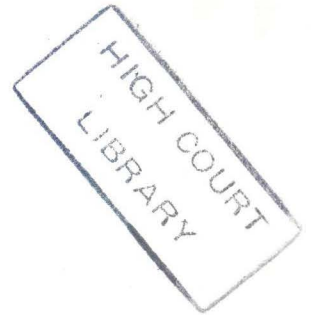


IN THE HIGH COURT OF MALAWI
PRINCIPAL REGISTRY
CIVIL CAUSE NO. 884 OF 1994



BETWEEN:

NELSON KAMANGA.....PLAINTIFF

-and-

CILCON LIMITED.....DEFENDANT

CORAM:

TWEA E B, REGISTRAR
MSISHA OF COUNSEL FOR THE PLAINTIFF
DEFENDANT COUNSEL ABSENT

ORDER

This action was brought by plaintiff who claimed damages for injuries sustained during an accident in the defendant vehicle.

It was the evidence of the plaintiff that when the accident happened he was not aware. He came to his senses at the hospital after his wounds had been dressed. He noted that he was injured on the forehead which wound was sutured and that he had wounds on the arm. He felt a lot of pain. He did not sustain any fracture, but he was in hospital for one month.

The plaintiff testified that as a result of the accident the defendant dismissed him when they learnt that he would sue them. Since then he has not been able to get comperable employment because he was seen to be lazy due to his physical weakness.

As a Result the plaintiff claim damages for pain suffering and loss of amenitites, disfigurement and loss of earnings.

At the end of the plaintiffs case the parties made submissions and referred this court to several decided cases.

It is not disputed that plaintiff must have sustained a lot of pain and suffering. The scars left by the injuries tell the tale. This is also proof of the disfigurements that the plaintiff has suffered. For the pain and suffering. I award K3,000.

On the disfigurement I note that the scars are quite ugly and those will be an embarrassment to the plaintiff for the rest of his life. The fact that he is already married and has children does not, in my view, mitigate the disfigurement to his face. I would grant him K5,000 on that head.

As to loss of amenities it is on PEXII that he has suffered a disability of 3%. I place no weight on PEXI as the evidence shows that there was progression in plaintiffs recovery. I would thus award K3,000 on thus head.

I award nothing on loss of earning. The plaintiff did not stay idle. He found a job after his recovery with Mandala Building Construction and was laid off due to shortage of cement. There is no suggestion that this employment was less competetive or that he lost his job for any reasons connected with the accident. These are the vicissitudes of the industry. I do not see why this should be attributed to defendants. I thus grant nothing on this head.

In all I grant plaintiff sum award of K11,000 with costs for this action.

Pronounced in chambers this 14th day of December, 1994 at Blantyre.



E B Twea
REGISTRAR OF THE HIGH COURT

