

IN THE HIGH COURT OF MALAWI
PRINCIPAL REGISTRY
CIVIL CAUSE NO. 556 OF 2003

BETWEEN:

TAONGA LIKOSWEPLAINTIFF

AND

SHIRE BUS LINES LTD.....DEFENDANT

CORAM: TEMBO, ASSISTANT REGISTRAR

Chisale, Counsel for the Plaintiff

Kaphale, Counsel for the defendant

ORDER ON ASSESSMENT OF DAMAGES

This is the court's order on assessment of damages pursuant to a default judgment entered in favour of the plaintiff on 16th April, 2003 for damages for personal injuries sustained by the plaintiff in an accident caused by the negligence of the defendants agent. The accident took place on 11th September, 2003 along the Mzuzu/Karonga road at Bale Full Primary School. In that accident the plaintiff, who was aged 30 years and was a month pregnant suffered cut wounds to her right and left foot.

The said cut wounds were not severe. The plaintiff also suffered multiple cut wounds on her knees.

The medical evidence revealed that the plaintiff's injuries were not serious in nature but would only be so if her pregnancy had been disturbed. No evidence though was adduced as to the presence of any adverse effect on the plaintiff's pregnancy.

At the time of the hearing of this assessment the plaintiff's pregnancy had advanced beyond several months and was clearly visible.

In the premise's this court shall consider the plaintiffs multiple cut wounds. And although the plaintiff feels pain on the back of her neck this court does not find any connection between the same and her injuries in the accident herein.

The plaintiff could not move fast and was plagued by worries over her pregnancy as a result of the accident herein.

The plaintiff is entitled to damages having suffered personal injuries due to the defendant's agent's negligence. See **Cassel and Company v. Broome** (1972) A. C. 1027. The damages are aimed at compensating the plaintiff for her injuries as nearly as possible as money can do. See **Livingstone v. Rawyards Coal Company** (1880) AC 25.

The plaintiff's loss herein is non-monetary in nature and it is not possible to quantify it in monetary terms with mathematical precision. So this courts draws guidance from decided cases of a comparable nature to arrive at the appropriate compensation due to the plaintiff. That also ensures some degree of general consistency and uniformity in civil justice in cases of a broadly similar nature. See **Wright v. British Railways Board** (1983) 2 A.C 773.

This court has considered the plaintiffs injuries which are not serious. This court has also considered awards recently made in cases similar to the instant one. One such case is that of **Nyasulu v. The Attorney General** Civil Cause Number 571 of 2001 decided on 15th May, 2003. In that case the plaintiff suffered a large bruise on his lower leg, cut wounds on 2 toes on his right foot and cut wounds on his right hand. The plaintiff in that case also experienced chest pains. A sum of K40,000.00 was awarded to the plaintiff in that case.

This court has also considered the cases cited by counsel for each of the parties herein which it shall not reproduce herein.

In the premises this court awards the plaintiff the sum of K20,000.00 as damages for pain

and loss of amenities of life.

Costs of this action are for the plaintiff.

Made in Chambers at Blantyre this August, 2003.

M A Tembo

ASSISTANT REGISTRAR