

IN THE HIGH COURT OF MALAWI
PRINCIPAL REGISTRY
CIVIL CAUSE NUMBER 809 OF 1994

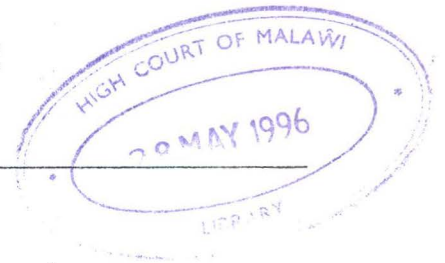
BETWEEN:

JOSEPH KABUTSA PLAINTIFF

and

ELIAS BANDA DEFENDANT

CORAM: E.B. TWEA, REGISTRAR
Mwafulirwa, Counsel for the Plaintiff
Defendant/Counsel absent



RULING

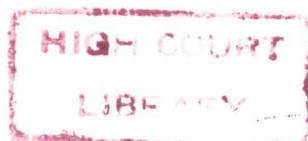
This matter came up for assessment of damages. The plaintiff called one witness, the plaintiff himself, to testify on the injuries.

It was the plaintiff's evidence that due to the accident he sustained injuries to the upper arm which was broken, had a deep cut wound on his scalp, a cut on his temple and nose, and a deep cut on the cuff of his left leg. He showed this Court the scars from these wounds. He told this Court that he was admitted in the hospital for five weeks.

Further, it was his evidence that he is unable to use his right arm fully as it is still painful and so is the scar on the scalp. He informed the Court that he avoids to touch the scar thereon which is still painful.

I note that the plaintiff is a very young person and the loss of full use of his right hand for a person who has no formal education will be a big handicap in his adult life. I also note that both the arm and scalp are still painful. Granted there was no medical report as to the healing of the tissues, but pain on

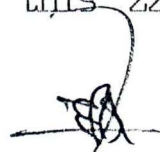
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its own entails that the healing was not complete.

When awarding damages for personal injuries the Court is aware that perfect compensation cannot be achieved. The duty of the court is to compensate the victim in so far as money can. I have considered the learned Registrar's Order in **ROYCE MWASINGA VS. STAGECOACH (MW) LTD., CIVIL CAUSE NO. 384 OF 1992** (Principal Registry) and I think using that case the plaintiff would be reasonably compensated for loss of earning capacity at K3,000 and K4,000 for pain, suffering and loss of amenities. In all I award damages in the sum of K7,000.00 with costs.

Pronounced in Chambers this 22nd day of November 1995, at Blantyre.



E. B. Twea
REGISTRAR