

# Peter Miky Efange v The Attorney General

## Summary

<b>Court:</b>	High Court of Malawi
<b>Registry:</b>	Civil Division
<b>Bench:</b>	K.T. Manda, Senior Deputy Registrar
<b>Cause Number:</b>	Civil Case No. 654 of 2006
<b>Date of Judgment:</b>	December 31, 2006
<b>Bar:</b>	Theu, Counsel for the Plaintiff. Absent, Counsel for the Defendant.

The Plaintiff sought an order in the High Court, Lilongwe District Registry, compelling the Defendant to pay post-judgment interest on a previously awarded sum of K850,000. This sum had been awarded to the Plaintiff as damages for the destruction of his motor vehicle during a military operation, 'Operation Bwezani,' with the initial award date being 12 May 2001. A subsequent court order, dated 2 December 2002, stipulated that the Defendant, the Attorney General, was to satisfy the judgment within 40 days. However, the judgment remained unsettled, compelling the Plaintiff to seek an execution decree on 6 February 2003 under section 8 of the *Civil Procedure (Suits by or Against the Government or Public Officers) Act*. The decree was eventually granted on 26 April 2004, and the Defendant settled the principal sum between November and December 2004.

The Plaintiff lodged the current application, claiming a denial of the fruits of litigation from the time of the initial award until full payment.

The principal issue before the Court was whether, in these circumstances, it could exercise its discretion to award the Plaintiff interest. The Court observed that while the award of interest is inherently discretionary, this discretion is statutorily limited by section 11(a)(v) of the *Courts Act*. The Court further observed that the statutory discretion to direct the payment of interest is limited to cases of **debt** as distinct from **damages**. The Court found that since the original award was for damages, the matter fell outside the ambit of the *Courts Act* provision. Furthermore, the Court was not satisfied that the Defendant had been **wrongly withholding** the money or had benefited from its use, which is a core principle guiding the award of interest. The application was dismissed. No further consequential orders were made.