



SNS (A minor suing through her father and next friend Stanley Sifuna Busuru) v Kenya Power & Lighting Company Limited (Civil Case E003 of 2023) [2025] KEHC 11867 (KLR) (5 August 2025) (Judgment)

Neutral citation: [2025] KEHC 11867 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT BUNGOMA
CIVIL CASE E003 OF 2023
MS SHARIF, J
AUGUST 5, 2025**

BETWEEN

SNS (A MINOR SUING THROUGH HER FATHER AND NEXT FRIEND STANLEY SIFUNA BUSURU) PLAINTIFF

AND

KENYA POWER & LIGHTING COMPANY LIMITED DEFENDANT

JUDGMENT

Background

1. This is a suit filed by the Plaintiff, a minor, suing through her father and next friend, seeking compensation for injuries sustained as a result of electrocution caused by a fallen live electricity cable owned and maintained by the Defendant, Kenya Power & Lighting Company Limited. The Plaintiff prays for general damages, future medical expenses, special damages of Kshs. 108,220, interest, costs of the suit, and any further relief that the court may deem fit.
2. The incident, which occurred on 6th April 2023, left the Plaintiff permanently disabled, physically and psychologically scarred, and with significantly diminished prospects for her future.
3. The Defendant neither entered an appearance nor filed a defence. The Plaintiff therefore requested for interlocutory judgment under Order 10 Rule 6 of the Civil Procedure Rules. The request was endorsed by the court on 27th September 2024 whereafter, the matter then proceeded for assessment of damages on 26th February 2025.

In the cases of *Felix Mathenge v. Kenya Power & Lighting Company Limited* [CA 215 of 2002], and *Kavindu & Another v. Mbaya & Another* (1976) KLR 164, the courts held that once interlocutory judgment has been regularly obtained, liability becomes final and unassailable. The only issue remaining for the court is to assess quantum of damages.



Evidence

4. The Plaintiff's father, Stanley Sifuna Busuru, testified as PW1. He adopted his witness statement dated 20th August 2023 as his evidence-in-chief. He narrated the tragic events of 6th April 2023, when his daughter, then aged 13 years and a student at Burangasi R.C. Junior Secondary School, was electrocuted by a live wire from a fallen Kenya Power post.
5. It was his testimony that she had been walking home from school when she unknowingly passed near the downed posts, which were lying unattended, with live wires exposed and no warning signage placed. As S walked past the fallen poles, she came into contact with the live wires and was electrocuted. She lost consciousness and sustained multiple injuries. Members of the public assisted in rescuing her and rushed her to Bumula Health Centre. She was later transferred to Bungoma County Referral Hospital for treatment.
6. PW1 produced a bundle of 21 documents which were admitted in evidence as Plaintiff Exhibits 1 to 21 including; Medical report Photographs School records Receipts for medical treatment Police abstract
7. Among the documents produced was a medical report dated 19th May 2023 authored by Dr. Mulianga Ekesa; Plaintiff's Exhibit No. 17. According to the medical report, S sustained a concussion, burns of various degrees covering approximately 23% of her total body surface area (TBSA), and had her left forearm amputated above the wrist due to the severity of the burns and necrosis.
8. Specific injuries noted in the report include:
 - i. Loss of consciousness (concussion);
 - ii. Painful swelling and blisters on the right temporal side of the head;
 - iii. First-degree burn on the left side of the neck;
 - iv. Second-degree burns on the left pectoral (breast) area and lower abdomen;
 - v. Second-degree burns on the back, covering approximately 10% of body surface area;
 - vi. Extensive burns on the left upper limb with a deep wound on the elbow;
 - vii. Painless, darkened left hand with stiff fingers, leading to amputation of the distal forearm;
 - viii. Amputation stump measuring 18cm from the elbow (above wrist joint);
 - ix. Deep wounds and multiple burns on the left lower limb, including a wound measuring 7 x 3 cm;
 - x. Multiple burns on the right lower limb, the largest near the ankle joint (measuring 10 x 3.6 cm);
 - xi. Wobbling gait (difficulty walking);
 - xii. Ongoing pain at all burn sites;
9. Dr. Ekesa assessed S's permanent incapacity at 83%, with 68% attributed to physical impairment and 15% to psychological and emotional trauma, including loss of self-esteem, pain, and diminished life opportunities. He recommended long-term rehabilitation, including physiotherapy, occupational therapy, and counselling. He also advised that S would require a myoelectric (bionic) prosthetic arm, which would need to be replaced at least three times during her growth. The total estimated cost was USD 400,000.



