

Binwell Mandala vs Charles Mtandasha, Blantyre Water Board and Britam Insurance Company Limited Personal Injury Cause Number 468 of 2022

Summary

Court:	High Court of Malawi
Registry:	Civil Division
Bench:	Honourable Justice Allan Hans Muhome
Cause Number:	Personal Injury Cause Number 468 of 2022
Date of Judgment:	February 24, 2025
Bar:	For the Claimant: Mr. Luciano Micheus For the Defendants: Mr. Dumisani Mlauzi

The Claimant, a motorcyclist, sought compensation in the High Court for injuries sustained in a road traffic accident. The accident occurred when the First Defendant, driving a vehicle owned by the Second Defendant and insured by the Third Defendant, attempted to overtake the Claimant's motorcycle. The vehicle collided with the motorcycle as the Claimant made a sudden right turn. The Defendants denied the claims, alleging the accident was caused by the Claimant's own negligence in failing to signal his turn. The Court considered

whether the First Defendant was negligent and if the Claimant contributed to his own injuries by making a turn without warning.

The Court found that the accident was largely caused by the Claimant's negligence, specifically his failure to indicate a right turn. It was noted that the Claimant was untruthful about the point of impact, which diminished the weight of his evidence. However, the Court also found that the First Defendant was negligent for possibly failing to swerve further to avoid the accident or to hoot to alert the Claimant of the danger. The Court highlighted that a driver wishing to overtake must ensure it is safe to do so.

The Court therefore found both parties to have been negligent. The Court assigned 60% of the liability to the Defendants and 40% to the Claimant. Costs were to be settled in the same proportion as the liability, and if not agreed upon within 14 days, they would be assessed by the Registrar.