

**JUDICIARY
IN THE HIGH COURT OF MALAWI
LILONGWE DISTRICT REGISTRY
CIVIL CAUSE NO. 297 OF 2018**

BETWEEN

ENOCK NDALA CLAIMANT

AND

PLAN MALAWI 1ST DEFENDANT

GENERAL ALLIANCE INSURANCE LIMITED 2ND DEFENDANT

**CORAM: THE HONOURABLE JUSTICE KENYATTA NYIRENDA
Mr. Henry Kachingwe, Court Clerk**

ORDER

Kenyatta Nyirenda, J.

The present case was commenced on 11th April 2018. The Claimant claims insurance payment for injuries that he sustained due to a road accident that occurred on 28th July 2016. On 25th September 2018, the Claimant filed with the Court an application to amend the statement of case to make it clear that the claim was in respect of workers compensation. The application was granted on 22nd November 2018.

More than three years have elapsed since the Claimant took a step to prosecute the action. This is clearly an abuse of court process. Public policy requires that litigation must come to an end (*Interest rei publicae us sit finis litium*). Allowing further prosecution of the action would be prejudicial not only to the interests of the Respondent but it would also be detrimental to good administration in general and to good administration of justice in particular: see **R. v. Dairy Produce Quota for Tribunal for England and Wales, ex p. Caswell** [1989] 1 W.L.R 1089. In short, the delay herein is intolerable. “*They have lasted so long as to turn justice sour*”, to use the

words of Lord Denning M.R. in **Allen v. Sir Alfred McAlpine & Sons Ltd [1968] 1 ALL ER 543.**

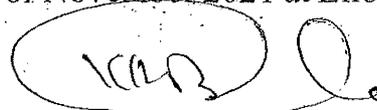
The common law position is now backed by law: see Order 12, r.56, of the Court (High Court) (Civil Procedure) Rules [Hereinafter referred to as "CPR"] which is couched in the following terms:

"The Court may strike out a proceeding without notice, if there has been no step taken in the proceedings for 12 months."

In the present proceedings, as already mentioned, more than three years have elapsed without the Claimant taking steps to prosecute this case. This is clearly an abuse of court process. I have no option but to strike out the proceedings herein. It is so ordered.

In light of the foregoing and by reason thereof, the Registrar's attention is drawn to Order 12, r.58, of CPR.

Pronounced in Court this 30th day of November 2021 at Lilongwe in the Republic of Malawi.



Kenyatta Nyirenda
JUDGE