



THE REPUBLIC OF MALAWI
IN THE HIGH COURT OF MALAWI
LILONGWE DISTRICT REGISTRY
CIVIL CAUSE NO.760 OF 2019

BETWEEN

Steveria Khakona (Suing on her own behalf and on behalf of Vincent Khakona
(Deceased))..... Plaintiff

AND

PRIME INSURANCE COMPANY LIMITED.....1st Defendant

MANCHESTER CHINUNDA.....2nd Defendant

CORAM:	<i>Madalitso Khoswe Chimwaza,</i>	<i>Assistant Registrar</i>
	<i>R.J. Mhone</i>	<i>Counsel for the receiving party</i>
	<i>E. Chikwakwa</i>	<i>Counsel for paying party</i>
	<i>C. Zude</i>	<i>Court Clerk</i>

ORDER ON TAXATION OF PARTY AND PARTY COSTS

1. This is a ruling on the expense rate per hour to be used in taxing a party and party bill of costs and some items in the bill. The paying party filed a sworn statement in opposition to some heads of the bill. Both parties were present during the taxation hearing.

The taxing master will proceed to do a detailed assessment of costs on a standard basis, not allowing costs that have been unreasonably incurred or are unreasonable in amount. The Court will allow costs that are proportionate to the matter and will resolve any doubt it may have as to whether costs were reasonably incurred or reasonable and proportionate in amount in favour of the paying party. Order 31 Rule 4 (1), (2) (a) and (b).

FEE EARNER

2. Counsel for the paying party submitted that the bill should be taxed at the expense rate of K30, 000 per hour because the file shows that it was Counsel Kambalame who appeared in court. In defending the claim for fee earner of K40, 000 per hour Counsel Mhone said the bill was for all the work done on file and not just appearance. He said he only gave a brief to Counsel Kambalame to appear in Court.
3. Looking at the Court record starting with the summons commencing the action it is clearly labelled that it was filed by Racane Associates, Legal Practitioner for the claimant whose address for service is Lingadzi House City Centre, Private Bag B413, Lilongwe. The other documents are bearing the address of service to be Plot No. 9/42, Area 9, Opposite Indian High Commissioner, Private Bag B414, Lilongwe, 3.
4. There is no doubt that this is an indication that the firm has an office in Lilongwe and if there were any matters they were being handled by lawyers based in Lilongwe. The documents do not state that they were prepare by Counsel Mhone or Counsel Kambalame. It is not a secret that Counsel Mhone of Racane & Associates has branches in Mzuzu and Blantyre. For a matter filed in Lilongwe, it would not make economic sense in both time and expense for Counsel to prepare documents from either Mzuzu or Blantyre to be filed in Lilongwe when there is a branch in Lilongwe. This Court therefore resolves the doubt in favor of the paying party by adopting the expense rate for Counsel Kambalame who made appearance in Court as he was based in Lilongwe.
11. Upon considering all facts surrounding the matter, the position of the law, the discretion of the Court in taxation matters, and the fact that the case was not complex as it dealt with damages for loss of life and dependency, this court is of the view that an expense rate of K30,000 per hour applicable to Counsel Kambalame should apply in taxing the bill of costs. It is so ordered.

On the actual number of hours the court proceeds as follows:

ACTIVITY	TIME ALLOWED	AMOUNT	TAXED AMOUNT
PART A			
A. Attending to client and Receiving instructions and other meetings	10 hours	K300,000	
B. perusing police report and death report	1 hour	K30,000	
Total Hours (A and B)	11hours		K330,000.00
C. Court documents perused:			

Order on assessment of damages	1 hour	K30,000	K30,000.00
D. Reading and Research:			
Books and Statutes	9 hours	K127,000	
Cases (23)	23 hours	K690,000	K817,000.00
Total for part A,B,C and D			K1,177,000.00
E. General care and Conduct 50%			K588,500.00
Total for Part A,B,C,D and E			K1,765,500.00
F. Documents Prepared Summons Default judgment Witness statement Bundle of assessment of damages Notice of assessment of damages	6 hours	K180,000	
G. Court attendances:	8 hours	K240,000	
Travelling and waiting	2 hours	K60,000	
Total for F and G			K300,000.00
Disbursements: Court Fees Stationery Travel expenses will not be allowed as it has been established that Counsel who was attending to the matter was based in Lilongwe and it would be an unreasonable expense that was incurred. Court is resolving this doubt in favor of the paying party.		K30,000 K150,000 K180,000	
Total Outlays			
TAXATION			

a. Preparing party and party bill of costs and hearing.	4 hours	K120,000	
b. Attending taxation proceedings by Counsel Mhone.	1 hour	K40,000	
Total no of hours (5)		K160,000	
c. Care and Conduct at 50% of (a) and (b)		K80,000	
d. Travelling to High Court for taxation proceedings and waiting		K80,000	
Totals		K320,000	K320,000.00
Sub total			K2,385,000.00
Add 16.5% VAT			K393,525.00
			K2,778,525.00
Add outlays		K180,000	180,000.00
Total bill Payable			K2,958,525.00

Any party not satisfied with the ruling and the taxed bill has the right to review within 30days.

Made in Chambers this 17th day of November 2021



Madalitso Khoswe Chimwaza

ASSISTANT REGISTRAR