

IN THE SUPREME COURT FOR ZAMBIA
HOLDEN AT LUSAKA
(CIVIL JURISDICTION)

APPEAL NO. 130/2002

B E T W E E N:

ERNEST SIKATALI

APPELLANT

AND

G. ZULU

RESPONDENT

CORAM: LEWANIKA, DCJ, CHIBESAKUNDA, SILOMBA JJS
On 17th June, 2003 and 9th November, 2004

For the Appellant: In person
For the Respondent: N. NCHITO of M.N.B

JUDGMENT

LEWANIKA DCJ, delivered the judgment of the court.

This is an appeal against the decision of a Judge of the High Court awarding the Appellant the sum of K450,000.00 as damages for pain and suffering for injuries that the Appellant sustained in a road traffic accident.

The facts of the case which are not in dispute are that on 30th November, 1998 the Appellant was a passenger in a mini bus owned by the Respondent and driven by the Respondent's employee. The mini bus was involved in an accident as a result of the negligent manner in which it was being driven by the Respondent's employee. The Appellant sustained

injuries. In his evidence the Appellant said that he had an injury above the left elbow which had to be sutured. He was treated at the Chelston clinic and was not admitted. The learned trial Judge awarded the Appellant K450,000.00 for pain and suffering and it is against this award that the Appellant has appealed on the ground that it was inadequate.

We have considered the submissions made by the Appellant and Counsel for the Respondent as well as the evidence on record. The Appellant appears to be labouring under the impression that the learned trial Judge should have awarded him damages for the injuries he sustained quite apart from damages for pain and suffering. These injuries have been described as bruises and abrasions in the medical report produced by the Appellant in the court below. The Appellant freely admitted that he was not admitted in hospital and suffered no permanent disability. We fail to see what other damages the Appellant would have been entitled to. Although on the evidence, an award of K450,000.00 for pain and suffering was on the generous side, we do not intend to interfere with it. We find no merit in the appeal, which we dismiss, but make no order as to costs.

D.M. Lewanika
DEPUTY CHIEF JUSTICE

L.P. Chibesakunda
SUPREME COURT JUDGE

S.S. Silomba
SUPREME COURT JUDGES.



