



-) Civil Practice and Procedure
2) Correction of an arithmetic error
3) The total addition of the award in averteedly omitted the sum of some claims.
4) After judgment has been delivered no change is to be made save the correction of errors on the face of the record and upon application by any of the parties or on courts own motion.
5) Section 99 of the Civil Procedure Act
6) Case law. Nil
7) Advocates
J.K. Muthui for Kaplan & Stratton Advocates for the plaintiff
No appearance for Odhiambo & Weda Advocates for the defendant

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

CIVIL CASE NO. 1805 OF 2002

MARTHA WANGUI MURIITHI PLAINTIFF

VERSUS

GLORY CAR HIRE, TOURS &

SAFARIS LTD & ANOTHER DEFENDANT

RULING

This is a finalized case. Once judgment has been delivered no change is permitted to be made to it.

The advocate for the plaintiff has filed a written application seeking the amendments of an arithmetic mistake of the net total sum as contained in the judgment of the court. He comes by way of section 99 of the Civil Procedure Act that reads:-

“Clerical or arithmetical mistakes in judgments decrees or order, or errors

arising therein from an accident act slip or omission may at any time be

corrected by the court either of its own motion or on the application of any of the parties.”

According to the applicant, the court had quantified the damages but in the final total of the arithmetic, two quantified claims were left out in error.

The summary of the correct award was to be:-

Liability:- 50%:50%

Quantum:-

A) Law Reform Act

- a) Pain and suffering Ksh. 50,000/-
- b) Loss of expectation of life Ksh. 70,000/-
- c) Lost years $\text{Ksh.}35,000 \times 10 \times 12 \times \frac{2}{3}$ Ksh.4,800,000/-

B) Fatal Accidents Act

- a) Loss of dependency
 $\text{Ksh.}35,000/- \times 10/- \times 12 \times \frac{1}{3}$ Ksh.2,240,000/-

C) Special Damages

- a) (agreed) Ksh. 87,560/-
- Total Ksh.4,687,500/-
- Less 50% Ksh.2,343,750/-
- Ksh.2,343,750/-

The court awarded a total of Ksh.4,567,560/- less 50% = Ksh.2,283,780/-.

This clearly shows that the sum of Ksh.50,000/- for pain and suffering and Ksh.70,000/- for loss of expectation of life was omitted from the final sum.

The law permits me under section 99 of the Civil Procedure Act to make arithmetic correction to errors such as in this case.

I hereby grant the application and do correct the error on the face of the record to read a total of:-
Ksh.4,687,500/-

Less 50% Ksh.2,343,750/-

Final Ksh.2,343,750/-

I make no orders as to costs.

Dated this 27th day of May 2004 at Nairobi.

M.A. ANG'AWA

JUDGE

D. Gachuhi Advocates for the plaintiff

O. Weda Advocates for the defendant

