



IN THE HIGH COURT OF SWAZILAND

JUDGMENT

Case No: 3333/10

In the matter between:

DANIEL OSEI

Plaintiff

and

LUNGA NTJALINTJALI

Defendant

Neutral citation: *Daniel Osei vs Lunga Njtalintjali 3333/10 [2012] SZHC 38 (9 March 2012)*

Coram: MAPHALALA PJ

Heard:

Delivered: 9 MARCH 2012

Summary: Plaintiff has filed a claim against Defendant arising from damages he sustained in his damaged motor vehicle. Defendant did not appear and the court heard *viva voce* evidence of Plaintiff in proof of damages and found in favour of the Plaintiff with costs of suit.

[1] The Plaintiff Daniel Osei filed a Combined Summons against one Lunga Ntjalintjali for damages in the sum of E3,090.60 in respect of monies paid for purposes of having his motor vehicle repaired.

[2] The cause of action is that on the 28 February 2009 at about 0230 hours at or near Ludwala Zakhele Road a Mazda Supremacy registered SD 701 YL that was driven by the Plaintiff was knocked on the front bumper by a BMW registered SD 356 VG which was driven by the Defendant.

[3] The Plaintiff contends that the accident occurred solely due to the negligence of the Defendant in one or all of the following:

5.1 The Defendant failed to consult his rear mirrors before reversing;

5.2 The Defendant negligently reversed his motor vehicle on the road;

5.3 The Defendant failed to take a proper lookout; and

5.4 The Defendant failed to avoid an accident as a reasonable driver would have done.

[4] The Defendant has filed a plea opposing the granting of the orders sought by the Plaintiff. However, Defendant did not appear when the matter was called. Plaintiff proceeded to lead *viva voce* being led by his attorney Mr. Mngomezulu in default of the Defendant. On the evidence of the Plaintiff

it is abundantly clear that he ought to be given judgment in his favour without any further ado.

[5] In the result, for the foregoing reasons judgment is granted in terms of prayers (a) (b) and (c) of the Particulars of Claim.

STANLEY B. MAPHALALA
PRINCIPAL JUDGE

For Applicant : Mr. S. Fakudze

For Defendant : In absentia