



**Transpares Kenya Limited v Kingori & another (Suing as the Legal Representative of the Estate of Hazron Githinji Kingori (Deceased)) (Civil Appeal E016 of 2024) [2025] KEHC 11746 (KLR) (31 July 2025) (Judgment)**

Neutral citation: [2025] KEHC 11746 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT BUSIA  
CIVIL APPEAL E016 OF 2024  
WM MUSYOKA, J  
JULY 31, 2025**

**BETWEEN**

**TRANSPARES KENYA LIMITED ..... APPELLANT**

**AND**

**BEATRICE WANGECI KINGORI ..... 1<sup>ST</sup> RESPONDENT**

**FRACIAH WAMBUI MUCHIRI ..... 2<sup>ND</sup> RESPONDENT**

**SUING AS THE LEGAL REPRESENTATIVE OF THE ESTATE OF HAZRON  
GITHINJI KINGORI (DECEASED)**

*(Appeal from judgement and decree of Hon. T Madowo, Senior Resident Magistrate, of 29th February 2024, in Busia CMCCC No. E142 of 2022)*

**JUDGMENT**

1. The suit, at the trial court, was by the respondents, against the appellant. It was for compensation, following a fatal road accident, involving a motor vehicle owned and controlled by the appellant, and the deceased person, whose estate was administered by the respondents. The accident happened on 13<sup>th</sup> July 2022. Negligence was attributed on the appellant. Compensation was claimed under the [Law Reform Act](#), Cap 26, Laws of Kenya and the [Fatal Accidents Act](#), Cap 32, Laws of Kenya.
2. The claim was resisted by the appellant. It denied everything pleaded in the plaint, but alternatively, pleaded that the deceased contributed to the accident by his own negligence.
3. A trial was conducted. 3 witnesses testified for the respondents, with none for the appellant. Liability was resolved by consent, at 80% to 20% in favour of the respondents. Judgement was delivered on 29<sup>th</sup> February 2024, at Kshs. 4,582,931.2 less 20% contribution. The amount was broken down into Kshs.



- 4,302,931.2 under the *Fatal Accidents Act*, Kshs. 30,000.00 pain and suffering, Kshs. 100,000.00 loss of expectation of life, and Kshs. 150,000.00 special damages.
4. The appellant was aggrieved, hence the appeal. The grounds are that the amount under the *Fatal Accidents Act* was excessive, the multiplicand adopted was erroneous; the multiplier of 16 years was high, the special damages of Kshs. 100,000.00 were neither pleaded nor proved, and the principles for determination of awards of damages were not applied.
  5. Directions were taken, on 5<sup>th</sup> May 2025, for canvassing of the appeal by written submissions.
  6. The appellant submits on 2 issues: quantum for loss dependency and special damages.
  7. On loss of dependency its case hinges on the multiplier and multiplicand. On the multiplier, it argues that 16 was too high, given that the deceased was 40 years old at the time of death. It is argued that the court should have adopted a multiplier of 10. It relies on Estate of the late JOO vs. Kenya Power & Lighting Company HCCC No. 59 of 2009, where the deceased allegedly died at 40, and a multiplier of 12 was adopted. They also cite Ann Njoki Njenga vs. Umoja Flour Millers and Another [2006] eKLR [2006] KEHC 2443 (KLR) (Musinga, J), where a multiplier of 14 was adopted for a 36-year-old.
  8. On the multiplicand, it is argued that the payslip for the deceased showed his gross salary to be Kshs. 33,700.00, which figure the trial court applied without taking into account mandatory statutory deductions. It is argued that the court ought to have used the net pay which is said to have been Kshs. 18,934.65. Atina vs. China Quinjian International Group (Kenya) [2023] KEHC 3655 (KLR) (Githua, J) is cited, where the court had held that the amount of multiplicand should represent the actual disposable income of the deceased or net earnings, as opposed to his gross pay. Janet Chonge Walumbe & 2 others vs. Julius Mumbi & another [2019] eKLR (Muriithi, J) is also cited, where the court rooted for the net pay, holding that loan deductions represented monies that the deceased had already spent.
  9. On special damages, Hahn vs. Singh [1985] KLR 716 (Kneller, Nyarangi JJA, & Chesoni, Ag JA) is cited, for the position that special damages should be specifically pleaded and proved. It is argued that the respondents should have only been awarded an amount equivalent to what was proved by receipts, which totalled to Kshs. 141,000.00.
  10. On the multiplier, the respondents support the award made by the trial court. On multiplicand, the respondents cite Maigwa vs. British Council [2023] KECA 157 (KLR)(Ochieng, Achode & Korir, JJA) and Mary Osano vs. Simon Kimutai [2020] KECA 914 (KLR)(Makhandia, Kiage & Odek, JJA), to submit that the multiplicand represents the gross salary less statutory deductions, and that the rest, including loan deductions, do not apply. It is submitted that the monthly income for the deceased was Kshs. 38,700.00, less deductions of Kshs. 5,083.35, which brought the figure down to Kshs. 33,616.65. On specials, it is submitted that Kshs. 303,000.00 was proved, from the receipts, but only Kshs. 150,000.00 was pleaded. It is pleaded that the amount be enhanced, based on Premier Diary Limited vs. Amarjit Singh Sagoo & Another [2013] eKLR (Onyango Otieno, Azangalala & Kantai, JJA).
  11. Let me start with the multiplier. The trial court adopted a multiplier of 16 for a 41-year-old and guided by Florence Ngina Nyalando Achacha & Another vs. Daniel Munyua Njathii & Another [2016] eKLR [2015] KEHC 7917 (KLR)(Njuguna, J). I have reviewed a number of other reported decisions, and it would appear a multiplier of 16 is standard for persons dying in their early 40s. In Tobias Odoyo Oburu vs. Ruth Moraa Oigo & Another [2018] KEHC (KCR) (Majanja, J) and Martin Gitau & Another vs. Shadrack Mulonzi & another [2018] KEHC 7573 (Njuguna, J), the deceased persons were aged 39, and the courts adopted a multiplier of 16. In Mathenge vs. Kamau & Another [2024] KEHC 6286 (KLR)



