

SMALL CLAIMS

The Small Claims Court is Wide Open for Business

5th June 2026



Recent alarming headlines have suggested that Kenya's Small Claims Court (SCC) has reached the end of the road. If you are a small business owner waiting on an unpaid invoice, or an everyday consumer seeking fast justice, these reports might have you worried that your path to a quick resolution has been cut off.

Let us set the record straight: **the Small Claims Court is not closed.**

While a landmark High Court decision in January 2026, clarified the boundaries, the SCC remains operational, active, and highly effective. Understanding these changes is critical to keeping your legal claims on track.

The Power of Jurisdiction

In the legal world, jurisdiction is everything. The case of **Owners of Motor Vessel Lilian S v. Caltex Oil** (<https://new.kenyalaw.org/akn/ke/judgment/keca/1989/48/eng@1989-11-17>) spoke definitively that a court cannot take a single step in a dispute if it does not possess the explicit legal power to do so. This legal power is what is called jurisdiction.

Further, the precedent set in **Samuel Kamau Macharia v. Kenya Commercial Bank** (available on <https://new.kenyalaw.org/akn/ke/judgment/kesc/2012/8/eng@2012-10-23>) confirmed that courts

cannot extend its authority beyond that which it was granted by law, and the authority must come directly from the Constitution or specific legislation.

The New Reality: *Gathaiya -vs- Attorney General*

The recent media frenzy stems from the High Court decision in ***Gathaiya v. Attorney General & 2 Others*** (<https://new.kenyalaw.org/akn/ke/judgment/kehc/2026/290/eng@2026-01-22>) where the court was asked to clarify whether the SCC has the authority to hear personal injury claims arising from Road Traffic Accidents (RTAs).

In rendering its decision, the court noted that the Small Claims Court Act allows the court to handle compensation for personal injuries, it did not specify the source of those injuries. To resolve this ambiguity, the High Court looked at Parliament's original intent in passing the law for establishment of the SCC and reiterated that the SCC was built to be simple, affordable, and lightning-fast. It thus concluded that for the reason that personal injury claims arising from Road Traffic Accidents (RTAs) are legally complex, heavily dependent on insurance procedures, and require intensive evidence, it is not proper to burden the SCC with these complex cases (personal injury claims arising from Road Traffic Accidents).

The Verdict: The Small Claims Court officially lacks jurisdiction to hear and determine personal injury claims arising from Road Traffic Accidents (RTAs).

What Can Still Be Filed in the Small Claims Court?

The SCC remains the absolute best avenue for individuals and small businesses to resolve disputes valued **under one million shillings** across a wide variety of daily issues, including:

1. **Commercial Disputes over** unpaid invoices, supply chain disruptions, and breach of service contracts.
2. **Debt Recovery** claims for money held, received, or owed under contractual agreements.
3. **Property Damage** claims arising out of damage caused to your moveable property.
4. **Consumer Claims** like personal injuries arising from non-RTA events, such as civil assault or slip-and-fall incidents.

Moving Forward: What Should You Do Next?

If you currently have a pending personal injury claim arising from Road Traffic Accidents (RTAs) filed at the SCC, your case is at procedural risk. You must immediately apply to **transfer the matter to the appropriate Magistrates' Court** to prevent your claim from being dismissed for want of jurisdiction.

Let Us Take the Burden Off Your Shoulders

Navigating these sudden procedural updates can be overwhelming. A single jurisdictional mistake can result in costly delays or the outright dismissal of your case.

Whether you need to transfer an existing personal injury claim arising from Road Traffic Accidents (RTAs) to the Magistrates' Court, or you want to swiftly launch a debt recovery claim to get your business paid, we are here to handle the complexities for you

By:

Mwanzia Muinde (Mr) | Lawyer

Aywa S. (Mr) | Managing Partner

June 5th, 2026