



IN THE HIGH COURT OF MALAWI
PRINCIPAL REGISTRY
CIVIL CAUSE NUMBER 491 OF 1987

BETWEEN:

VERAH MBILA 1ST PLAINTIFF
and
GRACE CHIUNDIZA 2ND PLAINTIFF
and
THE ATTORNEY GENERAL 1ST DEFENDANT
and
JONES SILAS PHIMBA 2ND DEFENDANT

Coram: D F MWAUNGULU, REGISTRAR
Chingande, Counsel for the Plaintiff



ORDER

The plaintiff took out this claim on the 7th of August, 1987. The action, taken out under Section 7 of the Statute Law (Miscellaneous Provisions) Act, was taken out jointly with a Mrs. Chiundiza. Both of them were suing for loss of dependency after their husbands died in a car accident on the 18th of June 1986. After the action was commenced, there was a settlement. There was an application for approval of settlement because minors were involved. I approved the settlement for Mrs. Chiundiza. The damages for the plaintiff had to be assessed. I heard evidence from the plaintiff on the 30th of November, 1993. The defendants were absent. They were served with the appointment for assessment of damages. I awarded the plaintiff the sum of K62,427. I now give reasons.

The deceased was an Engineer in the Civil Service. He died at the age of 28. He was, according to the conditions of service obtaining at the time, to retire at the age of 55 years. He was earning K5,256.00 per annum,

after tax. The plaintiff testified that her husband used to spend almost three quarters of his income on the family apart from himself.

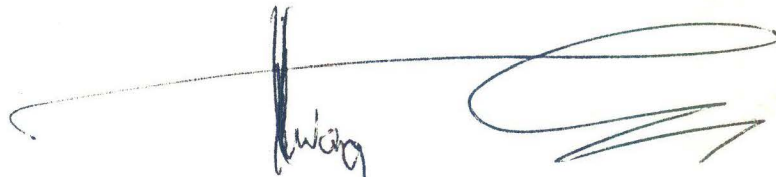
The deceased was young. He was a qualified engineer. No doubt, his prospects for promotion were very high. He was, therefore, likely to have an increase in his earnings.

The award for loss of dependency where the plaintiff's earnings are ascertainable, is such sum as would give the plaintiff the annuity lost for the time in which the deceased would have been employed. Courts arrive at this by using the multiplier and multiplicand approach. This approach, based on rates of interests of between 3 to 5 percentage points, insulates against the vagaries and vagrancies of inflation. The approach also takes care of the fact that money is given as a lumps sum and it is going to be invested for income.

The loss of dependency in this case is K3,672.00 per annum. The deceased was aged 28. He was to retire at the age of 55 years. I am supposed to consider the prospect of remarriage of the plaintiff. There was no evidence on which I can properly evaluate the prospect. The appropriate award is K62,424.00.

The money should be distributed as follows: Mrs V Mbila, K16,424.00; the deceased's father K9,000.00; Jennifer, the deceased's daughter K15,000; and James, the deceased's son, K18,900.00.

Made in Chambers this 10th day of December, 1993.



D F Mwaungulu
REGISTRAR OF THE HIGH COURT

