



**REPUBLIC OF KENYA**  
**IN THE EMPLOYMENT AND LABOUR RELATIONS COURT**  
**AT NAIROBI**

**CAUSE NUMBER 1752 OF 2013**

**MARY WANJUKU MAINA.....1<sup>ST</sup> CLAIMANT**  
**PENINNAH KIVIVYA KITHEKA.....2<sup>ND</sup> CLAIMANT**  
**VERSUS**  
**HORIZON CHEMICALS LIMITED.....RESPONDENT**

**JUDGMENT**

1. The claimants in this matter averred that they were employed by the respondent as cooks in October 2011 on a monthly salary of Kshs.8,000. The appointment was oral.
2. Around 3<sup>rd</sup> June, 2013 they were dismissed after sustaining injuries in the course of their employment without notice and payment of terminal dues. They therefore seek an order of compensation from this Court directed to the respondent to pay them their terminal dues and compensation for unfair dismissal.
3. The respondent though served did not enter appearance nor file a defence to the claim. The Court therefore directed that the matter proceeds as an undefended cause. Counsel for the respondent in that regard, elected not to call any oral evidence and instead opted to file submissions.
4. In a claim for termination of employment, the employer is required to prove the reason or reasons for termination and where such employer fails to do so, the termination shall be deemed to have been unfair.
5. The respondent, as already observed, though served, never entered appearance nor filed a defence to the claim implying it failed to prove the reason for terminating the claimant’s services with the consequence that the Court finds the dismissal unfair and awards each claimant as follows:-

- (a) One month’s salary in lieu of pay.....8,000/=
- (b) Service pay at the rate of 15 days pay for  
each complete year of service.....8,000/=
- (c) Six month’s salary for unfair dismissal.....48,000/=

Total.....64,000/=

6. The claimants shall further have the costs of the suit.

7. It is so ordered.

Dated at Nairobi this 6<sup>th</sup> day of November 2015

Abuodha J. N.

Judge

Delivered this 6<sup>th</sup> day of November 2015

**In the presence of:-**

.....for the Claimant and

.....for the Respondent.

Abuodha J. N.

Judge