



**Muli & 2 others v Educare Learning Centre & 3 others (Civil Appeal E078, E282, E283 & E287 of 2024 (Consolidated)) [2025] KEHC 13835 (KLR) (Civ) (3 October 2025) (Ruling)**

Neutral citation: [2025] KEHC 13835 (KLR)

**REPUBLIC OF KENYA**  
**IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)**  
**CIVIL**  
**CIVIL APPEAL E078, E282, E283 & E287 OF 2024 (CONSOLIDATED)**  
**WM MUSYOKA, J**  
**OCTOBER 3, 2025**

**BETWEEN**

**RICHARD MUSYIMI MULI ..... APPELLANT**

**AND**

**EDUCARE LEARNING CENTRE ..... RESPONDENT**

**AS CONSOLIDATED WITH**

**CIVIL APPEAL E282 OF 2024**

**BETWEEN**

**EDUCARE LEARNING CENTRE ..... 1<sup>ST</sup> APPELLANT**

**DEDAN OCHIENG ..... 2<sup>ND</sup> APPELLANT**

**AND**

**BERNADINE MUENI NZOI ..... 1<sup>ST</sup> RESPONDENT**

**JIMMY NZIOKI ..... 2<sup>ND</sup> RESPONDENT**

**THOMAS MUSYOKA NUNIKO ..... 3<sup>RD</sup> RESPONDENT**

*(Appeals from judgements and decrees by Hon. J. Ogutu, Resident Magistrate and Adjudicator, of divers dates, in Nairobi SCCC Nos. E4953, E4956, E4986 and E5220 all of 2023)*



## RULING

1. The suits, at the primary court, were between the parties hereto. The claims were for compensation, for injuries sustained in a motor traffic accident, involving a vehicle owned by some of the parties, while the claimants were passengers in the accident vehicle, which was in collision with another. The claim was resisted by the owner and driver of the vehicle.
2. The said suits were tried, and judgements were delivered. There are appeals by either side, on various grounds. I note that the claims arose from a road traffic accident, and were founded on section 12(1) (d) of the *Small Claims Court Act*, Cap 10A, Laws of Kenya.
3. The High Court is conflicted on whether the Small Claims Court can exercise jurisdiction over such matters. The Judges have taken conflicting positions on the issue, in such decisions as *Ogwari vs. Hersi* [2023] KEHC 20111 (KLR) (Magare, J), *Irungu vs. Karanja* [2024] KEHC 3162 (KLR) (Muchemi, J), *Elrons Limited vs. Basil* [2024] KEHC 6614 (KLR) (Musyoka, J) and *Jepkigei vs. Koech* [2024] KEHC 15364 (KLR). Some Judges hold the view that there is jurisdiction, flowing from section 12(1) (d) of the *Small Claims Court Act*; the other cohort of Judges takes the view that that legislation is inconsistent with the position that for personal injury claims, arising from road traffic accidents, negligence has to be alleged and proved. The position is not settled.
4. I have stumbled on *Gichohi alias Gichohi Moses Gichuki vs. Githinji* [2025] KEHC 7631 (KLR) (Muchemi, J), where I have learnt that the Chief Justice has appointed a bench of 3 High Court Judges, led by Ogola J, Principal Judge of the High Court, to address the issue of the jurisdiction of the Small Claims Court, to handle claims on personal injury.
5. I will follow the position taken in *Gichohi alias Gichohi Moses Gichuki vs. Githinji* [2025] KEHC 7631 (KLR) (Muchemi, J), and hold determination of these appeals in abeyance, to await determination of the jurisdiction question, by the bench of 3 in Eldoret HCCA No. E008 of 2024. I am alive to the fact that the decision of that panel of 3 would not be binding on a single Judge of the High Court, but could provide some guidance, by way of a majority position, in an effort to build consensus on the direction the High Court should take on the matter.
6. Consequently, the files, in respect of the 4 appeals herein, shall be returned to the relevant registry. It is so ordered.

**DELIVERED, VIA EMAIL, DATED AND SIGNED IN CHAMBERS, AT BUSIA ON THIS 3<sup>RD</sup> DAY OF OCTOBER 2025.**

**WM MUSYOKA**

**JUDGE**

Mr. Arthur Etyang, Court Assistant, Busia.

Carolyne Oyuse, Court Assistant, Milimani, Nairobi.

Advocates

Ms. Thandi, instructed by KMK Africa Advocates LLP, Advocates for Educare Learning Centre and Dedan Ochieng.

Mr. Musomba, instructed by Kulecho Musomba & Company, Advocates for Bernadine Mueni Nzoi, Jimmy Nzioki and Thomas Musyoka Nguniko.



Mr. Odhiambo, instructed by Wanzau Odhiambo & Associates, Advocates for Richard Musyimi Muli.



<https://new.kenyalaw.org/akn/ke/judgment/kehc/2025/13835/eng@2025-10-03>