

Geofrey Kameko V Illovo Sugar Malawi Limited

Personal Injury Cause Number 399 of 2020

Summary

Court:	High Court of Malawi
Registry:	Civil Division
Bench:	Honourable Justice Allan Hans Muhome
Cause Number:	Personal Injury Cause Number 399 of 2020
Date of Judgment:	January 09, 2025
Bar:	Mr Wesley Ishmael, of Counsel for the Claimant Mr Mwai Kalua, of Counsel for the Defendant

The Claimant sought damages for personal injury from the Defendant, his former employer, alleging negligence and a breach of statutory duty under the *Occupational Safety, Health and Welfare Act*. The Claimant, who had worked in the Defendant's power house from 1995 until his medical retirement in 2015, contended that his exposure to hazardous materials such as asbestos, fibreglass, and toxic fumes caused him to develop a throat illness. He was diagnosed with a left vocal cord nodule in 2012, which progressed to the point where he required a medical procedure that left him unable to speak properly. The Claimant argued that the Defendant failed to provide a safe working environment and adequate

personal protective equipment.

The Defendant denied the claims, presenting three witnesses who testified that the company had a fully functional safety department, that asbestos was contained, and that the alleged hazardous materials were known to cause lung problems, not the throat cancer suffered by the Claimant. The Defendant's company medical officer testified that the Claimant's illness was not causally linked to his work environment. The Court was tasked with determining whether the Claimant had proven, on a balance of probabilities, that the Defendant's negligence or breach of statutory duty caused his injury.

The Court dismissed the Claimant's claims in their entirety. The Court held that while an employer owes a duty of care to its employees, the Claimant had failed to establish a direct causal link between the Defendant's actions or omissions and his throat illness. The medical reports submitted as evidence were considered insufficient, as they were subject to the hearsay rule and did not explicitly state the cause of the illness. The Court found that there was no direct evidence to support the Claimant's assertion and that the Defendant's evidence, which was largely uncontested, indicated that the hazardous materials cited by the Claimant cause lung, not throat, issues. The Court ordered the Claimant to pay the costs of the action.