

**IN THE HIGH COURT OF FIJI**  
**WESTERN DIVISION**  
**AT LAUTOKA**

**[CIVIL JURISDICTION]**

**Civil Action No. HBC 208 of 2014**

**BETWEEN** : **MOHINI CHANDRA** of 5539 Laguna Park Drive, Elk Grove, California 95758, USA, as widow and administratrix in the Estate of Ramesh Chandra

**Plaintiff**

**AND** : **THE FIJI NATIONAL PROVIDENT FUND**, a body corporate established under the Fiji National Provident Fund Act.

**Defendant**

**AND** : **BANK OF SOUTH PACIFIC** having its registered office at Level 12, BSP Suva Central Building, Corner of Pratt Street and Renwick Road, Suva.

**Nominal Defendant**

Before : Master U.L. Mohamed Azhar

Counsels : Ms. A. Swamy for the Plaintiff  
Ms. A. Rogovakalali for the Defendant

Date of Decision : 04<sup>th</sup> July 2019

**DECISION**

(On taxation of cost)

01. Before me is the Bill of Cost filed by the plaintiff following the judgment in her favour and the order for indemnity cost to be paid by the defendant corporate body. Though the heading of the Bill of Cost states as "Bill of Cost on Standard Basis", the actual order by the court was for indemnity basis, and therefore it should be read as indemnity basis. By the said Bill the plaintiff claimed the total amount of 25,608.90 as the indemnity cost which includes the total cost of \$ 23,050.00, Value Added Tax of \$ 2,074.50 and total disbursements in sum of \$ 484.40.

02. The defendant filed the affidavit sworn by its Manager and opposed the total amount claimed in the said Bill of Cost, and stated it is grossly excessive and unreasonable. The defendant's affidavit discusses each and every cost mentioned in the Bill of Cost and stipulates that, some costs are non-taxable and some are unjustified. Both the counsel then moved the court to dispose this matter by way of written submission and filed their submissions. The plaintiff's counsel simply submitted that, this was a trial where the full procedure was followed up to the trial. In response to the contention raised in the affidavit of the defendant in relation to unreasonableness, unjustified and non-taxable items included in the Bill of Cost, the counsel for the plaintiff submitted that, these are indemnity cost and the not the costs on standard basis. Conversely, the counsel for the defendant submitted, in addition to her contention on 'unreasonableness' and 'unjustification', that the plaintiff failed to adduce any receipt for the proof that, the plaintiff actually incurred that amount claimed in the Bill of Costs.

03. The cost is the one panacea which heals every sore in litigation (per: Lord Justice Bowen in Cropper v Smith (1884) 26 Ch. D. 700 (CA) at page 710). The general discretion as to costs is absolute and unfettered except that it must be exercised judiciously, not arbitrary or capriciously and that it cannot be exercised on grounds unconnected with litigation (see: Donald Campbell & Co. Limited -v- Pollak [1927] AC 732). Accordingly, the costs are not made to punish an unsuccessful party, but to compensate the successful party. In Oshlack -v- Richmond River Council [1998] HCA 11; (1998) 193 CLR 72, at paragraph 44, Gaudron and Gummow JJ, held that:

*It may be true in a general sense that costs orders are not made to punish an unsuccessful party. However, in the particular circumstance of a case involving some relevant delinquency on the part of the unsuccessful party, an order is made not for party and party costs but for costs on a "solicitor and client" basis or on an indemnity basis. The result is more fully or adequately to compensate the successful party to the disadvantage of what otherwise would have been the position of the unsuccessful party in the absence of such delinquency on its part.*

04. Order 62 of the High Court's Rules provides the power to grant cost either the "gross sum" in lieu of the taxed costs or the taxed cost. The taxed cost would either on standard basis or indemnity basis. The rule 12 stipulates the basis of taxation for both standard cost and indemnity cost and it reads:

