

IN THE HIGH COURT OF LESOTHO

In the matter of :

TSELISO NTSINYI

Plaintiff

v

DAVID NKOLANYANE

Defendant

J U D G M E N T

Delivered by the Hon. Chief Justice, Mr. Justice
T.S. Cotran on the 25th day of May, 1982

In this action the plaintiff sued the defendant
claiming the sum of M12,819.57 under four heads:

1. M12,000 for total loss of sight of one eye
as a result of an assault by the
defendant,
2. M 500 Pain and suffering,
3. M 300 Contumelia,
4. M 19.57 Hospital and Medical expenses.

The defendant entered an appearance to defend but
filed no plea and the action was set down by plaintiff's
attorney for hearing on 26th April 1982 after notice was
given to defendant's attorneys.

The defendant made no appearance.

The plaintiff went into the witness box for formal
proof.

The plaintiff is aged 24 years and is a mechanic by
trade and single. He still pursues his trade but says that
with one eye his work is slower, he has more strain on the
remaining eye, and his work is not as efficient as it used to
be with two eyes.

I have no more evidence than the above and I took time

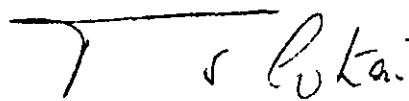
/to consider

to consider the main claim of M12,000. Mr. Sello quoted one case AA Onderlinge Ass. Associese BPK v. Sodoms 1980(3) SA 134 - a personal accident claim - wherein M10,000 were awarded for the loss of an eye. Mr. Sello says he claimed M12,000 on account of inflation.

I do not think this Court should slavishly follow damages awarded by Courts in other countries. Lesotho Courts should be left with some elbow room to come to a decision on awards on personal injuries taking the economic circumstances of ordinary people here. In Pooe v. Rosenbach (22-25 May 1972 in WLD - unreported) M6000 were awarded. In that case the sight in one of the plaintiff's eyes had been lost before the assault and as a result of the assault on the other eye the plaintiff became almost completely blinded. Two years later in Strougar v. Charlier 1974(1) SA 225 M6000 were awarded for the loss of an eye. (See Corbett & Buchanan - Quantum of Damages in Bodily and Fatal injury cases Vol. II pp 242 and 316).

It does seem to me that the plaintiff had adjusted himself to the handicap. In the absence of other details I think that M8000 under items 1 and 2 would be a fair award in addition to the claim for contumelia and hospital and medical fees making a total of M8319.57.

Judgment is entered for plaintiff accordingly with costs.



CHIEF JUSTICE

25th May, 1982

For Plaintiff : Mr. Sello

For Defendant : No Appearance