



IN THE HIGH COURT OF MALAWI
LILONGWE DISTRICT REGISTRY
CIVIL CAUSE NO: 174 OF 2017

BETWEEN:

GEOFFREY KAJAWO.....CLAIMANT

AND

CHARLES KALUBA.....1st RESPONDENT

RE-UNION INSURANCE COMPANY LIMITED.....2nd RESPONDENT

CORUM : JUSTICE RUTH M. CHINANGWA

Banda Counsel for Claimants

Mapemba Counsel for Respondents

Nyirenda Court Clerk

JUDGEMENT

The claimant claims damages for pain and suffering; damages for loss of amenities of life, damages for disfigurement, special damages (cost of medical report and police report) and costs of the action. It was alleged that the claimant was one of the two passengers in motor vehicle registration number BS 3990 Toyota Quantum driven by Rick Phonela. On or about 29th September 2015 at 9:30 hours, the 1st defendant was driving Toyota Corrolla with three passengers on board. The said Toyota Corrolla was heading towards Lilongwe from Dedza along M1 Road. Upon arrival at Nyemba Village Graveyard the 1st defendant lost control of the motor vehicle and encroached on the offside lane where he collided head on with the said Toyota Quantum minibus.

In defence, the defendants argued that the 1st defendant vehicle was not insured by the 2nd defendants. The claimants did not produce any evidence to the contrary regarding the insurance of the 1st defendant's vehicle at the material time of the accident.

Insurance claims are premised largely on the agreement that the parties entered into. There being no contractual agreement, there can be no claim against the 2nd defendants. The claim against the 2nd defendant is thus dismissed. Any aggrieved party has the right to appeal to the Supreme Court within 30 days from date of pronouncement.

Pronounced this 8th February 2021 at LILONGWE

A handwritten signature in black ink, consisting of a large, stylized 'R' followed by a long horizontal stroke that loops back under the 'R'.

R.M CHINANGWA

JUDGE