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EMPLOYER'S LIABILITY INSURANCE



For All Employers Anywhere

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Licensed by Insurance Regulatory Authority (IRA)

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EXECUTIVE SUMMARY

Your Challenge: As an employer, you're legally liable for employee injuries, occupational diseases, and workplace accidents—even when you've complied with WIBA. Employees can sue for negligence, unsafe conditions, inadequate equipment, or failure to provide safe working environment. Legal defense costs Ksh 500K-2M, court awards can exceed Ksh 10M-50M+, and one lawsuit can bankrupt your business or attach personal assets of directors.

The Risk of Inaction: WIBA covers statutory compensation ONLY. It does NOT protect you from employee lawsuits alleging employer negligence. When employee sues for Ksh 20M claiming unsafe workplace caused their injury, WIBA pays zero—you're personally liable for defense costs and damages.

The Solution: Employer's Liability Insurance protecting you from employee lawsuits for workplace injuries, occupational diseases, and negligence claims. Coverage includes legal defense costs (unlimited), court-awarded damages (up to policy limit), out-of-court settlements, and protection of company assets and directors' personal wealth.

Investment: Ksh 80,000 - 2,500,000 annually depending on number of employees, industry risk, annual payroll, and coverage limits (typically Ksh 10M - 50M per claim).

Why Act Now:

- WIBA does NOT protect from negligence lawsuits
- Employee awareness of rights increasing—lawsuits rising 35% annually
- Courts awarding higher damages (up to Ksh 50M+)
- Directors personally liable without insurance
- Required for international contracts and sophisticated clients

THE PROBLEM: WHY EMPLOYER'S LIABILITY INSURANCE IS CRITICAL

The Dangerous Gap Between WIBA and Full Protection

What WIBA Covers:

- Statutory compensation for work injuries (formula-based)
- Medical expenses for workplace accidents
- Disability benefits per WIBA Act calculations
- Death benefits to dependents

What WIBA Does NOT Cover:

- Employee lawsuits for negligence
- Common law damages exceeding WIBA limits
- Legal defense costs for negligence claims
- Psychological injury claims
- Stress-related illness claims

- Claims for inadequate safety measures
- Occupational disease lawsuits
- Third-party claims (non-employees injured at workplace)

Real Lawsuit Scenarios Without Employer's Liability Insurance

Scenario 1: Factory Worker's Negligence Lawsuit

The Incident: Factory worker (age 36, salary Ksh 55K/month) loses three fingers in machinery accident. WIBA pays statutory compensation of Ksh 480,000 (30% disability × 96 months × Ksh 55K ÷ 96).

Employee sues employer alleging:

- Machine lacked proper safety guards (negligence)
- Inadequate safety training provided
- Company ignored previous safety complaints
- Unsafe working environment

Lawsuit demands:

- Economic damages: Ksh 8,500,000 (reduced earning capacity for life)
- Pain and suffering: Ksh 6,000,000
- Punitive damages: Ksh 5,000,000 (to punish negligence)
- **Total claim: Ksh 19,500,000**

Legal defense costs: Ksh 1,200,000 (lawyers, experts, court fees)

Without Employer's Liability Insurance:

- WIBA pays statutory Ksh 480,000 only
- Employer personally liable for remaining Ksh 19M+ claim
- Legal defense Ksh 1.2M out-of-pocket
- If company loses: Total exposure Ksh 20.7M
- Company assets attached, possible director personal liability
- Business closure risk

With Employer's Liability Insurance (Ksh 25M limit):

- Insurance appoints top employment lawyer
- Legal defense costs fully covered (Ksh 1.2M)
- Case settled for Ksh 12M (insurance negotiated)
- Insurance pays entire Ksh 12M settlement
- Company pays zero out-of-pocket beyond deductible (typically Ksh 100K-250K)
- Business continues operating normally

Scenario 2: Occupational Disease Class Action

The Incident: 12 warehouse workers develop chronic respiratory conditions after 5+ years exposure to chemical fumes. Medical reports confirm lung damage directly caused by workplace exposure.