*Basis of taxation (O.62, r.12)*

*12.-(1) On a taxation of costs on the standard basis there shall be allowed a reasonable amount in respect of all costs reasonably incurred and any*

*doubts which the taxing officer may have as to whether the costs were reasonably incurred or were reasonable in amount shall be resolved in favour of the paying party; and in these rules the term “the standard basis” in relation to the taxation of costs shall be construed accordingly.*

*(2) On a taxation on the indemnity basis all costs shall be allowed except insofar as they are of an unreasonable amount or have been unreasonably incurred and any doubts which the taxing officer may have as to whether the costs were reasonably incurred or were reasonable in amount shall be resolved in favour of the receiving party; and in these rules the term “the indemnity basis” in relation to the taxation of costs shall be construed accordingly.*

05. The above rule sets two separate standards for taxation. On the standard basis, costs could only be recovered if they were reasonably incurred. In case of any doubt, the paying party shall have the benefit of the doubt on reasonableness. On the indemnity basis, all the cost shall be allowed except insofar as they are of an unreasonable amount or have been unreasonably incurred and the receiving party shall have the benefit of the doubt on reasonableness. The difference between the two approaches, as Justice Tuilevuka (as he then was) stated in **Re Shabu Shabu Restaurant Company Ltd** [2009] FJHC 252; HBF018.2009 (5 November 2009) is that in the former, the benefit of any doubt in any costs raised is given to the loser. In the latter, it is given to the winner.
06. **Sir Robert Megarry V-C in EMI Records v Wallace** [1982] 2 ALL ER 980 held at 989 that:

*To say that on a taxation ‘all costs shall be allowed except in so far as they are of an unreasonable amount or have been unreasonably incurred’ seems to me to be giving the litigant a complete indemnity, shorn only of anything that is seen to be unreasonable. The litigant does not have to establish that the costs were necessary or proper, or that the costs were of a reasonable amount and reasonably incurred. Provided they are costs of and incidental to the proceedings, he is entitled to recover them, subject only to the qualification that they are liable to be reduced in respect of anything that the taxing master considers to fall within the headings ‘unreasonable amount’ or ‘unreasonably incurred’. In a word, the difference is between including only the reasonable and including everything except the unreasonable. In any taxation there must be many items or amounts that are plainly allowable, and many others which are plainly not allowable. In between, there must also be many items or amounts which do not fall clearly within either extreme. On a party and party taxation, or on a taxation on the common fund basis, many such*

*items may fail to be allowed; on a taxation on an indemnity basis, they will all be included.*

07. The Fiji Court of Appeal followed the above decision in **Police Service Commission v Beniamio Naiveli**, ABU0052/95S (16 August 1996) and unanimously stated that:

*“... In EMI Records v Wallace [1982] 2 All ER 980 Sir Robert Megarry V-C undertook a detailed review of the use of that expression and concluded that it was equivalent to an award of “Solicitor and own client costs” in 0.62,r.29 (described in its Fiji equivalent 062,r.26 as “costs payable to a barrister and solicitor by his own client”), but excluding paras (2) and (3) thereof. It would result in all costs being allowed “except insofar as they are of an unreasonable amount or have been unreasonably incurred”.*

