

# Chisomo Kaphuka v Kelfoods Limited

## Summary

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<b>Court:</b>	Industrial Relations Court
<b>Bench:</b>	Austin B. B. Msowoya, Chairperson
<b>Cause Number:</b>	Matter No. IRC (BT) 857 of 2020
<b>Date of Judgment:</b>	April 11, 2023
<b>Bar:</b>	Tembo (Ms.), for Applicant Jiva, for Respondent

The Applicant sought an assessment of compensation for unfair dismissal in the Industrial Relations Court, Principal Registry, following a default judgment. The Court, on its own motion, considered whether a separate hearing for the assessment of compensation was necessary following a finding of unfair dismissal. This procedural practice, described by the Court as the "two-step" trial litigation syndrome, was seen as inefficient and a contributor to the Court's case backlog. The Court considered the recent decision in *Chioko*, which clarified that compensation in unfair dismissal cases is determined by a claimant's remuneration and length of service. The Court reasoned that since this information can be pleaded and proven during the main trial, a separate assessment hearing is not required.

The Court held that the Applicant was entitled to compensation for unfair dismissal, severance allowance, pay in lieu of notice, and accrued leave days. The Court, exercising its discretion under s. 63(4) of the Employment Act, found that the statutory minimum award was not just and equitable, given the Respondent's treatment of the Applicant, including the baseless defence and failure to contest the Applicant's claims. Consequently, the Court increased the compensation award beyond the statutory minimum. The Court ordered the Respondent to pay the Applicant a total sum of MK10,365,853.88, which included interest at 10% per annum from the date of dismissal. This sum was to be paid within 14 days. The Court stated that any aggrieved party had the right to appeal to the High Court on a question of law or jurisdiction within 30 days.