



**REPUBLIC OF MALAWI**

IN THE MALAWI SUPREME COURT OF APPEAL

PRINCIPAL REGISTRY

MSCA CIVIL APPEAL NO. 01 of 2026

(Being High Court Civil Appeal No. 13 of 2021)

**BETWEEN:**

**CENTRAL EAST AFRICA RAILWAYS LIMITED**

**APPELLANT**

**-AND-**

**CHRISTINA CHITHILA**

**1<sup>ST</sup> RESPONDENT**

**KONDWANI MKONDA**

**2<sup>ND</sup> RESPONDENT**

**DAVID KWENDA**

**3<sup>RD</sup> RESPONDENT**

**CHIMETA MULAMBIA**

**4<sup>TH</sup> RESPONDENT**

**CASE SUMMARY**

**PARTIES:**

***Central East Africa Railways Limited v Christina Chithila v Registrar of Financial Institutions & Others***

**PRESIDING JUSTICES:** Chief Justice Mzikamanda, SC; Deputy CJ Chikopa, SC; Kapanda, SC, JA; Potani, SC, JA; Mkandawire, SC, JA; Kalembera, SC, JA; Madise, SC, JA; Mbvundula, SC, JA; nyaKaunda Kamanga, SC, JA.

**DELIVERED ON:** 25<sup>th</sup> June 2026

- I. *BRIEF FACTS*: The Respondents were senior employees of the Appellant. In 2019, the Appellant sought to vary certain terms and conditions of the Respondents' employment contracts, including the removal or reduction of benefits. The Respondents did not agree to the proposed changes. Subsequently, their employment was terminated.
- II. The Respondents commenced proceedings in the Industrial Relations Court alleging, among other things, unfair dismissal, discrimination, underpayment of severance benefits and non-payment of bonus entitlements. The Appellant maintained that the termination resulted from operational requirements and formed part of a lawful restructuring process.
- III. Following trial, the Industrial Relations Court found that the Respondents had been unfairly dismissed and discriminated against. The Court awarded compensation for unfair dismissal and discrimination together with other employment-related benefits.
- IV. Following its judgment on liability, the Industrial Relations Court assessed compensation and awarded the Respondents a total sum of MK3,657,648,455.71. The Industrial Relations Court declined the Appellant's application for a stay of execution. The High Court subsequently granted a stay of execution and ordered that the judgment sum be deposited into an interest-bearing account pending determination of the appeal. Upon the Respondents' application, the High Court maintained the stay but varied the order by directing that fifteen per cent (15%) of the award be paid to the Respondents while the remaining eighty-five per cent (85%) be deposited into court pending determination of the appeal.
- V. Being dissatisfied with the judgment of the Industrial Relations Court on liability and the subsequent assessment of compensation, the Appellant appealed to the High Court. The appeal challenged, among other matters, the findings of unfair dismissal and discrimination, the assessment and quantum of compensation, the award of separate damages beyond compensation for unfair dismissal and the award of interest.
- VI. The High Court dismissed most of the grounds of appeal and substantially affirmed the findings of the Industrial Relations Court. The Court only interfered with the award of interest, holding that the Industrial Relations Court had no legal basis for awarding interest on the severance and bonus claims.

VII. The Appellant thereafter appealed to the Supreme Court of Appeal. The Respondents filed a cross-appeal seeking variation of the High Court judgment and contending, among others, that there had been no competent appeal before the High Court against either the judgment on liability or the subsequent assessment of compensation.

VIII. *THE LEGAL ISSUES:* The Supreme Court of Appeal identified the following issues for determination:

a) Whether the finding of discrimination made by the Industrial Relations Court and upheld by the High Court could be sustained.

b) Whether the High Court correctly affirmed the finding that the Respondents had been unfairly dismissed.

c) Whether the assessment of compensation upheld by the High Court was consistent with the governing principles relating to compensation for unfair dismissal.

d) Whether the Respondents' cross-appeal was competent and meritorious.

IX. *THE FINDINGS:* The Supreme Court partly allowed the appeal.

X. The Court held that the claim of discrimination was not properly established and that the Industrial Relations Court erred in finding that the Respondents had been discriminated against and in awarding damages on that basis. The High Court similarly erred in upholding that aspect of the judgment on appeal. Consequently, the finding of discrimination and all awards attributable to that head of claim could not stand.

XI. The Court, however, rejected the Appellant's challenge to the finding of unfair dismissal. It held that the High Court committed no reversible error in affirming the Industrial Relations Court's conclusion that the termination of the Respondents' employment was unfair.

XII. With respect to compensation, the Court found merit in the Appellant's challenge. The assessment incorporated awards attributable to discrimination and

otherwise resulted in overcompensation. The assessment could therefore not be allowed to stand and required a fresh reassessment.

XIII. As regards the cross-appeal, the Court found that it was procedurally irregular, incompetent and lacking substantive merit. The matters raised ought properly to have been pursued before the High Court. The Court further held that the doctrine of inchoate judgments concerns the prematurity of an appeal and does not render an appeal invalid or a nullity.

XIV. THE ORDERS: The Supreme Court made the following orders:

- a) The appeal is partly allowed.
- b) The finding of discrimination is set aside.
- c) All awards attributable to discrimination are set aside.
- d) The appeal against the finding of unfair dismissal is dismissed.
- e) The finding that the Respondents were unfairly dismissed is affirmed.
- f) The assessment of compensation is set aside.
- g) The Court shall undertake a fresh reassessment order of compensation and deliver the reassessment within ninety (90) days.
- h) The cross-appeal is dismissed in its entirety.
- i) Save as varied by the judgment, the decision of the High Court is affirmed.
- j) Each party shall bear their own costs.

**NB:** *Supreme Court of Appeal for Malawi and the Honourable Justices are not bound by this explanatory note, which the Office of the Chief Registrar provides to facilitate public understanding of this case and to assist the media in reporting on it.*