

**IN THE HIGH COURT OF MALAWI  
PRINCIPAL REGISTRY  
CIVIL CAUSE NO. 1254 OF 2001**

**BETWEEN:**

**EMMA SITENALA PIYANO .....PLAINTIFF  
AND  
GEOFFREY CHIPUNGU .....1ST DEFENDANT  
PRIME INSURANCE COMPANY LTD ..... 2ND DEFENDANT**

**CORAM: POTANI, REGISTRAR**

**Jumbe, Counsel for the Plaintiff**

**ORDER ON ASSESSMENT OF DAMAGES**

This assessment of damages is in pursuance of a default judgment of July 17, 2001. It was adjudged, in that judgment, that the defendants do pay the plaintiffs damages for loss of dependency and loss of expectation of life.

The hearing of the evidence on the assessment proceeded in the absence of the defendants. They were, however, duly served with the requisite notice.

Only one witness, Emma Stenala, testified. It was her evidence that she is aged 30 and that the deceased, Stenala Piano, was his father. He died on June 17, 2000, after being hit by a vehicle at Magomero on the Blantyre/Zomba road. Apart from herself, the deceased is survived by 3 other children namely: Mabvuto, aged 34, Masauko, aged 32 and Zione, aged 21. She further testified that before his death, her father was a fishmonger and was also in carpentry business. From these ventures, he would generate roughly between K4000.00 and K5000.00 in a month.

As regards the claim for loss of expectation of life, it was held in Cain vs. Wilcock (1968) All ER 817 that the award of damages is usually a conventional figure. This is because loss of expectation of life is an aspect that cannot be quantified in monetary terms by use of any known mathematical formula. In her submission, counsel for the plaintiff cited, among others, the case of Bwanali v. Prime Insurance Company Limited Civil Cause

Number 3552 of 2002 (unreported). In that case, an award of K45,000.00 was made for loss of expectation of life. The deceased died at the age of 15. The plaintiff in this case, according to the death report, Exhibit P1, died at the age of 42. I consider an award of K30,000.00 to be fair and adequate in this case for loss of expectation of life.

For loss of dependency, the approach courts have developed in arriving at an award of damages is by employing the multiplicand and multiplier formula. The multiplicand is a figure presenting the deceased's monthly earnings and the multiplier is the estimated number of more years the deceased could have lived if not for the wrongful death. The evidence in this case shadows that the deceased was earning in the regions of K4,000.00 to K5000.00 in a month which averages to K4500.00. He died at the age of 42. Recent statistics indicate the level of life expectancy in this country to be in the regions of 45 to 50 years. Considering other eventualities of life which could have led to the deceased early demise and the obvious benefit his dependants would have in getting a lump sum payment, I shall use the figure of 6 as the multiplier. This assumes that the deceased would have lived up to the age of 48. In order to arrive at the award for loss of dependency the multiplicand is multiplied by the multiplier and then the figure of 12 representing the number of months in a year and then a reduction of one third of the resulting product is made representing the portion of earnings the deceased is assumed to have committed to purely personal expenses. The calculation for loss of dependency would thus be as follows:

$4500 \times 6 \times 12 \times \frac{2}{3} = K216,000.00.$

The total award in therefore comes to K246,000.00. It is noted that all the deceased's dependants are adults, the youngest being aged 22. I apportion the awarded sum as follows:

Mabvuto Stenala K50,000.00

Masauko Stenala K50,000.00

Emma Stenala K61,500.00

Zione Stenala K84,500.00

Costs of this action are for plaintiff.

Made in Chambers this day of February 4, 2002 at BLANTYRE.

**H S B Potani**

**REGISTRAR**