



**REPUBLIC OF KENYA**  
**IN THE INDUSTRIAL COURT OF KENYA**

**AT NAIROBI**

**CAUSE NO. 247(N) OF 2009**

**BAKERY CONFECTIONERY, GOOD MANUFACTURING  
AND ALLIED WORKERS UNION (KENYA)..... CLAIMANT**

**-VERSUS-**

**THE WRIGLEY CO. (E.A) LIMITED..... RESPONDENT**

**Mr. Muchai for the Claimant**

**Mr. Obura for the Respondent**

**JUDGMENT ON QUANTUM**

In its judgment on merits delivered on 10<sup>th</sup> December 2013 the court awarded the grievant Mr. Francis Oputu;

1. 12 months gross salary as compensation for the wrongful, unlawful and unfair early retirement and
2. Eight (8) months salary to mitigate the lost income for the five(5) years the grievant was entitled to work prior to his lawful retirement upon attaining 60 years old.

The court directed the claimant to compute the award within 30 days and serve the same on the Respondent for concurrence and/or review within 14 days subsequent to which the Quantum be filed with the court for consideration and adoption as an order of the court.

The computation dated 20<sup>th</sup> January 2014 was filed with the court on 17<sup>th</sup> March 2014 together with an affidavit of one Danchael Mwangare sworn on behalf of the Claimant.

From the contents of the affidavit, there was no concurrence between the parties on the Quantum. Instead the Respondent filed a letter dated 20<sup>th</sup> February 2014 written to the Claimant stating that the terminal benefits enumerated on items (a) – (i) were not awarded by the court and therefore rejected the computation.

The award of the court is confined to only two items as stated herein before.

The court finds that the grievant at the time of the pre-mature retirement earned a gross salary of Kshs.46,124.00 made up of a basic salary of Kshs.38,374,00 and house allowance of Kshs.7,750.00.

**Accordingly the award of the court is as follows;**

1. Compensation equivalent to 12 months wages (46,124.00) x 12). In the sum of Kshs.553,488.00
2. General damages equivalent to 8 months salary (46,124 x 8) in the sum of Kshs.368,992.00.

Total award Kshs.922,480.00.

The court did not consider nor award any other items as enumerated in the Quantification dated 20<sup>th</sup> January 2014 filed by the Claimant and therefore concurs with the Respondent in this regard. However, any other terminal benefits that may be due and owing to the grievant ought to be settled amicably between the parties as the same were not canvassed in this suit nor were there specific prayers on these items .

Accordingly the sum of Kshs.922,480.00 is to be paid with interest at court rates from the date of the unlawful retirement to the date of payment in full. The Respondent is also to pay the costs of this suit.

***Dated and delivered at Nairobi this 18<sup>th</sup> day of July, 2014.***

**MATHEWS N. NDUMA**

**PRINCIPAL JUDGE**