

**REPUBLIC OF MALAWI
IN THE HIGH COURT OF MALAWI
PRINCIPAL REGISTRY
PERSONAL INJURY CAUSE NO. 446 OF 2018
(Before Honourable Justice Nriwa)**

BETWEEN

GARSON MALINGACLAIMANT

-AND-

BILLY NGOLEKA1st DEFENDANT

PRIME INSURANCE COMPANY LIMITED2nd DEFENDANT

CORAM: His Honour, Elijah Blackboard Dazilikwiza Pachalo Daniels,
Maele, Counsel for the claimant,
Chikaonda, Counsel for the defendant,
Mr Mbekeyani, Court Official.

ORDER

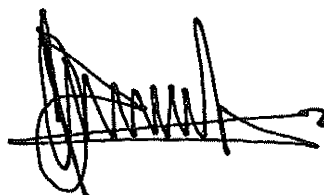
1. The matter comes before this court for an order on assessment of damages. The injuries sustained by the claimant are as follows: deep cut wound on the forehead, bruised elbows, deformed, swollen and bruised knees and dislocated hip joint. It is important to note that Counsel for the defendant did not even cross examine the claimant during assessment hearing that perhaps the injuries sustained or the extent thereof would have been challenged. That, he did not do. Accordingly, counsel for the claimant has submitted that a sum of K7,000,000.00 (Five Million Kwacha Only) over all heads would be reasonable in the circumstances.
2. Now what is the view of this Court? certainly, the view of this court is simple, but first, I must mention that I need not to reinvent the basic and obvious law that guides assessment of damages only to mention that it is trite law

that as far as it is practicable, the person injured must with the compensation of money be brought to the position he or she was but for the accident. Moreover, this Court, understands that there is no exact math and over the years the law has been that Courts use precedents which are as close as is reasonably possible to the case under determination against comparable cases.

3. As it were, this court further understands that the comparable cases need not to be exactly equal in fact but the injuries sustained must not be so detached that it would be unreasonable to bare the premise of one's order on cases with clearly different injuries sustained. Be that as it may, at least the injuries sustained from precedents and the case in issue must closely resemble, and the order made thereon will be a representative of a just conclusion.
4. Thus, in the instant case I had my own tour of perusing through comparable cases and I stumbled on the following case with resembled injuries sustained the case of Dan Kananji vs Noel Zigowa & NICO General Insurance Company Limited, Personal Injury Cause No. 977 of 2020, where the Court awarded a sum of K4, 500, 000.00 on all heads of damages, on the 10th July, 2021.
5. In the premises above, this court is of the view that a sum of **K4,000,000.00** is reasonable because aside of the dislocation mainly the other injuries were simply bruises. On the issue of costs, the claimant is awarded costs to be assessed by this court if the parties do not agree.
6. It is so decided.

Any party aggrieved by the decision of this Court, has the right to appeal within 21 days from the date of this order.

PRONOUNCED in chambers this 5th August, 2022 at the High Court of Malawi, Principal Registry.



Elijah Blackboard Dazilikwiza Pachalo Daniels

ASSISTANT REGISTRAR