08. Accordingly, the contention of the defendant that, the costs claimed by the plaintiff are ‘non-taxable’ or ‘unjustified’ cannot be accepted, because all the costs to be allowed under the indemnity basis, except insofar as they are of an unreasonable amount or have been unreasonably incurred. Furthermore, any doubt on reasonableness shall be decided in favour of the receiving party and it is the plaintiff in this case.
09. The counsel for the defendant in her written submission attached the copy of the judgment in case of **Nair v Prasad** [2013] FJHC 89; HBC331.2010 (6 March 2013) and submitted that, the plaintiff failed to submit any receipt with the Bill of Cost and therefore, failed to substantiate the costs claimed by her. In that case, the court granted the global sum as the indemnity cost and commented that, given the purported time spent in that case, there should have been several invoices and receipts which the defendants failed to produce. The court further said that, when a party is in possession of such evidence, but refrains from producing them to court the inference is that it is disadvantageous or adverse to them. Since the both counsels tendered their written submissions simultaneously and moved the court to do the taxation, the counsel for the plaintiff could not get a chance to respond to the above contention. Therefore, question is whether the receiving party is obliged and/or under duty to disclose the any such invoices or bills of the solicitors for the purpose of taxation of the cost?
10. The Order 62, rule 12 neither imposes any burden of proof on part of the receiving party, nor does it require substantiating the cost claimed by such party. On the contrary, it allows all the cost except insofar as they are of an unreasonable amount or have been unreasonably incurred and also gives the benefit of doubt to the receiving party as opposed to the standard cost where the paying party enjoys the benefit of such doubt. Had the intention of the drafters of the rules was to impose any burden on the receiving party

to prove and or support the cost with the invoices or bills, the benefit of the doubt would not have been given to such party. The operation of the rule is that, the court should decide whether any amount claimed by the receiving party was reasonable or reasonably incurred and if it has any doubt in reasonableness it should give the benefit of such doubt to the receiving party.

11. Most of the documents that are relevant and necessary for the detailed assessment of costs are privileged. Particularly, solicitors' bills are privileged. Vice Chancellor Turner held in **Chant v Brown** (1862) 9 Hare 790; (1852) 68 ER 735 at page 737 that this is on the ground that "an attorney's bill of costs is, in truth, his history of the transaction in which he has been concerned". Aldous J., in **International Business Machines Corp v Phoenix International (Computers) Ltd** [1995] 1 All 412 commented at page 424 that "the reasonable solicitor would have been in no doubt that the legal bills were privileged documents". Likewise, Rimer J in **Dickinson (t/a Dickinson Equipment Finance) v Rushmer (t/a FJ Associates)** [2002] 1 Costs LR 128, [2001] All ER (D) 369 (Dec), also seems to have accepted this as being the correct position and also accepted that, the basis was **Chant v Brown** (supra).
12. Accordingly, the solicitors' bills are privileged and the parties are not required to disclose the same. If any party voluntarily discloses such privileged documents for purpose of assessment of costs, it will be a waiver and if the other party wishes to see it to dispute that claim for costs, the receiving party must be given the right to elect to withdraw it and not claim costs or he must disclose it. There are several English authorities that deal with this area, and none of those authorities seems to have deviated from the fact that, the solicitors' bills are privileged materials. It would be an academic voyage if I explore all those authorities in this area which is not relevant to this decision. However, I cite only the following passage from the decision in **Skuse v. Granada Television Ltd.** (Q.B.D) [1994] WLR 1156 where one of the issues was whether taxing master should have ordered for privileged documents to be disclosed or not. Drake J held at pages 1166 and 1167 as follows:

*"...should the master have made an order for discovery? The plaintiff submits that as the documents are privileged he should have been given the chance of being put to election, either to rely on the documents or withdraw them: see Pamplin v. Express Newspapers Ltd. [1985] 1 W.L.R. 689, referred to in Goldman v. Hesper [1988] 1 W.L.R. 1238. In my judgment, that situation applies when a party lodges a privileged document for taxation in order to claim the costs, the plaintiff must be given the right to elect to withdraw it and not claim costs or he must disclose it. I think the more relevant authority to th position in this case in*

*Derby & Co. Ltd. V. Weldon (No. 7) [1990] 1 W.L.R. 1156. That shows that discovery of privileged documents should only be ordered in clear cases, and where fraud is alleged there must be strong evidence of fraud. In the present case it is not fraud which is alleged but a form of improper conduct and, in my judgment, the same principle applies. Further, in my judgment, there is no strong evidence of the improper conduct; on the contrary. So I find therefore that it would be wrong in this case to order disclosure of the privileged documents.*

*If I am wrong on that, then the decision whether or not to order disclosure was a matter for the taxing master in the exercise of his discretion. But now on an appeal it is for me to decide in the exercise of my discretion, and, in all the circumstances of this case, I would exercise my discretion so as not to order disclosure*". (Emphasis added).