10. PW2, Gregory Simiyu (Eyewitness), a neighbour and boda boda operator, confirmed that he witnessed the accident. He helped rescue the Plaintiff using a jacket and a wooden stick, after which he and another neighbour transported her to hospital. His account corroborated PW1's version of events. He placed blame on the Defendant for erecting defective poles, failing to remove the fallen ones promptly, and not warning the public.

Submissions

11. The Plaintiff filed written submissions dated 27th March 2025 in which she urged the court to award her Kshs. 6,000,000 as general damages, USD 400,000 as future medical expenses, and Kshs. 108,220 as special damages. She also prayed for the costs of the suit and interest thereon.
12. In support of her claim for general damages, the Plaintiff relied on the case of *DA v. Kenya Power & Lighting Company Limited* [2021] eKLR, where the court awarded Kshs. 4,500,000 for comparable injuries involving electrocution and permanent disability. It was submitted that in view of the Plaintiff's young age, the severity of her injuries, and the passage of time since the award in the DA case, a higher amount of Kshs. 6,000,000 would be just and appropriate in the present case.
13. On the issue of future medical expenses, the Plaintiff relied on the Court of Appeal decision in *Koru Holy Family Hospitals v. Koech* (Civil Appeal No. E003 of 2021), where it was held that the need for future medical care must be pleaded and proved through medical evidence. Further reliance was placed on the decision in *Tracom Limited & Another v. Hassan Mohammed Adan* [2009] eKLR, where the Court observed that although future medical expenses fall under the head of general damages, the need for such care must be specifically pleaded and proved to the satisfaction of the court.
14. The Plaintiff also cited the case of *Karuru Minyororo v. Joseph Ndumia Murage* (Nyeri HCCC) for the proposition that uncontroverted evidence should be accepted as credible and reliable. A similar position was taken in *Interchemic EA Limited v. Nakuru Veterinary Centre Limited* (HCCC No. 1658 of 2000), where the court held that where no witness is called by the Defendant, the Plaintiff's evidence stands unchallenged.
15. It was submitted that in the present case, the Defendant neither filed a defence nor appeared at the hearing, and as such, the Plaintiff's testimony and medical evidence remained uncontroverted and ought to be accepted by the court.

Determination

16. As earlier stated, liability is not in issue due to the Defendant's default and the entry of interlocutory judgment. The Plaintiff's case was properly proved through direct and corroborated testimony. The Defendant's failure to appear and cross-examine the plaintiff's witnesses means the evidence remains uncontroverted and credible.

Quantum:

A. General Damages

17. According to the medical report prepared by Dr. Mulianga Ekesa and produced as Plaintiff's Exhibit 17, the Plaintiff, then a 13-year-old girl, sustained multiple injuries following electrocution on 6th April 2023. The nature of the injuries was as follows: Loss of consciousness (concussion); Burns to the right temporal side of the head, measuring 10cm by 7cm; Burns on the neck, chest, lower abdomen and back; Electrical burns to both lower limbs, with deep burns and open wounds, including a 7cm x 3cm wound on the left leg; Second and third-degree burns covering approximately 23% of her total



body surface area (TBSA);Amputation of the left forearm above the wrist, leaving a stump measuring approximately 18cm from the elbow;Multiple scars, limited mobility, and residual pain;Permanent incapacity assessed at 83%, comprising 68% physical disability and 15% emotional/psychological impairment.

