

Liyawo v Chilemba

Summary

Court:	High Court of Malawi
Registry:	Civil Division
Bench:	Honourable Justice Msosa
Cause Number:	Civil Cause Number: 1436/1995 ([2002-2003] MLR 164 (HC))
Date of Judgment:	July 02, 2002
Bar:	Phoya, Counsel for the Plaintiff Kanyuka (Mrs), Counsel for the Defendant

The plaintiff, Liyawo, brought the action herein claiming for damages for pain and suffering and special damages in the sum of K8 045 85 against his family doctor for medical professional negligence. He sought treatment for a fever and a swollen groin. The defendant, Dr. Chilemba, who had been aware of the Plaintiff's allergy to tetracycline, prescribed doxycycline, a medication in the same class.

The plaintiff suffered an adverse reaction, developing extensive swellings and sores, and sought treatment from another doctor, Dr. Gombwa, who diagnosed the condition as a reaction to the prescribed drug. Both the Plaintiff and his wife, along with Dr. Gombwa, testified that Liyawo's allergy was known and noted in his medical file. The Defendant, while acknowledging he was aware of the allergy, contended it was the Plaintiff's duty to remind him of it and that the reaction may have been caused by a virus, not the drug. The Court had to determine whether the Plaintiff's injuries were caused by the medication and if the Defendant was negligent in his duty of care.

The Court entered judgment for the Plaintiff, finding that the Defendant was professionally negligent. The Court held that the Defendant owed a duty of care to the Plaintiff to consult the medical records he had created, which contained the patient's known allergies. The failure to consult these records and prescribing a drug in the same class as one to which the patient was known to be allergic constituted a breach of that duty, directly causing the Plaintiff's injuries. The Court, therefore, awarded the Plaintiff both general and special damages of K8,045.85, with the assessment of general damages to be conducted by the Registrar.