

IN THE HIGH COURT OF MALAWI

PRINCIPAL REGISTRY

CIVIL CAUSE NO. 1167 OF 2000

BETWEEN:

ELIFA CHARLIE.....PLAINTIFF

- and -

THE ATTORNEY GENERAL.....DEFENDANT

CORAM: POTANI, REGISTRAR
Mzungu, Counsel for the Plaintiff

ORDER

This is an action by the plaintiff, Elifa Charlie. The action arises from the death of her son, Maxwell Charlie and grandson, Maxwell Charlie junior. The two died following a road accident involving a vehicle driven by the defendant's agent. A judgment in default of notice of intention to defend was entered against the defendant. Subsequently the defendant was duly served with notice of assessment of damages but did not make an appearance on the hearing date.

The brief uncontested evidence of the plaintiff is that her late son and grandson were aged 45 and 10 respectively. The son who was divorced used to work for Zingwangwa Secondary School as a watchman earning a daily income of K12.55. This is borne out in Exhibit P1. The son used to provide food, clothes and shelter to the plaintiff and his death has caused great hardship.

It is further the plaintiff's evidence that the grandson was at school in standard 3. The plaintiff had great expectations that once he grew up he would render some assistance to her.

According to the plaintiff, she is the only surviving dependant to the deceased.

The plaintiff's claim as per paragraph 4 of the statement of claim is for loss of dependency. The approach courts have developed over the years in arriving at the appropriate award is by employing what could be called the multiplicand and multiplier formula. The multiplicand is the figure representing the deceased's monthly earnings while the multiplier represents the estimated number of more years the deceased would have lived had it not been for the wrongful death. To arrive at an award for loss of dependency the multiplicand is multiplied by the multiplier and also the figure of 12, representing the number of months in a year. Whatever amount is arrived at, a reduction of one third is made representing the portion the deceased would have used for purely personal needs and pursuits.

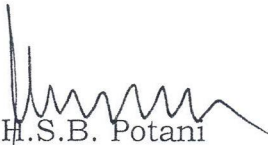
In the present case, in so far as the death of the grandson is concerned, there is no basis and indeed evidence on which an award of loss of dependency can be made. The deceased grandson was aged only 10 and not in any gainful employment. No evidence has been adduced by the plaintiff of any form of assistance she was getting from the deceased grandson.

As the evidence shows, the late son was employed and earning K12.55 per day. He was aged 45. He probably could have lived on and continued working up to the age of 60. At the daily earnings rate of K12.55 a month of 30 days would earn him K376.50. The calculation for loss of dependency would thus be as follows. $K376.50 \times 15 \times 12 \times \frac{2}{3}$ which comes to K45,180.00

As earlier alluded to, it is the plaintiff's evidence that she is the only surviving dependant. It is therefore ordered the whole awarded sum of K45,180.00 be paid to her.

The plaintiff is also awarded costs of the action.

Made in Chambers this day of March 23, 2011 at Blantyre.


H.S.B. Potani
REGISTRAR