



REPUBLIC OF KENYA

IN THE INDUSTRIAL COURT AT NAIROBI

CAUSE NUMBER 1869 OF 2013

CHARLES KIBISU KALEDA CLAIMANT

VERSUS

CHINA ZHONGXING CONSTRUCTION CO-OPEATIVE LTD RESPONDENT

JUDGMENT

1. The Claimant seeks compensation from the Respondent for what he feels was wrongful and unfair termination of his services. He averred that on or about October, 2011 he was employed by the Respondent as a general worker earning Kshs.8,500 per month and that he worked until 18th June, 2012 when he was dismissed after sustaining injuries in the course of his employment.
2. As compensation the claimant seeks the sum of Kshs.484,000/= which comprise of three month's salary in lieu of notice, one month's salary and what he calls damages which form the bulk of his claim.
3. The Respondent was served but neither appeared nor filed response to the claim. I therefore directed that his matter proceed as an undefended claim.
4. The Claimant's counsel in his submissions to the court urged the court to award the claimant Kshs.475,000/= and an additional Kshs.75,000/= as legal expenses incurred in pursuing this claim. Counsel in justifying the sums claimed contended that the claimant is a young family man and was wrongfully terminated from service.
5. The jurisdiction of this court is derived from the Constitution, the Industrial Court Act. The assessment of compensation for claims arising out of employment disputes is governed principally by the Employment Act. The Act provides the scope and formula for assessment of compensation in the event that a party is successful in proving their claim. Any compensation outside parameters set by the Act will therefore be ultra vires and without jurisdiction. Further, the fact that a claim proceeds as an undefended cause does not lighten the burden on the claimant to prove his or her case to the threshold set in civil claims.
6. The court is not convinced that the Claimant merits the sum claimed and hereby awards him as follows;
 - a. One month's salary in lieu of notice 8,500/=
 - b. Salary for 18 days in June 5,100/=

c. Four Months' salary as compensation for unfair dismissal 34,000/=

47,600/=

d. Interest on the decretal sum and costs of the suit.

It is so ordered.

Delivered this 13th day of February 2015

In the presence of:-

.....for the Claimant and

.....for the Respondent.

Abuodha J. N.

Judge