2010 to reflect the correct figure of Kshs.3,091, 541.47 which should include the sum of Kshs.676,738.09.
6. The Respondent opposes this application stating that no review of the Judgment of the Court is warranted since no new evidence has been adduced by the Applicant which could not reasonably be available during the trial.
7. The Court is satisfied however that the sum of Kshs.676,738.09 was erroneously deducted from the decretal sum the same having been already paid by the Claimant to the Respondent.
8. It is in the interest of justice and fair play that the Application be allowed with costs to the Claimant / Applicant.
9. Accordingly, the sum of Kshs.676,738.09 be paid to the Advocates for the Claimant within thirty (30) days from the date of this Ruling.

Dated and Delivered at Nairobi this 15th day of January, 2016

MATHEWS NDERI NDUMA

PRINCIPAL JUDGE