

Louis Thonyiwa v Castel Malawi Breweries Ltd (Personal Injury Case 73 of 2018) 2021 MWHC 278

Summary

Court:	High Court of Malawi
Registry:	Civil Division
Bench:	Honourable Justice M.A Tembo
Cause Number:	(Personal Injury Case 73 of 2018) 2021 MWHC 278
Date of Judgment:	December 23, 2021
Bar:	Mr. Ndlovu, Counsel for the Claimant Mr. Ulaya, Counsel for the Defendant

The Claimant brought a claim for damages in the High Court for personal injuries sustained due to the alleged negligence of the Defendant, a soft drinks manufacturer. The Claimant asserted that he had consumed several bottles of Fanta Pineapple manufactured by the Defendant and subsequently suffered from severe abdominal pains, diarrhea, vomiting, and fever, requiring medical treatment. He later discovered that a different, unopened bottle from the same crate contained foreign matter. The Defendant admitted to receiving the complaint and offering a coupon for a case of soft drinks. The core legal question

for the Court was whether the Defendant was negligent and if the Claimant had proven a causal link between the consumption of the drinks and his injuries.

The claim was dismissed with costs. The Court, applying the principles of negligence and product liability, found that while the Defendant had breached its duty of care by allowing foreign matter to enter a bottle, the Claimant had failed to establish a causal connection between the Fanta Pineapple he consumed and the illness he suffered. The Court found that the Claimant never consumed the contents of the bottle that contained the foreign matter, and therefore, the doctrine of *res ipsa loquitur* could not be applied to imply negligence. The Court concluded that the Claimant had not provided evidence to prove his abdominal upset was caused by consuming the rest of the Fanta Pineapple.