

REPUBLIC OF KENYA

IN THE EMPLOYMENT AND LABOUR RELATIONS COURT

AT NAIROBI

CAUSE NO. 1115 OF 2010

GODFREY KIMANI NJENGA CLAIMANT

VERSUS

ATHI RIVER MINING LIMITED RESPONDENT

RULING

1. In the judgment delivered by Nzioki wa Makau J. on 14th June 2013 the Judge ordered;

“the claimant will have costs and interest on the sum he has been awarded above. However, the interest that will apply is at court rates and the interest will run from the date of filing suit till payment in full.”

2. The applicant states that in terms of Rule 28 (3) of the Industrial Court Rules, 2010 as read with section 27 of the Civil Procedure Act, the applicable interest is 12% per annum which in this case was tabulated to be Kshs.39,093 and was settled by the applicant.

3. The respondent however tabulated the interest erroneously at the rate of 14% per annum amounting to Kshs.78,118.84.

4. Pursuant to this the Registrar to guide the parties on the rate of interest and the calculation of the amount of interest that is recoverable by the Decree-Holder.

Determination

5. The court has considered the provisions of section 27 (2) of the Civil Procedure Act, Cap 21 of the laws of Kenya which reads as follows;

“The Court or Judge may give interest on costs at any rate not exceeding fourteen per cent per annum, and such interest shall be added to the costs and shall be recoverable as such.”

6. A plain interpretation of this provision shows that interest at court rates is at the discretion of the court provided it does not exceed 14%.

7. The Judge did not grant a specific percentage but the Deputy Registrar guided the claimant to levy costs at 14% which rate is within that is permissible by the law.

8. The application lacks merit and the same is dismissed with costs.

Dated and delivered at Nairobi this 20th day of December, 2016

MATHEWS NDERI NDUMA

PRINCIPAL JUDGE