18. The Plaintiff testified that her left hand is no longer functional, and that she is unable to engage in housework, sports, or school activities as she previously did. The Court observed visible scarring and the amputation stump during the hearing.
19. In *D.A v. Kenya Power & Lighting Company Ltd* [2021] eKLR, where a minor suffered severe electrocution injuries resulting in permanent disability but without amputation, the Court awarded Kshs. 4,500,000. The Plaintiff in the present matter suffered additional injuries including amputation, and more extensive burns.
20. In *FM (Minor) v. Board of Governors* [2019] eKLR, a minor with a lower limb amputation was awarded Kshs. 5,500,000. The Plaintiff herein suffered upper limb loss, which typically has a more substantial effect on independence and daily function, especially for a young student.
21. In *Nthuci v. Kenya Power & Lighting Company Ltd* [2024] eKLR, where the Plaintiff suffered upper limb amputation and 80% disability, the award was Kshs. 4,000,000. The Plaintiff in this case has similar injuries but is much younger, with greater long-term dependency and psychological effect.
22. Taking into account the authorities cited, the Court is satisfied that the injuries suffered were severe, lifelong, and debilitating. The Plaintiff has lost the use of her dominant arm, has visible scars, continues to experience pain, and will face psychological and physical challenges throughout her life.
23. Having considered the extent of injuries, permanent incapacity, the Plaintiff's age, and the cited case law, I find an award of Kshs. 5,500,000 under this head to be fair, just, and appropriate.

B. Future Medical Expenses

24. The Plaintiff prayed for an award of USD 400,000 under the head of future medical expenses. This sum was specifically pleaded in the Plaint dated 20th August 2023, and supported by the medical report prepared by Dr. Mulianga Ekesa, produced as Plaintiff's Exhibit 17. The report outlines both the anticipated nature of future care and an estimate of the associated costs.
25. According to the doctor, the Plaintiff will require:A myoelectric (bionic) artificial limb, which is more advanced than a cosmetic prosthesis;The artificial limb is projected to cost USD 100,000 per unit;Due to her young age and continued physical growth, the prosthesis will require replacement approximately three times, leading to a total projected cost of USD 300,000;An additional USD 100,000 is anticipated to cover ongoing medical care, physiotherapy, plastic surgery, wound care, occupational therapy, and psychosocial support.
26. These projections were not challenged by the Defendant and remain uncontroverted. The doctor provided a breakdown of how the figure was reached, linking it to the Plaintiff's age, physical condition, and permanent disability of 83%.
27. In *Koru Holy Family Hospitals v. Koech* (CA No. E003 of 2021), the Court of Appeal affirmed that future medical expenses must be supported by evidence and need not be proved with mathematical precision, provided the estimates are reasonable and credible.
28. In *Tracom Limited & Another v. Hassan Mohammed Adan* [2009] eKLR, the court held that a claim for future medical expenses is a special head within general damages and must be specifically pleaded and supported by expert opinion, though not necessarily proved like special damages.



29. I am satisfied that the Plaintiff's claim under this head was properly pleaded, and supported by credible expert evidence. The estimated figure is not speculative. It is based on the Plaintiff's current medical needs and likely future complications. The treatment plan, as outlined by the surgeon, includes highly specialized prosthetic care and lifelong therapeutic support.

30. I therefore award the Plaintiff the sum of USD 400,000 under the head of future medical expenses.

C. Special Damages

31. The Plaintiff produced receipts totaling Kshs. 108,220, covering treatment, transport, and related costs. These were specifically pleaded and strictly proved. I award the amount as claimed.

Disposition

32. Judgment is entered for the Plaintiff against the Defendant as follows..

- i. Liability..... 100%
- ii. Quantum
Head Award
 - a) General Damages Kshs. 5,500,000.00 b) Future Medical Expenses USD400,000.00
 - c) Special Damages Kshs. 108,220.00
 - d) Interest on special damages at 12% per annum from the date of filing suit.
 - e) Interest on general damages at 12% from the date of this judgment
 - f) Cost of this suit.

33. This suit is marked as closed.

It is hereby so ordered.

DELIVERED, SIGNED AND DATED AT BUNGOMA THIS 5TH DAY OF AUGUST 2025.

MWANAISHA S. SHARIFF

JUDGE

In the presence of:

Ms Wanyama for the Plaintiff

Ms Kibungo for the Defendant

Peter Machoni – Court Assistant

