Minor Respondent Submissions to Preserve Pain Damages Despite a Cost Proof Challenge

Educational sample 499 | Malindi

Educational reconstruction from a reported Kenyan decision. Newly drafted wording, not an original court filing or a matter handled by our team. Specimen identities are bracketed. Adapt to genuine facts, current law, jurisdiction and court directions before signing, swearing or filing.

Reconstructed formal document

REPUBLIC OF KENYA

IN THE HIGH COURT AT MALINDI

CIVIL APPEAL NO [reference]

[APPELLANT] v [RESPONDENT]

WRITTEN SUBMISSIONS

1. The Respondent defends the pain-and-suffering award by reference to the proved fracture, stiffness, shortening and daily effects in the admitted trial record. The inquiry is whether the trial court made a recognised appellate error.

2. The trial court considered the competing reports and the evidence supporting lasting effects. The Respondent relies on [specific reasoning and imaging pages], while fairly disclosing the specialist opinion suggesting improvement.

3. Comparable awards must be evaluated against injury severity, disability and actual prognosis. An appellate court does not substitute its preferred figure merely because another case attracted a lower amount.

4. Future medical expenses form a distinct evidential inquiry. The Respondent identifies the admitted proof of necessity and cost at [pages], or acknowledges the gap; new quotations cannot be introduced through these submissions.

5. Any cross-request for increased compensation must satisfy the same interference test and the proper procedure. No assumed future earnings, fictional treatment plan or unadmitted expert opinion is used to fill the record.

6. The Respondent requests preservation of the supported pain award and adjudication of the other heads on their evidence, with appropriate costs and protection of the minor under current directions. The source pain award survived while the cost and earning heads did not.

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

Use and evidence notes

Identify pleaded issues, admitted evidence and genuine record pages. Follow directions on length, authorities, filing and service. Submissions do not introduce exhibits or cure missing substantive prayers. Distinguish what a party sought from what the Court ordered, and an unsuccessful historical position from the actual holding.

Supporting material: [date]; [author or custodian]; [description]; [bundle page]; [authenticating witness]; [admission or permission]. Attach genuine records only. This public specimen contains no exhibits, signatures, personal identifiers or sworn declaration.

Source and procedural limits

A child injured as a motorcycle pillion passenger on the Kilifi–Malindi road suffered a femur fracture, knee stiffness and limb shortening. The trial awarded pain damages, future treatment and diminished earning capacity. Medical witnesses disagreed on prognosis and permanent effects. Both parties challenged quantum.

The High Court maintained KES 650,000 pain and suffering and the other unaffected awards, but set aside KES 198,000 future medical expenses and KES 350,000 diminished earning capacity. The main appeal partly succeeded and the cross-appeal failed; no appeal costs were ordered. Treatment costs lacked adequate supporting evidence.

The appellate issue was quantum, not a fresh liability trial. General injury compensation and proof of future expense are separate inquiries. A medical report must explain expertise and the cost basis; a new quote cannot be added through submissions. The report does not identify the trial court station, so these five samples are confined to the verified Malindi appellate stage.

[2025] KEHC 10373 (KLR) - 11 July 2025. Source decision: https://new.kenyalaw.org/akn/ke/judgment/kehc/2025/10373/eng@2025-07-11

Reproduced primary text checked: https://sheriahub.com/cases/ke/caselaw/laria-v-hjs-minor-suing-through-her-father-and-next-friend-jsm-2025-kehc-10373-klr

The original decision may identify participants. The specimen brackets identifying details. A source judgment does not prove this reconstruction was filed, an allegation succeeded, a later order remains unchanged or the same result will follow in another case.