

**REPUBLIC OF MALAWI
IN THE HIGH COURT OF MALAWI
PRINCIPAL REGISTRY
PERSONAL INJURY CAUSE No. 112 of 2021**

BETWEEN:

FLOSSY CHIPHWANYA.....CLAIMANT

AND

PRIME INSURANCE CO. LTD.....1st DEFENDANT

CHIKONDI MTENTHA.....2nd DEFENDANT

CORAM

Mrs T. Soko : Assistant Registrar
Mr Kamunga : Counsel for the claimant
Mr Dzikawanda Counsel for the defendant
N. Munthali : Court Clerk

ASSESSMENT ORDER

This is the order on assessment of damages pursuant to the agreement order by the parties to enter judgment on liability dated 15th July 2021. The claimant suing through a litigation guardian claims for damages for pain and suffering, loss of amenities of life, disfigurement, cost of both the police and medical report and costs of the action. The facts of the matter are that on 30th November 2020 at around 6:00 near Kankhomba junction along Limbe/Thyolo road, the driver of motor vehicle

registration No. TO 720 Nissan Vanette hit and injured the claimant. As a result of the accident, the claimant sustained injuries.

In evidence, the witness Flossy Chiphwanya adopted her witness statement and tendered both the police and medical report as part of evidence. She stated in her evidence that as a result of the accident the claimant suffered a heavy knock against the back, painful back, sprained back, heavy knock against the left knee, painful knee, heavy knock against the head, painful head, recurring headaches, serious bruises on the waist, general body pains, painful left arm and heavy knock against the left arm. The witness stated that the claimant was under serious head pains from the head injuries that she sustained. She added that the claimant experienced recurrent headaches and swelling of the head. The witness continued to explain that the claimant had difficulties in sleeping due to the painful back. The witness added that the claimant lost amenities of life during the time that she was confined at home as she couldn't socially interact with friends as she was in serious pain. The witness added that the claimant sustained scars all over the head, back and waist which changed her outward appearance. The claimant walks with a limp due to the painful knee.

In cross examination, the witness stated that she tendered a health passport. She said she understood the contents of the health passport. She stated that she didn't know that the medical report did not record a fracture and cut as the injury.

In submissions, Counsel for the claimant submitted that the claimant should be awarded a sum of K7,000,000.00 being damages for pain and suffering, loss of amenities of life, deformity and disfigurement. Counsel cited the following authorities as comparable cases

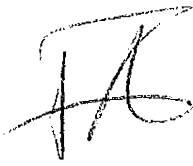
1. Robert *Piason vs Prime Insurance Co. Ltd Personal Injury Case No. 413 of 2013* where the 1st claimant sustained a cut wound on the head, chest pains and painful right shoulder and was awarded a sum of K3,000,000.00. the award was made on 6th September 2014.
2. *Owen Kayira and 2 Others vs Paramount Electrical Engineering Co. Civil Cause No. 215 of 2017* where the claimant was awarded K2, 500,000.00 for general soft tissue injuries.

In the present matter, the evidence is clear that the claimant suffered a heavy knock against the back, sprained back, heavy knock against the left knee, painful left knee, heavy knock against the head, painful head, recurring headaches, serious bruises on the waist, general body pains,

painful left arm and heavy knock against the left arm. The claimant being a minor still complains of recurring headaches. The claimant relies on painkillers and the accident affected her so greatly being a minor. Considering the nature of the injuries, the comparable authorities and all factors of this case, I award the claimant a sum of K4,000,000.00 in all heads of damages.

The claimant is also awarded costs of the action.

Made on this 25th day of November 2021.

A handwritten signature in black ink, appearing to be 'T. Soko', with a stylized, cursive script.

T.Soko

Assistant Registrar