

personal injuries - claim for damages for personal injuries -
default of notice of intention to defend - interlocutory
judgment - assessment of damages - plaintiff awarded
damages for pain, suffering and loss of amenities.

IN THE HIGH COURT OF MALAWI

PRINCIPAL REGISTRY

04-02-1994

CIVIL CAUSE NUMBER 1307 OF 1993



BETWEEN:

TONY LESTER.....PLAINTIFF

-AND-

NAMING'OMBA TEA ESTATE LIMITED.....DEFENDANT

CORAM: D F Mwaungulu, Registrar
Mwafulirwa for the plaintiff
Ndalama, Interpreter

Decree
8/494

ORDER

This is an application for damages for personal injuries. The plaintiff was employed by the defendant, a tea manufacturer, at the defendants factory. He was injured when a roller pulled his arm when he was cleaning a conveyor. His arm was crushed. His Judgement was obtained in default of notice of intention to defend. The judgement was interlocutory. Damages had to be assessed. On the 15th of December, 1993, after hearing evidence from the plaintiff, I awarded the plaintiff damages amounting to K23,912. I reserved ruling.

The plaintiff was rushed to the hospital immediately. He was admitted for two days. According to the medical report he had committted fracture of the right humerous. This means he had several fractures on the bone. he was on plaster of paris for two months.

There is a medical report on the injuries. he has suffered an incapacity of ten percent. He will not, according to the report, be able to do his previous job. The report further state that the plaintiff feels some pain when lifting objects when the muscle rubs on the bone calcification.

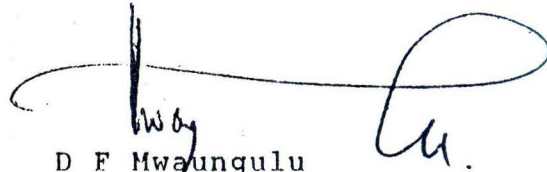
The plaintiff wanted to go to work immediately after the plaster of paris. He was asked to wait for a further three months. He resumed work. He left work immediately because of the pain and problems he is experiencing as result of the injuries.



The plaintiff earnings were K59 before tax. He is aged 33 years.

I am grateful to counsel for the drawing to my attention to previous awards. The right award for the plaintiff is K14,000 for pain and suffering and loss of amenities. The plaintiff is virtually out of work. His working life would have been up to the age of 55 years. The right award is K9912.

Made in Chambers this 4th Day of February, 1994 in Chambers.

A handwritten signature in dark ink, appearing to read 'D F Mwaungulu', with a large, stylized flourish extending to the right.

D F Mwaungulu
REGISTRAR OF THE HIGH COURT