(JN Njagi, J), the deceased was 43, when he died, and 16 was adopted as multiplier; while in Planet Motors Mombasa Ltd & Another vs. Benson [2023] KEHC 18322 (KLR) [Ndungu, J), the deceased died at 44, and a multiplier of 16 was adopted. In Danstar Holdings Limited & Another vs. Kamau & Another [2023] KEHC 2497 (KLR) (Muchemi, J), the deceased died at 60, and a multiplier of 11 was used. It would appear, therefore, that a multiplier of 16, from a 41-year-old would be within range.

12. Regarding the multiplicand, where the deceased person was salaried, there is no unanimity, at the High Court and Court of Appeal, on whether it should be the net exclusively or the gross pay less statutory deductions. Sections of the 2 courts stick to the net pay, while others are for gross pay less statutory deductions. There is no unanimity on whether loans, from banks and Saccos, and other deductions are to be factored. The decision in Maigwa vs. British Council [2023] KECA 157 (KLR)(Ochieng, Achode & Korir, JJA) is the most recent on the subject. I shall go by it. It should be gross pay less statutory deductions. Mary Osano vs. Simon Kimutai [2020] KECA 914 (KLR)(Makhandia, Kiage & Odek, JJA), which the trial court relied on, is also of the same position.
13. The payslip on record, dated May 2021, put his gross pay at Kshs. 38,700.00. The net pay was Kshs. 22,384.65, after deductions. Out of those deductions, of Kshs. 16,315.35, only those in respect of the National Social Security Fund, National Health Insurance Fund, Pay As You Earn, and others, are statutory, and they amounted to Kshs. 5,083.35. That should be only amount deducted from Kshs. 38,500.00, which would leave Kshs. 33,616.65.
14. Based on the above the award under the Fatal Accidents Act should work out as follows: Kshs. 33,615.65 x 16 x 12 x 2/3 = 4,302,931.2
15. On special damages, the law is well settled, they must be specifically pleaded, as well as specifically proved. The amount pleaded in the amended plaint was Kshs. 303,000.00, being Kshs. 268,000.00 funeral expenses and Kshs. 35,000.00 for obtaining grant of letters of administration. The court awarded Kshs. 141,000.00 for what was proven through the receipts. I agree Kshs. 141,000.00 was specifically proven, and it fitted within the Kshs. 303,000.00 pleaded.
16. Overall, I find no merit in the appeal herein. The same is hereby dismissed, with costs to the respondents. Orders accordingly.

**DELIVERED, DATED AND SIGNED IN OPEN COURT AT BUSIA ON THIS 31<sup>ST</sup> DAY OF JULY 2025.**

**WM MUSYOKA**

**JUDGE**

Mr. Arthur Etyang, Court Assistant.

Advocates

Mr. Karanja, instructed by G & G Advocates LLP, Advocates for the appellant.

Mr. Kapu, instructed by Warigi & Company, Advocates for the respondents.