Workers file joint lawsuit alleging:

- Inadequate ventilation systems (negligence)
- Failure to provide protective equipment
- No health monitoring despite known chemical risks
- Ignored worker complaints about fumes for years

Each worker claims:

- Medical expenses (lifetime treatment): Ksh 800,000 each
- Loss of earning capacity (reduced lung function): Ksh 4,500,000 each
- Pain and suffering: Ksh 2,000,000 each
- **Per worker claim: Ksh 7,300,000**
- **Total 12 workers: Ksh 87,600,000**

Legal defense costs: Ksh 2,800,000 (complex multi-plaintiff case)

Without Employer's Liability Insurance:

- WIBA may dispute (occupational disease claims complex)
- Even if WIBA pays statutory amounts (~Ksh 15M total), lawsuit proceeds for negligence
- Employer faces Ksh 70M+ exposure beyond WIBA
- Legal costs Ksh 2.8M immediately payable
- Company forced into liquidation
- Directors face personal bankruptcy

With Employer's Liability Insurance (Ksh 100M aggregate limit):

- Insurance provides specialized occupational disease defense lawyers
- Expert medical witnesses hired by insurance
- Comprehensive legal defense (Ksh 2.8M covered)
- Case settled for Ksh 45M (insurance negotiated reduction)
- Insurance pays entire Ksh 45M
- Company survives, implements improved safety measures
- Annual premium was Ksh 850,000—one claim justified 53 years of premiums

Scenario 3: Psychological Injury Claim

The Incident: Office manager (age 42, salary Ksh 95K/month) develops severe depression, anxiety, and PTSD after prolonged workplace bullying by supervisor. Unable to work for 18 months, requires ongoing psychiatric treatment.

Employee sues alleging:

- Hostile work environment (employer negligence)
- Failure to address repeated complaints about supervisor
- No workplace harassment policy or enforcement
- Psychological injury equivalent to physical disability

Claim demands:

- Medical treatment (ongoing): Ksh 650,000
- Lost wages (18 months): Ksh 1,710,000
- Reduced future earning capacity: Ksh 8,000,000
- Emotional distress damages: Ksh 5,000,000
- **Total claim: Ksh 15,360,000**

Without Employer's Liability Insurance:

- WIBA doesn't cover psychological injuries from workplace stress/bullying
- Employer has no insurance protection
- Legal defense Ksh 900,000 out-of-pocket
- Court awards Ksh 11M in damages
- Total cost: Ksh 11.9M threatens company solvency

With Employer's Liability Insurance:

- Insurance covers psychological injury claims
- Legal defense fully funded
- Settlement negotiated at Ksh 6.5M
- Insurance pays all costs
- Company implements anti-harassment policies
- Business continues without financial devastation

Why Lawsuits Are Increasing in Kenya

1. Growing Legal Awareness

- Employees increasingly aware of rights and remedies
- Easier access to employment lawyers (no-win-no-fee arrangements)
- Social media sharing of successful claims encourages others

2. Higher Court Awards

- Kenyan courts adopting regional precedents (South Africa, UK)
- Awards of Ksh 20M-50M no longer unusual
- Recognition of psychological injuries and quality-of-life damages

3. Regulatory Pressure

- DOSH (Directorate of Occupational Safety & Health) increasing inspections
- Violations leading to employee lawsuits
- Employer negligence easier to prove with DOSH violation records

4. Economic Factors

- Injured employees facing medical costs need compensation
- Reduced earning capacity forces lawsuits for survival
- Families of deceased workers seeking justice and financial support

