Quantum Submissions After Ninety Percent Liability by Consent

Educational sample 189 | Nairobi

Educational reconstruction from a reported Kenyan judgment. This is newly drafted text, not an original court filing and not a matter handled by our team. Identifying details are replaced with bracketed fields. Verify the facts, current law, jurisdiction and court directions before signing, swearing or filing.

Reconstructed formal document

REPUBLIC OF KENYA

IN THE HIGH COURT AT NAIROBI MILIMANI CIVIL DIVISION

CAUSE CIVIL SUIT OR APPLICATION NO [correct reference]

[CLAIMANT PLAINTIFF OR APPELLANT] v [RESPONDENT OR DEFENDANT]

WRITTEN SUBMISSIONS

1. Liability is fixed by the recorded consent at 90% against the defendants. The remaining task is assessment, not a rehearing of whether the hospital or practitioner was negligent. The consent and the admitted medical reports are [record references].

2. The mother’s evidence and the reports establish the care needs to be assessed. Each monetary head must link need, reasonable unit cost and supported duration. Consent admission of a medical report does not automatically adopt every sum proposed in argument.

3. The plaintiffs historically proposed a fifty-year multiplier for future care. The Court considered that too high and applied forty years to the relevant care heads, with a separate schooling period. These submissions disclose the rejected fifty-year proposal rather than present it as the award.

4. Past receipts, the mother’s own damages, the child’s general damages and future costs remain separate to prevent overlap. Equipment and caregiver requirements need their own evidence. Current prices and updated prognosis must be proved in a new matter.

5. The Plaintiffs ask for a reasoned assessment followed by the consent deduction. The source’s stated net award was KSh 54,712,078 plus costs and interest. Any treatment of the minor’s proceeds must follow Order 32 rather than assume the next friend may receive and use them without directions.

DATED at [place] on [date]. Signed [party or advocate]. DRAWN AND FILED BY [name and address for service]. TO BE SERVED UPON [each affected party and address].

Use and evidence notes

Identify the issue, pleaded position, admitted evidence and bundle pages. Submissions do not introduce new facts or exhibits. Follow current directions on filing, length, authorities and service. Distinguish a requested amount from the actual award, a losing historical argument from the holding and a liability finding from proof of every damages head. Protect the minor and obtain Order 32 leave and directions where required. Historical care figures are not present medical advice or prices.

Supporting material schedule: [document date]; [author or custodian]; [description]; [bundle page]; [authenticating witness]; [admission or permission]. Attach only genuine available records and mark missing records accurately.

Source and procedural limits

A mother alleged inadequate labour monitoring and delayed intervention in May 2007. The child suffered birth asphyxia and permanent cerebral palsy requiring extensive care. Liability was fixed at 90% against the defendants by consent in July 2015; the remaining hearing assessed damages. Medical reports, the mother's evidence and future-care estimates were considered. The second adult plaintiff did not testify.

The Court awarded KSh 60,791,198 before a 10% deduction, producing the stated judgment total KSh 54,712,078 jointly and severally, plus costs and interest. It used a 40-year rather than requested 50-year multiplier for several care heads, and twenty school years. In the 24 March 2021 ruling PKM & another v Nairobi Women's Hospital & another, the Court allowed execution before costs taxation under section 94, recording that the liability judgment appeal had been dismissed in November 2020. Receiving the minor's money still required Order 32 protection.

A next friend must comply with Order 32. Liability already settled by consent is not retried during assessment. Future care needs clinical and cost evidence; the historical amounts and multipliers are not current prices or medical prescriptions. Section 94 distinguishes execution of principal from untaxed costs. Order 32 rule 6 separately controls receipt of a minor's money. The source judgment rounds the 10% deduction; preserve its stated order and obtain the decree for enforcement.

[2018] eKLR — Civil Case 186 of 2009 — 16 May 2018. Original judgment: https://sheriahub.com/cases/ke/caselaw/p-k-m-suing-on-own-behalf-and-as-next-friend-of-a-j-b-g-s-m-v-nairobi-women-hospital-mutinda-2018-eklr

The original decision may identify participants. The specimen replaces their identifying details. A source decision is not proof that a draft was filed, that an allegation succeeded, or that the same result will follow in another case.