

Hassan Duwa v Gerald Khoviwa and United General Insurance Personal Injury Cause Number 1127 of 2021 Company Ltd

Summary

Court:	High Court of Malawi
Registry:	Civil Division
Bench:	Honourable Justice Allan Hans Muhome
Cause Number:	Personal Injury Cause Number 1127 of 2021
Date of Judgment:	December 20, 2024
Bar:	Mr. Swaleh Imaan, for the Claimant Mr. Emmanuel Nyamwela, for the Defendants

The Claimant sought compensation for personal injuries in the High Court, alleging that the First Defendant's negligence caused a motor vehicle accident. The Claimant, a passenger in a vehicle owned by his employer and insured by the Second Defendant, was injured when the vehicle, driven by the First Defendant, collided with a stationary trailer on the Blantyre-Zalewa road. The Defendants denied the claims, contending that the Claimant's injuries were caused by his own negligence in failing to wear a seat belt.

The principal issues for the Court were to determine whether the First Defendant was negligent, whether the Defendants were liable for the injuries, and whether the Claimant had contributed to his own injuries. The Court, having considered the evidence, found the First Defendant negligent for failing to keep a proper lookout and hitting the stationary trailer, despite the foggy weather. The Court referred to established precedent that a driver has a duty to avoid excessive speed and keep a good lookout. Concurrently, the Court found the Claimant contributorily negligent for not wearing a seat belt, which could have alleviated his injuries. The Court, therefore, apportioned liability between the parties, holding the Defendants 80% liable and the Claimant 20% contributorily negligent. The Court ordered that costs be settled in the same proportion as the liability.