



IN THE HIGH COURT OF MALAWI

PRINCIPAL REGISTRY

CIVIL CAUSE NO. 85 OF 1987

BETWEEN:

T.J. MWAFULIRWA ..... PLAINTIFF

and

SOUTHERN BOTTLERS LIMITED ..... DEFENDANT

Coram: Jane Mayemu Ansah (Mrs); Acting Deputy Registrar  
Assani; Legal Aid Advocate for the Plaintiff  
Chirwa; of counsel for the Defendant.



R U L I N G

This is a claim for the damages for false imprisonment. The case was heard before the Hon. Justice Mtegha who found for the plaintiff. The only task for me is to assess damages.

In assessing damages in cases of false imprisonment, it must be borne in mind that the loss suffered by the claimant is not pecuniary loss but loss of dignity, mental suffering, disgrace, humiliation connected with loss of social status, and injury to feelings. All this is included in general damages and no breakdown appears. The criterion used in the assessment is really not laid down because of the complexity of the loss, and it depends on the circumstances of the case. Although there are a lot of decided cases, damages for false imprisonment are entirely left in the discretion of the court.

The parties' only point of contention is the total hours that the plaintiff spent in prison. Both parties have called witnesses. It is the plaintiff's contention that he was taken to Ndirande prison at 9.00 a.m. on 20th June, 1985 and they released him on 21st June, 1985 at 17.45 p.m. There is abundant evidence as to the time of arrest. I believe that he was taken to police at 9.00 a.m. on 20th June. Regarding the time the claimant was released, it is the defence witness' evidence that the general practice of the police force is that arrested persons are released within normal working hours. That is between 7.30 a.m. to 4.30 p.m. when senior officers who sign the bail bond at the police station are present. The plaintiff himself is not consistent regarding the time of his release from prison. The statement of claim shows 15.45 p.m. He mentioned a different time when he gave evidence before the Hon. Justice Mtegha and yet a different time was given by him when he gave evidence before me. In the circumstances

I believe the plaintiff was released before 4.30 p.m. I will therefore take the time shown on the statement of claim bearing in mind that the writ was taken out in 1987 about two years after the occurrence of the incident, when the plaintiff's memory was still fresh. Therefore the plaintiff was released from Ndirande prison at 15.45 p.m. on 21st June, 1985. The plaintiff was wrongfully imprisoned and deprived of his liberty for a period of thirty one hours. During this period, the plaintiff suffered mental anguish, indignity and embarrassment especially considering the presence of other inmates. He had to go into the cell without shoes. It was during the cold season and yet he slept on a bare floor, without a blanket. The sum of K8,000.00 is reasonable compensation. I order the defendant to pay the costs of the assessment.

PRONOUNCED in Chambers this 28th Day of July, 1993.



Jane Mayemu Ansah (Mrs)  
ACTING DEPUTY REGISTRAR

