

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

CIVIL DIVISION

CIVIL SUIT NO 521 OF 2011

T N W

(Administrator of the estate of J K T, Deceased).....PLAINTIFF

VERSUS

APA INSURANCE COMPANY LTD.....DEFENDANT

R U L I N G

1. The Plaintiff herein obtained judgment in the *judgment suit* (Nairobi CMCC No 1615 of 2002) for KShs 1,991,100/00 plus costs and interest. She then filed the present *declaratory suit* for a declaration that the Defendant (the insurer of the defendant in the judgment suit) was liable to satisfy the decree under the relevant law.
2. This declaratory suit has now been compromised at the all-inclusive sum of KShs 3,000,000/00. The court has been asked by **originating summons dated 9th October 2013** to approve the settlement on behalf of the minor beneficiary herein called **E N K**, now aged 14 years. It is proposed that the minor beneficiary's share of the KShs 3 million be KShs 1 million, the same to be invested for the minor with **British American Insurance Company Limited**.
3. It has also been proposed that the Plaintiff be allowed to keep KShs 1 million in order to organise better housing for herself and the minor (they are mother and child), and also to cater for the minor's education and medical needs.
4. Finally it is proposed that the last KShs 1 million be released to the Plaintiff's advocates, the same being their agreed remuneration for handling and dealing with the entire claim from the beginning. In this regard the Plaintiff has deponed in her supporting affidavit that since inception of the *judgment suit* and through the present *declaratory suit* she has relied on funding from her advocates, and she agreed to pay the above fees after successful completion of the case.
5. The main issue here is whether the proposed settlement and apportionment sufficiently caters for the interests of the minor beneficiary. I am satisfied that they do. A third of the settlement sum will be invested exclusively for him. He will also be a very substantial beneficiary of the next one third of the settlement sum.
6. I therefore have no hesitation at all in approving the terms of settlement set out in the **draft order** annexed to the **supplementary affidavit filed on 24th March 2014**. An order in terms of the draft order shall issue. It is so ordered.

DATED AND SIGNED AT NAIROBI THIS 2ND DAY OF JULY 2014

H.P.G. WAWERU

JUDGE

DELIVERED THIS 4TH DAY OF JULY 2014