

IN THE HIGH COURT OF MALAWI

PRINCIPAL REGISTRY

CIVIL CAUSE NUMBER 1362 OF 1993

BETWEEN:

LUKA KALIATI PLAINTIFF

and

I. CONFORZI (T & T)
ESTATES LIMITED DEFENDANT

Coram: D F MWAUNGULU, REGISTRAR
Mwafulirwa, Counsel for the Plaintiff
Mrs. Ndalama, Court Interpreter

ORDER

On the 8th of October, 1993, the plaintiff took out this action claiming general damages for personal injuries. He was injured when collecting firewood at the defendant's tea estate. He was on the tractor when the pile of firewood loosened. Part of the pile fell on his leg, injuring him in the process.

He did not sustain any fractures. He had cut wounds, a sprain and injury to soft tissue. He was in hospital for three weeks.

After he was released from hospital, he was told not to put on shoes for some time. At the time of trial he still feels some pain. He takes anagelsics from time to time. He cannot walk for long distance. If he does, he spends sleepless nights.

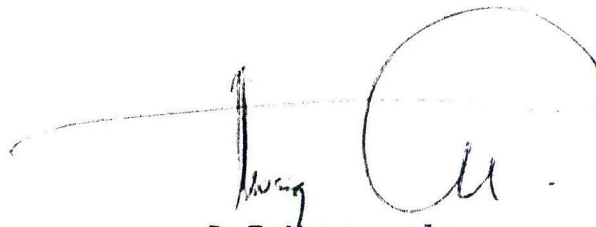
Judgment was obtained by default of pleadings. Mr. Mwafulirwa, appearing for the plaintiff, was the first to concede that this case was unlike the many that we have had to consider lately. In this case the injuries were not fractures to bones. When he said, however, that this was the first case of the sort of injuries, injuries involving cuts and bruises, I did not quite agree. We have had a couple in the past two years. Mr. Mwafulirwa also conceded that there is no permanent incapacity in the sense that the plaintiff will still be able to work.

The injuries have no effect on his future earnings or earning capacity. The plaintiff is, therefore, only entitled to non-pecuniary losses.

The plaintiff is only entitled to damages for pain and suffering. The injuries have no effect on his pursuits of leisure and entertainment. He is not, therefore, entitled to loss of amenities. The plaintiff, however, went through considerable pain. He was hospitalised for three weeks. There is still considerable pain at the moment. There is prospective or future pain and suffering. It cannot be known for how long this will continue. My view is that, given the nature of the injuries, the pain and suffering will not last very long. I awarded the plaintiff K3,000 general damages on the 17th of December, 1993.

Costs on subordinate court scale.

Made in Chambers this 21st day of December, 1993.



D F Mwaungulu
REGISTRAR OF THE HIGH COURT