

**IN THE HIGH COURT OF SOUTH AFRICA  
(PRETORIA DIVISION)**

**CASE NO: 43583/2015**

**DOH: 10-17 March 2022**

REPORTABLE: NO

OF INTEREST TO OTHER JUDGES: NO

REVISED

17 OCTOBER 2022

In the matter between:

**Z[....] T[....] P[....]**

**ON BEHALF OF THE MINOR CHILD**

**PLAINTIFF**

**and**

**THE MEMBER OF THE EXECUTIVE COUNCIL**

**FOR HEALTH MPUMALANGA**

**DEFENDANT**

**JUDGEMENT VARIATION ORDER**

**THIS JUDGMENT HAS BEEN HANDED DOWN REMOTELY AND SHALL BE CIRCULATED TO THE PARTIES BY WAY OF EMAIL. ITS DATE AND TIME OF HAND DOWN SHALL BE DEEMED TO BE 17 OCTOBER 2022**

**MALI J**

[1] On 30 September 2022 I granted an order with an incorrect total amount of the award.

[2] Rule 42 (1) of the Uniform Rules of Court provides, The court may, in addition to any other powers it may have, *mero motu* or upon the application of any party affected, rescind or vary: An order or judgment erroneously sought or erroneously granted in the absence of any party affected thereby; an order or judgment in which there is an ambiguity, or a patent error or omission, but only to the extent of such ambiguity, error or omission; an order or judgment granted as the result of a mistake common to the parties.

[3] The correct order is as follows:

## **"ORDER**

39. In the result the following order is granted

1.

Judgment is hereby granted in favor of the Plaintiff, in her capacity as the mother and natural guardian of K[....] S[....] P[....], a girl born on the 22<sup>nd</sup> of September 2012, in the sum of **R19 797 605.29**, which amount is

calculated as follows:

- (a) **R 13 739 212.30** in respect of future medical expenses;
- (b) **R 3 440 000.00** in respect of the loss of future earning potential;
- (c) **R 2 200 000.00** in respect of general damages;
- (d) **R1 453 440.92** in respect of the formation and administration of a trust for the benefit of the minor child, calculated at 7.5% of the above sums awarded in respect of future medical expenses, loss of future earning potential and general damages;
- (e) **R 280 000.00** in respect of past medical expenses; and
- (f) the sum of **R1 315 047.93**, representing the amount of an interim payment made by the Defendant, being deducted.

2.

Interest will accrue on the sum awarded in terms of paragraph 1 hereof, at the rate of 7,5 % per annum, calculated from 30 days after the date of this order to date of payment thereof.

3.

The Defendant is directed to pay the Plaintiff's reasonable and necessary, taxed or agreed, party and party costs, on the High Court scale, such costs to include:

- (a) the costs of the Plaintiff's attorney attending upon reasonable and necessary consultations with witnesses in preparation for trial, including the consultations with the under-mentioned expert

witnesses;

(b) the costs of two counsel (Senior and Junior), including the reasonable and necessary costs of their preparation for trial, the preparation of heads of argument and for their attendance upon consultations with the under-mentioned expert witnesses and the Plaintiff;

(c) the costs of travel of the Plaintiff's legal representatives and necessary witnesses to attend upon and/or give evidence at the trial;

(c) the qualifying fees of the under-mentioned expert witnesses, including the costs of the preparation of their reports and joint minutes, and to qualify themselves to testify at the trial, and for any reasonable and necessary consultations with the Plaintiff's attorney and counsel:

(i) Mr. Roger Kerr, the Architect;

(ii) Dr Yuvraj Singh, the Dental Surgeon;

(iii) Ms. Mandy Read, the Dietician;

(iv) Ms. Glenda Karow, the Educational Psychologist;

(v) Ms. Sonia Hill, the Industrial Psychologist;

(vi) Ms. Sue Anderson, the Nursing Sister;

(vii) Dr Gary Rose, the Ophthalmic Surgeon;

(viii) Mr. Ugan Chetty, the Orthotist;

(ix) Mr. Rob Fraser, the Orthopaedic Surgeon;

- (x) Ms. Kirsten Du Toit, the Occupational Therapist;
  - (xi) Prof. Regan Solomons, the Paediatric Neurologist;
  - (xii) Ms. Surekha Samaroo, the Physiotherapist;
  - (xiii) Dr Barry Bloom, the Radiologist;
  - (xiv) Dr Das Pillay, the Specialist Paediatrician;
  - (xv) Ms. R Thanjan, the Speech and Language Therapist;
  - (xvi) Dr A M Grizic, the Urologist; and
  - (xvii) Ms. Nirmala Pather, the Obstetrician and Gynaecologist.
- (d) the attendance fee of:
- (i) Ms. Sonia Hill, the Industrial Psychologist;
  - (ii) Ms. Kirsten Du Toit, the Occupational Therapist; and
  - (iii) Ms. R Thanjan, the Speech and Language Therapist.

4.

The Defendant is directed to make the payment of the amount referred to in paragraph 1 above directly to the Trust Account of the Plaintiff's attorneys,  
**Justice Reichlin Ramsamy, at:**

**Bank : ABSA**

**Branch Code : 500426**

**Account No.       :[....]**

5.

The Plaintiff, through her aforesaid attorney of record, is hereby directed to forthwith do all things necessary to cause a Trust to be formed for the benefit of the minor child, K[....] S[....] P[....].

6.

The Plaintiffs aforesaid attorney of record is hereby directed, upon receipt of the monies being paid to it by the Defendant as aforesaid, to:

- (a) hold all monies in trust pending the formation of the Trust as aforesaid;
- (b) pay the trustees remuneration (which shall include the costs of the formation thereof, the costs of administering the Trust, the costs of the trustees furnishing annual security, and obtaining an annual security bond to meet the requirement of the Master of the High Court in terms of Section 6(2)(a) of the Trust Property Act, No.: 57 of 1988), in the sum of reflected in subparagraph 1 (d) hereof, directly to the Trust upon it being formed; and
- (c) pay the net balance of the moneys received pursuant to this Order to the Trust after all costs, fees, disbursements and expenses have been deducted therefrom.

7.

The costs include the costs of two counsel."

**N P MALI**  
**JUDGE OF THE HIGH COURT**  
**PRETORIA**

## **APPEARANCES**

*On Behalf of the Plaintiff:*

Adv. I L Topping SC

Adv. M Bahadur

Instructed by

Justice Reichlin Ramsamy Attorneys

*On behalf of the Defendant:*

Adv. **N** Cassim SC

Adv. V Mashele

Instructed by

State Attorney, Pretoria.