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REPUBLIC OF MALAWI
IN THE HIGH COURT OF MALAWI

PRINCIPAL REGISTRY

CIVIL APPEAL CAUSE No 28 OF 2014
(being IRC Matter Number PR28 of 2014)

BETWEEN

GREY KANSUNGWI AND OTHERS.....APPELLANTS

-AND-

ALLIANCE ONE TOBACCO LIMITED.....RESPONDENT

CORAM: Texious Masoamphambe, Deputy Registrar

Mr Salima for the Claimant

Mr Njobvu for the Respondent

Mrs Nkangala, Official Interpreter

ORDER ON ASSESSMENT OF DAMAGES

Background

This order on assessment of damages follows the judgement by Honourable Justice Madise entered in favour of the Appellants on 23rd May 2018. The facts

of the matter are that the appellants were employees of the respondent. In 2011 the Respondent summarily dismissed the appellants on the ground that they engaged in an illegal strike. The company paid them their pension contributions and withheld the company's pension contributions on the basis that they suffered a loss as result of the appellants' indulgence in the illegal strike. Again the pension deed provided that no employer's pension contribution was payable to an employee dismissed summarily.

The appellants brought a claim to the industrial relations court (IRC) disputing the legality of their strike and also their pension entitlement. The IRC found that their strike was illegal and that the Appellants were not entitled to pensions as claimed. The appellants appealed to the high court and Honourable Justice Madise found that there was nothing wrong with the decision of the lower court with regard to the legality of the strike, but dismissed the finding of the lower court with regards to pension entitlements. The Honourable Judge concluded that the Appellants were to be paid their pension entitlements. The Honourable Judge ordered for pension entitlements to be assessed despite the Respondent indicating his intention to appeal.

Issues

- a) The amount of employer's pension contribution payable to the Appellants.
- b) The applicable rate of interest.
- c) Whether to award compound or simple interest.
- d) The number of employees to be paid withheld pension entitlements.

