

IN THE SUPREME COURT OF ZAMBIA
HOLDEN AT LUSAKA
(Civil Jurisdiction)

APPEAL NO.122/2016
SCZ/8/124/2016

BETWEEN:

THE ATTORNEY GENERAL

APPELLANT

AND

RODGER MASAUSO ALIVAS CHONGWE

RESPONDENT

Coram: Hamaundu, Kaoma and Kajimanga, JJS
on 6th September, 2016 and the 23rd June, 2017

For the Appellant: Mr F. Imasiku, Acting Principal State Advocate

For the Respondent: Mr A. Hamir, SC, Messrs Ali M. Hamir

JUDGMENT

HAMAUNDU, JS, delivered the Judgment of the Court

Cases referred to:

1. **Branca v Cobarro (1947) KB 854**
2. **Air Studios (Lyndhurst) Limited T/A Air Entertainment Group v Lombard North Central Park Plc (2012) EWAC 3162, (2013)1 Lloyds Rep.**
3. **Whitehead Mann Limited v Cheverny Consulting Limited (2006) EWAC CIV 1303**
4. **Samuel v Oustern (1941) 1 All ER 14**
5. **Victoria Laundry v Newman (1949) 2 143 528**
6. **Hardley v Boxendale (1854) 9 Ex. 341**
7. **Aruna Mills Dhanrajmal Gobindram (1968) 1QB 655**
8. **Chikuta v Chipata Rural Council [1974] ZR 241**

Legislation referred to:

1. **Judgments Act, Chapter 81 of the Laws of Zambia, S.2**
2. **State Proceedings Act, Chapter 71 of the Laws of Zambia, S.16**
3. **High Court Act, Chapter 27 of the Laws of Zambia, S.13**

Rules referred to:

1. **Rules of the Supreme Court (*White Book*) 1999, edn, Order 18/8/14**

Works Referred to:

1. **Halsbury's Laws of England, (4th edition) Vol 9, para 740, P. 483 & Vol 37, para. 383**
2. **Black's Law Dictionary 9th edition, 2009**
3. **Website; Investopedia.com**
4. **McGregor on Damages, 15th edition, Para 3, P. 4**
5. **Chitty On Contract 30th edition, (London, Sweet & Maxwell), PP. 254 - 255, 276 & 282 - 284**
6. **Chitty On Contract 25th edition, Para 1147, P.220**

This is an appeal against a judgment of the High Court which upheld the respondent's declarations and entered judgment in the sum of US\$6,743,918.38.

The facts in this case are these:

In 1997, the respondent was shot at and wounded by State security forces as he was coming from attending a rally in Kabwe. The respondent underwent an operation at Kabwe General Hospital where it was discovered that he had a wound on the cheek and skull and that some foreign metal object was embedded in the skull. The respondent immediately lodged a letter of demand with the Government of Zambia, seeking compensation for the injuries that he sustained as a result of the shooting. The Government denied

