



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAKURU
CIVIL APPEAL NO. 221 OF 2007

(Being an appeal from the Judgment and Decree of the Honourable Mrs J. Oseko (SPM) delivered on the 27th November 2007 in Molo SPMCC No. 173 of 2006)

OLIVE MUTHONI KARURI.....APPELLANT

VERSUS

NJORO CANNING FACTORY (K) LTD.....RESPONDENT

RULING

Counsel for the appellant and respondent appeared before court on 27th January, 2012 and had earlier copied to court a letter dated 31st October 2011 observing that there were errors of an arithmetic nature which could be corrected under Section 99 of the Civil Procedure Act, (Cap. 21, Laws of Kenya). The said Section empowers the court to correct its judgment in respect of arithmetical errors.

In this case, the arithmetic errors are to be found at pages 7 and 8 of the judgment of the court delivered on 3rd October 2011. Having the appellant 85% responsible for the accident, and awarded him damages of Ksh 120,000/= if 85% contributory negligence is deducted the sum due becomes Ksh 18,000/= and not Sh 31,000/=.

Similarly the special damages amounted to Ksh 7,500/= again less 85% and that sum amounts to Ksh 1,125/=.

In summary therefore -

(i)	General damages	Shs	120,000/=
	Less 85% contributory negligence	Shs	102,000/=
	Amount due to the appellant	Shs	18,000/=
(ii)	Special damages shs 7,500/-	Shs	7,500/=
	Less 85%	Shs	6,375/=
	Amount due		1,125/=

(iii) Add nett of (i) & (ii) = 18,000 + 1,125 = 19,125/=

Save as aforesaid, I would allow the appellant costs in this court and the lower court to be similarly apportioned as per liability ratio.

Dated, signed and delivered at Nakuru this 3rd day of February, 2012

M. J. ANYARA EMUKULE
JUDGE