

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT EMBU

CIVIL APPEAL NO. 33 OF 2014

(An appeal from the Judgment/Decree of Acting Resident Magistrate, Siakago in PMCC No. 72 of 2013 dated 29/12/2014)

FELIX KITAVI WAMBUAAPPELLANT

V E R S U S

NJAGI MWENDWA..... RESPONDENT

R U L I N G

1. This is a ruling on the application dated 24/02/2017 seeking for interpretation of the court's judgment delivered on 31/10/2016. The grounds in the supporting affidavit is that the court did not indicate in its judgment whether the agreed ratio of 80:20 was applicable in the general damages of Kshs.1,850,000/= awarded to the cross-appellant.

2. I have perused the record which shows that on 12/06/2014 the parties entered a consent on liability at 80% in favour of the plaintiff and 20% in favour of the defendant. The consent was taken into account in the lower court judgment and in paragraph 10 of this court's judgment.

3. The omission of the applicability of the ratio of 80:20 in the final orders of the court was simply an oversight by the court.

4. For that reason, this court will proceed to include the very vital information on the agreed ratio.

5. It is hereby ordered that paragraph 19 is hereby amended by adding the following words immediately after "Kshs.1,850,000/=" as follows:-

“which is subject to the agreed ratio of 80:20. The amount payable to the cross-appellant is Kshs.1,480,000/=”.

6. It is hereby so ordered.

DELIVERED, DATED AND SIGNED AT EMBU THIS 17TH DAY OF OCTOBER, 2017.

F. MUCHEMI

JUDGE

In the presence of:-

Ms. Muriuki for Ithiga for Respondent