13. The above dictum makes it clear that the discovery of privileged documents should only be ordered in clear cases where fraud is alleged, and there must be strong evidence of fraud. In any event, the power to order for disclosure of such privileged document is discretion which is to be judicially exercised. In **Nair v Prasad** (supra) cited by the counsel for the defendant, the court opined that the defendants could have disclosed the invoices and bills. However, there are several cases where the courts have assessed the costs without those bills and invoices. Therefore, it is my considered view that, the decision of **Nair v Prasad** (supra) is one of the rare occasions, where the court has asked for the bills and invoices, after considering the particular circumstances of that case, and it cannot be taken to mean a general rule which requires disclosure of privileged documents in each and every case of detailed assessment of costs. The case before me is not a case which requires ordering for such disclosure of privileged documents and therefore, I am unable to concur with the contention of the counsel for the defendant in this case.
14. As discussed above, the unambiguous language of Order 62 rule 12 requires the taxing court to decide, (a) whether the amount was reasonable, (b) and it was reasonably incurred, and (c) to give the benefit of the doubt to the receiving party (see: **Ranjay Shandil -v- Public Services Commission**, Suva High Court J/R No: HBJ 0004/1996 which was followed in **Shah v Fiji Islands Revenue and Customs Authority** [2006] FJHC 141; Judicial Review HBJ 42 of 2001 and decided on 11. May 2006).
15. In **Francis -v- Francis and Dickerson** [1955] 3 ALL ER 836 the court considered 'reasonable and proper' and Sachs J., held at page 840 that,

*The correct view point to be adopted by a taxing officer is that of a sensible solicitor sitting in his chair and considering what in the light of his then knowledge is reasonable in the interest of his lay client.*

16. **MALINS, V.-C. in Smith -v- Buller [1874-1880] ALL ER 425** said at 426:

*It is of great importance that the unsuccessful party should bear only the costs necessarily incurred and no more. Those who enter into litigation and are successful must be allowed by their adversary all the expenses necessarily incurred in the litigation but only those expenses which are necessary to conduct the litigation will be allowed in a taxation as between party and party. Expenses which are not absolutely necessary are luxuries. Where the successful party has chosen to conduct the litigation in a luxuries. Where the successful party has chosen to conduct the litigation in a luxurious manner the extra expense must fall on him and not upon the unsuccessful party. In the present case the drawings furnished by the defendant were no doubt very convenient but as they were not absolutely necessary to the case they were luxuries which cannot be allowed on taxation. The objection to their allowance on taxation will therefore be allowed.*

17. Thus, the court in taxation of costs has to consider whether the cost has incurred as a result of the reasonable steps taken by a sensible solicitor considering in his knowledge for his client and that cost was necessary to conduct the litigation. If the court finds any doubt in 'reasonableness' in this process, it shall be resolved in favour of the receiving party. The court might have regard, but not limited, to following matters in discharging its duty in taxation. In fact these are some of the facts that English courts now consider after the Civil Procedure Rules which requires proportionality.

- (a) the conduct of all parties, which includes conduct before, as well as during the proceedings, in particular the extent to which the parties followed any relevant pre-action protocol;
- (b) the efforts made, if any, before and during the proceedings in order to try to resolve the dispute; any payment into court or admissible offer to settle the matter by a party;
- (c) the amount or value of any money or property involved;
- (d) the importance of the matter to all the parties;