THE SOLUTION: COMPREHENSIVE EMPLOYER'S LIABILITY INSURANCE

Core Coverage

What's Protected:

| Coverage Component | What It Covers | Limit |
|-------------------------------------|--|----------------------------------|
| Legal Liability | Damages awarded by courts for employer negligence | Per Claim: Ksh 10M-100M |
| Legal Defense Costs | Lawyers, expert witnesses, court fees, investigation | Unlimited (in addition to limit) |
| Out-of-Court Settlements | Negotiated settlements with insurer approval | Within policy limit |
| Occupational Diseases | Long-term illness from workplace exposure (asbestos, chemicals, noise) | Within policy limit |
| Psychological Injuries | Stress, depression, PTSD from workplace conditions | Within policy limit |
| Wrongful Death Claims | Common law damages beyond WIBA death benefits | Within policy limit |
| Safety Regulation Violations | Claims arising from breach of health & safety regulations | Within policy limit |

Coverage Structure Options

Option 1: Basic Protection (Small Businesses)

- Per claim limit: Ksh 10,000,000
- Aggregate limit: Ksh 20,000,000
- Best for: <50 employees, low-risk offices
- Premium range: Ksh 80,000 - 180,000/year

Option 2: Standard Protection (Medium Businesses)

- Per claim limit: Ksh 25,000,000
- Aggregate limit: Ksh 50,000,000
- Best for: 50-200 employees, medium-risk operations
- Premium range: Ksh 250,000 - 650,000/year

Option 3: Comprehensive Protection (Large/High-Risk)

- Per claim limit: Ksh 50,000,000
- Aggregate limit: Ksh 100,000,000
- Best for: 200+ employees, high-risk industries (manufacturing, construction, chemicals)
- Premium range: Ksh 800,000 - 2,500,000/year

Key Policy Features

1. Legal Defense Coverage (Unlimited)

- Separate from claim limit—doesn't erode coverage
- Insurance appoints experienced employment lawyers
- Covers all defense costs regardless of outcome

2. Worldwide Territorial Coverage

- Protects employees working internationally
- Covers claims brought in Kenyan or foreign courts
- Essential for companies with regional operations

3. Retroactive Date Coverage

- Covers incidents that occurred before policy started (if disclosed)
- Critical when switching insurers—no coverage gaps

4. Crisis Management Support

- Media relations support for serious incidents
- Regulatory liaison assistance
- Reputation protection services

5. Risk Management Services

- Safety audits and recommendations
- Policy template provision
- Training materials for supervisors
- Annual compliance reviews

EMPLOYER'S LIABILITY VS OTHER COVERAGES

Understanding the Protection Layers

| Insurance Type | What It Covers | Status | Works With EL? |
|-------------------------------|--|----------------------|----------------------------------|
| WIBA | Statutory compensation for work injuries | MANDATORY | Yes—pays first, EL covers excess |
| Employer's Liability | Employee negligence lawsuits exceeding WIBA | Strongly Recommended | Covers what WIBA doesn't |
| Public Liability | Third-party (non-employee) injuries at your premises | Recommended | Separate coverage needed |
| Professional Indemnity | Errors in professional services | Industry-specific | Different scope entirely |

Key Integration: WIBA + Employer's Liability work together:

1. Employee injured due to employer negligence
2. WIBA pays statutory compensation (e.g., Ksh 1.5M)
3. Employee sues for additional Ksh 8M (total Ksh 9.5M claim)
4. Employer's Liability covers the Ksh 8M excess + legal defense

You need BOTH: WIBA alone leaves massive gaps. Employer's Liability fills them.

OUR ROLE AS YOUR EMPLOYER'S LIABILITY INSURANCE ADVISOR

What We Do for You:

- Seek cover with your preferred insurer or recommend best fit insurer for your needs (if you have no one)
 - Handle documentations and submission to insurer
 - Secure best possible rates
 - Obtain insurance policy on payment of premiums
 - Reminder before policy expiration (no lapse)
 - Re-compare providers yearly (rates change)
 - Coordinate seamless renewal
 - Guide you through claims process
 - Ensure proper documentation
 - Follow up with insurer
 - Fight denied claims (appeal if wrongfully denied)
-

No Advisory Fees:

You pay nothing for my services - providers pay my commission. You pay the same premium direct or through me—but gain expert guidance, needs analysis, and claims advocacy

COMMON MISTAKES & HOW WE AVOID THEM

Mistake 1: "WIBA is Enough Protection"

Reality: WIBA covers statutory amounts only. Employee lawsuits for negligence routinely exceed WIBA limits by Ksh 5M-20M+.

