



**REPUBLIC OF MALAWI**  
**IN THE HIGH COURT OF MALAWI**  
**PRINCIPAL REGISTRY**  
**CIVIL CAUSE NO 1709 OF 2007**

**BETWEEN**

**DR G.C. BHUPTANI ..... PLAINTIFF**

**and**

**ISMAIL ANIZ SULEMAN ..... 1<sup>ST</sup> DEFENDANT**

**PRICE WHOLESALERS..... 2<sup>ND</sup> DEFENDANT**

**ROYAL INSURANCE COMPANY**

**OF MALAWI LTD..... 3<sup>RD</sup> DEFENDANT**

**CORAM: HON. JUSTICE J.M. CHIRWA**

Mr. Kara, Counsel for the Plaintiff

Mr. Chisanga SC & Dziwani, Counsel for the 1<sup>st</sup> and 2<sup>nd</sup>  
Defendants

Mr. Nkuna, Counsel for the 3<sup>rd</sup> Defendant

Messrs Cossam & Amosi, Official Interpreters

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## **JUDGMENT**

### **Introduction:-**

The Plaintiff's claim is for special damages in the sums of SAR 88,680.80 and MK138,000.00 being the medical expenses in South African Clinics and medical expenses at Mwaiwathu Private Hospital, respectively, total expenses to and from South African clinics on divers occasions with ancillary accommodation and food expenses, general damages, interests and costs of this action.

### **Background:-**

At all material times the Plaintiff was the driver of motor vehicle registration number BN4278, a Toyota Carina, and the 1<sup>st</sup> Defendant was the driver of motor vehicle registration number LA2198, a Toyota Corolla, owned by the 2<sup>nd</sup> Defendant and insured by the 3<sup>rd</sup> Defendant. On or about the 15<sup>th</sup> day of March, 2007, whilst driving the said Toyota Carina at or near the traffic lights at HHI along the Old Chileka-Magalasi Road in the City of Blantyre, the Plaintiff collided with the said Toyota Corolla. As a result of the said collision he sustained injuries and suffered pain, loss and damage. The Plaintiff has attributed the cause of the collision to the negligence on the part of the 1<sup>st</sup> Defendant. The Defendants on the other hand have denied liability and instead have attributed the cause of the collision to the negligence on the part of the Plaintiff. Alternatively, they allege that it was contributed to by the negligence of the Plaintiff.

### **Issues for Determination:-**

- 1) Was the accident caused by the negligence of the Plaintiff or the 1<sup>st</sup> Defendant?