- (e) the particular complexity of the matter or the difficulty or novelty of the questions raised;
  - (f) the skill, effort, specialized knowledge and responsibility involved in considering all the circumstances of the case;
  - (g) the manner in which a party has pursued or defended his case or a particular allegation or issue and whether it was reasonable for a party to raise, pursue or contest a particular allegation or issue.
  - (h) whether a party has succeeded in full or on part of the case, even if he has not been wholly successful;
18. This is the clear case of negligence on part of the defendant as stated in the judgement and it revealed that, the defendant released the accrued sum of \$ 37,253.63 to the credit of deceased Chandra to an unknown person, whereas the plaintiff was entitled to receive that amount, being the widow and administratrix of late Chandra. The judge held that the defendant was liable to pay the said amount together with the indemnity cost as the solicitor for the plaintiff already put on notice that the indemnity cost will be sought, had the plaintiff compelled to bring the legal proceedings. The plaintiff had taken all the steps to recover the said amount before opting to this proceeding. Whilst the plaintiff took all the necessary steps in this case up to the trial, the defendant continued to cover up its negligence until the judgment delivered in favour of the plaintiff with the order for indemnity cost.
19. The defendant's main contention was that, there is a repeated claim which is mentioned in items 2 and 6 in the tabulated bill of cost. It seems that, the defendant might have confused in this contention. The item 2 refers to, mainly, drafting the Originating summons by which this action begun. The item 6 refers to mainly notice of appointment to hear the originating summons, which is the correct procedure when an action is begun by way of an originating summons. Therefore, I do not see any repetition as claimed by the defendant.
20. Furthermore, the defendant did not dispute the amount of disbursement except few agency fees. The defendant's counsel relied on Legal Practitioners Act 1997 - Legal Practitioners (High Court Costs) Regulations 2006 for some of her contentions. However, the Schedule I of the said regulations clearly states that, it is the scale of cost for standard basis and the case before me is the cost on indemnity basis. Having carefully considered the total amount claimed, I allow the full amount claimed for disbursements, and the taxed amount as it is tabulated below under the column 'Amount Allowed'.



<u>TAXED OF NO.</u>	<u>ITEM</u>	<u>DISBURSEMENTS</u>	<u>COSTS</u>	<u>AMOUNT ALLOWED</u>
1.	<p>Our attendance to receiving instructions from client together with the relevant documents including letter from FNPF, our M. Singh's attendance to perusal of the document. Doing legal research.</p> <p>Telephone discussion and emails to and from client.</p> <p>Attending to subsequent discussions with clients representative over telephone.</p> <p>Attending to writing letter to FNPF on 02/09/14 requiring documentary evidence and receiving a response from FNPF. Attending to writing letter to FNPF on 22/09/14 and receiving a response on 03/10/14. Attending to writing another letter on 03/10/14 and attending to various emails to and from our client.</p>		\$1,000.00	\$500.00
2.	<p>To discussing with client. Taking note and perusal of documents. Drafting and preparing Affidavit of Mohini Chandra in Support and Originating Summons. Forwarding to our client for verification and finalizing the same. Attending to receiving from our client, finalizing and forwarding the same to our client in USA by our letter dated 12/11/14 for execution before a Notary Public. Attending to receiving from client, photocopying and compiling for filing.</p> <p>To receiving filed copy of Affidavit of Mohini Chandra in Support and</p>	\$57.50	\$2500.00	\$1500.00

	Originating Summons and arranging with our city agents in Suva Messrs Naidu Law for service on Defendant. To receiving affidavit of service and filing in Lautoka High Court.	\$62.50		
3.	Attending to receiving and perusal of Acknowledge of Service of Originating Summons from FNPF on 06/02/2015.		\$100.00	Not Allowed
4.	Attending to receiving and perusal of affidavit in Reply of Olita Talemaibau being filed and issued from Court on 05/03/15. Attending to forwarding the same to our client.		\$500.00	\$300.00
5.	To writing letter to FNPF on 12/3/15 requesting a copy of the application form filled by the deceased and receiving a response from FNPF on 08/04/15 which they wish to join BSP as a Nominal Defendant.		\$100.00	\$50.00
6.	To drafting Notice of Appointment to Hear Originating Summons. Finalizing the same. Printing and compiling document for filing. Attending to courier the same to our city agents Messrs Natasha Khan & Associates for filing in Lautoka High Court.  Arranging for service of the Notice of Appointment to hear originating summons on Defendants counsels.	\$57.50  \$57.50	\$300.00	\$300.00
7.	To receiving and perusal of letter from FNPF on 05/04/15.		\$50.00	\$50.00
8.	Attending to Lautoka High Court on 08/04/15 when the matter was listed for first call for Notice of Appointment to Hear originating Summons, making appropriate representation and obtaining courts directions. Attending to providing our client a progress report.		\$50.00	\$50.00

