



**REPUBLIC OF KENYA**  
**IN THE EMPLOYMENT AND LABOUR RELATIONS**

**COURT AT NAIROBI**

**CAUSE NO 2132 OF 2011**

**JOSEPH MAINA GICHUHI ..... CLAIMANT**

*VERSUS*

**BARCLAYS BANK (K) LTD ..... RESPONDENT**

**JUDGMENT ON QUANTUM**

1. Pursuant to an order of the court in the judgment delivered on 10<sup>th</sup> June 2015 the respondent filed tabulation of the award of the court in respect of various claimants as follows;

**i. Lucy Wangui Mwaniki,**

- a. Payment in lieu of 3 months notice, Kshs.357,756.00.
- b. Severance pay Kshs.1,967,658.00.

Less tax Kshs.514,888.00.

Net payment Kshs.1,810,525.00.

**ii. Angeline Wambui Muchiri**

- a. Payment in lieu of three (3) months notice Kshs.312,501.00.
  - 1. Severance pay Kshs.2,031,257.00.

Less tax Kshs.520,398.00.

Net payment Kshs.1,823,359.00.

**iii. Joseph Maina Gichuhi**

- a. Payment in lieu of three (3) months notice Kshs.553,932.00.
- b. Severance pay Kshs.4,095,388.00.

Less tax Kshs.1,479,067.00.

Net payment Kshs.4,060,253.00.

iv. **Shadrack Adem.**

- a. Payment in lieu of three (3) months. Notice Kshs.351,000.00.
- b. Severance pay Kshs.2,281,500.00.

Less tax 607,021.00.

Net payment Kshs.2,025,479.

2. The tabulation was filed on 17<sup>th</sup> November 2015 and 26<sup>th</sup> January 2016.

**Contestation**

3. The claimant filed submissions on the tabulation on 27<sup>th</sup> January 2016 contesting the figures as follows;

i. **Lucy wangui Mwaniki.**

4. That the respondent did not compute service pay for two (2) months and ten (10) days since the 3<sup>rd</sup> claimant had worked from 14<sup>th</sup> March 1994, to 23<sup>rd</sup> May 2005.
5. The claimant therefore seeks additional payment of Kshs.34,305.00 in respect of severance pay, making a total of Kshs.2,001,953.37 instead of Kshs.1,967,658.00 provided in the respondent's tabulation.
6. The court finds that additional payment of Kshs.34,305.00 is justified making a total of Kshs.2,001,953.37 less respective tax deduction.

(ii) **Angeline Wambui Muchiri.**

7. The claimant submits that the 4<sup>th</sup> claimant's basic pay was Kshs.112,501.00 and not Kshs.104,167.00 used by the respondent in their tabulation.
8. Furthermore, the respondent did not consider nine (9) months and ten (10) days in the calculation of severance pay. The 4<sup>th</sup> claimant having worked from 13<sup>th</sup> August 1991 to 23<sup>rd</sup> May 2005 the date of termination.
9. The claimant submits that payment should be as follows;
  - a. Three (3) months in lieu of notice Kshs.337,503.00.
  - b. Severance pay to include prorated balance (9 months and 10 days) in the sum of Kshs.168,571.50 plus Kshs.4,623.79 respectively, making a total of Kshs.131,052.41.

10. Total severance pay payable to the 4<sup>th</sup> claimant is therefore **Kshs.2,324,821.91.**

11. The court finds the above to be the correct tabulation and adopts the figures accordingly.

12. Net payment to Angeline Wambui Muchiri less tax **Kshs.2,050,143.00** instead of Kshs.1,823,359.00

(iii) **Joseph Maina Gichuhi.**

13. The 1<sup>st</sup> claimant submits that tabulation provided by the respondent did not take into account six (6) months and thirteen (13) days in computation of severance pay. The claimant worked from 22<sup>nd</sup> September 1986 to 4<sup>th</sup> April 2005, the date of termination. The 1<sup>st</sup> claimant seeks a further payment of **Kshs.148,347,54** in respect of severance pay.
14. The issue of loan discount was not canvassed during the hearing and the court disallows this further claim.
15. The court therefore varies the tabulation by the respondent so as to include a further payment of **Kshs.148,347.54** severance pay less the requisite tax.

**Total payment to the 1<sup>st</sup> Claimant is Kshs 4,208.600.54**

(iv) **Shadrack Opon Adem.**

16.The claimant submits that the respondent's submissions omitted to calculate eight (8) months prorated severance pay in the sum of Kshs.58,500.00.

17.The court finds that the 2<sup>nd</sup> claimant having worked from 20<sup>th</sup> August 1991 to 23<sup>rd</sup> May 2005 is entitled to the prorated severance pay. The net total award of severance is therefore **Kshs.2,117,115.**

**Dated and delivered at Nairobi this 17<sup>th</sup> day of June 2016**

**MATHEWS NDERI NDUMA**

**PRINCIPAL JUDGE**