



REPUBLIC OF MALAWI

# IN THE HIGH COURT OF MALAWI

PRINCIPAL REGISTRY

PERSONAL INJURY CAUSE NO. 176 OF 2014

HIGH COURT  
LIBRARY

BETWEEN:

MIKE NDAKHALA.....CLAIMANT

AND

ANTHONY SAWETA PHIRI.....1<sup>st</sup> DEFENDANT

PRIME INSURANCE CO. LTD.....2<sup>ND</sup> DEFENDANT

CORAM: Mrs T. SOKO : Assistant Registrar

Mr Jere : Counsel for the claimant

Miss Longwe : Counsel for the claimant

Miss Banda : Counsel for the defendants

N. Munthali : Official Interpreter

## ORDER ON ASSESSMENT OF DAMAGES

The claimant took an action against the defendants claiming damages for pain and suffering, loss of amenities of life, disfigurement, special damages and costs of the action. The facts are that on 16<sup>th</sup> December 2013, the 1<sup>st</sup> defendant was driving a motor vehicle registration number KU 2747 Toyota Dyna from the direction of Limbe heading towards Zomba. Upon arrival at Fisimatama, the 1<sup>st</sup> defendant lost control of the motor vehicle and went offside ditch where the vehicle overturned. As a result of the accident, the claimant sustained personal injuries. Judgment on liability against the defendants was entered on 23<sup>rd</sup> October 2017.

On the date of assessment, the claimant appeared as the sole witness. He adopted his witness statement where he stated that as a result of the accident he sustained traumatic wounds, multiple bruises on the 1<sup>st</sup>,

2<sup>nd</sup>, 3<sup>rd</sup> and 4<sup>th</sup> fingers and soft tissue injuries. He said he received treatment at Zomba Central Hospital. The claimant tendered police and medical reports as part of evidence.

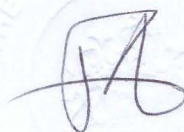
In submissions, Counsel for the claimant submitted that the claimant should be awarded a sum of K3, 000,000.00 as damages. Counsel for the defendant undertook to file submissions but the same were not on the Court file.

In the present matter, the evidence is clear that the claimant sustained traumatic cut wounds, bruises and soft tissue injuries. He bled from head and fingers. The wounds were sutured and he healed with scars on the forehead. The report is clear that the claimant will have difficulties to perform his previous job, manual work and engage himself in sporting activities. In **Frank Vashco vs Farrok Haquin & Olympic Bakery, personal Injury Cause No. 1043 of 2015** the claimant sustained a deep cut wound on the head, multiple facial bruises and a cut wound on the right palm. The court awarded the claimant a sum of K4, 100,000.00 as damages for pain and suffering and loss of amenities of life. The award was made on 10<sup>th</sup> March 2016. In **Chimwemwe Lomani (Minor suing through Lomani Chingeni, next friend) vs Mathews Gama and Prime Insurance Co Ltd Civil Cause No. 2301 of 2015** the claimant suffered multiple bruises on the knees, multiple bruises on the elbows and painful right foot. The Court awarded him the sum of K1, 900,000.00 as damages for pain and suffering and loss of amenities of life. The award was made on 13<sup>th</sup> October 2015.

In the light of the foregoing I award the claimant a sum of K2, 500,000.00 in all heads of damages.

Costs are for the claimant

Made on this 11<sup>th</sup> day of July 2019



**T. SOKO**

**ASSISTANT REGISTRAR**