Solution: Add Employer's Liability for complete protection against negligence claims.

Mistake 2: Inadequate Coverage Limits

Problem: Buying Ksh 5M limit when serious claims average Ksh 10M-25M. Shortfall paid from company/director assets.

Solution: I calculate appropriate limits based on your payroll, industry risk, and potential exposure. Minimum Ksh 10M for small businesses, Ksh 25M-50M for medium/large.

Mistake 3: Not Reviewing Safety Procedures

Problem: Poor safety records increase premiums and make claims harder to defend.

Solution: Annual risk assessments identify vulnerabilities. Insurers offer lower rates for companies with strong safety cultures.

Mistake 4: Assuming "It Won't Happen to Us"

Reality: Even well-managed companies face lawsuits. One incident, one injured employee, one lawyer—and you're in Ksh 10M+ territory.

Solution: Insurance is precisely for unexpected events. Low premiums (0.3%-2% of payroll) vs catastrophic exposure.

Mistake 5: Choosing Cheapest Insurer

Problem: Cheap policies often have restrictive definitions, low limits, slow claims responses.

Solution: I compare value, not just price—coverage breadth, claims handling reputation, defense quality matter immensely.

FREQUENTLY ASKED QUESTIONS

Q1: Is Employer's Liability mandatory like WIBA?

No, it's not legally mandatory in Kenya. However, it's standard practice in developed markets and increasingly required by multinational clients and international contracts. Highly recommended for any employer serious about risk management.

Q2: Does this replace WIBA?

Absolutely not. WIBA is mandatory and covers statutory compensation. Employer's Liability covers lawsuits and negligence claims exceeding WIBA. You need BOTH.

Q3: What if we have excellent safety record?

Excellent safety reduces premium significantly (20-30% discount). However, even safe workplaces face claims—one accident, one injured employee can still sue for millions.

Q4: Are directors personally protected?

Yes. Policy covers the legal entity (company) and its directors/officers acting in their official capacity. Without insurance, director personal assets can be attached in judgments.

Q5: What about contractors and temporary workers?

Standard policies cover employees on your payroll. Contractors (independent, not on payroll) typically excluded. You may need separate Public Liability for non-employee injuries. I'll assess your specific situation.

Q6: How quickly are defense lawyers appointed?

Within 24-48 hours of claim notification. Top insurers have panels of pre-approved employment lawyers ready to engage immediately.

Q7: What if we're sued for more than policy limit?

You're personally liable for the excess. This is why adequate limits are critical. I help calculate appropriate coverage based on worst-case scenarios, not average claims.

Q8: Does insurance cover all legal costs even if we lose?

Yes. Legal defense costs are covered in addition to policy limit (not deducted from it). Even if you lose and court awards Ksh 20M, insurance pays the Ksh 20M award PLUS all legal defense costs.

TAKE ACTION NOW

Why Delay Costs You

Every day without Employer's Liability Insurance:

- One employee injury + one lawyer = potential Ksh 10M-50M lawsuit
- Directors' personal assets exposed to judgments
- Legal defense costs (Ksh 500K-2M) payable from company cash flow
- Business continuity threatened by single claim

Statistics: Employment lawsuits in Kenya increased 35% in 2024. Average settlement: Ksh 8.5M. Your company is one incident away from financial crisis.

Get Your Employer's Liability Insurance Quote Now - Contact Me Today

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*Employer's Liability Insurance: WIBA covers statutory compensation. Employer's Liability protects you from negligence lawsuits that can exceed Ksh 50M. One claim can bankrupt your business. Comprehensive protection starts at 0.3% of payroll – **Simon Muchiri/Comely Global Insurance Agency Ltd.***

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