9.	Attending to receiving and perusal of Order made on 08/04/15 by the Court being issued and served on us on 21/05/15.		\$50.00	Not Allowed
10.	To receiving and perusal of Affidavit in Support and Summons from FNPF issued on 27/05/15 and taking note, updating file. Attending to forwarding the same to our client.		\$300.00	\$100.00
11.	Attending to Lautoka High Court on 08/06/15 when the matter was listed for mention and making appropriate representation, obtaining courts directions. Attending to providing our client a progress report.		\$50.00	\$50.00
12.	To drafting Summons for Directions. Finalizing the same. Printing and compiling document for filing. Attending to filing in Lautoka High Court.  Arranging with our city agents in Suva Messrs Naidu Law for service of the Summons for Directions on Defendants counsels, taking notes and updating dairy. Attending to receiving Affidavit of Service and filing in Lautoka High Court.	\$57.50	\$300.00	\$200.00
13.	Attending to Lautoka High Court on 24/6/15 when the matter was listed for first call under Summons for directions, making appropriate representation and obtaining courts directions. Attending to providing our client a progress report.		\$50.00	\$50.00
14.	To drafting Order under Summons for Directions and filing in Lautoka High Court for Court approval, receiving from Court for	\$11.50	\$200.00	\$200.00

	changes, making changes and refilling in Court registry.  Arranging with our city agents in Suva Messrs Naidu Law for service of the Summons for Directions on Defendant's counsels, taking notes and updating dairy. Attending to receiving Affidavit of Service and filing in Lautoka High Court.	\$57.50		
15.	To receiving and perusal Order of the Court from FNPF being filed and served on us.		\$50.00	Not Allowed
16.	To writing letter to FNPF on 01/07/15 requesting all documents in the name of Ramesh Chandra.		\$100.00	\$50.00
17.	To drafting Plaintiff's Affidavit Verifying List of Documents, attending to verifying all relevant documents and identifying relevant documents for discovery, attending to finalizing the same. To printing and compiling the Affidavit Verifying List of Documents, organizing the same for execution. Attending to filing the same with the Lautoka High Court on 13/8/15 and organizing for service on defendants.		\$300.00	\$300.00
18.	Attending to Lautoka High Court on 10/8/15 when the matter was listed for mention and making appropriate representation, to taking courts direction. Attending to providing our client a progress report.		\$50.00	\$50.00
19.	Attending to receiving and perusal of Defendants Affidavit verifying List of Documents from FNPF issued on 24/8/15 and taking note, updating file.		\$100.00	\$100.00
20.	Writing letter to FNPF on 02/09/15 enclosing Plaintiff's List of Documents & Supplementary		\$100.00	\$50.00

	List of Documents and requesting for Defendants list of documents to be included in the Agreed Bundle of Documents.			
21.	Attending to Lautoka High Court on 09/09/15 when the matter was listed for mention and making appropriate representation, to taking courts direction. Attending to providing our client a progress report.		\$50.00	\$50.00
22.	Attending to Lautoka High Court on 02/10/15 when the matter was listed for mention and making appropriate representation, to taking courts direction. Attending to providing our client a progress report.  To writing letter to FNPF on 05/10/15 offering for settlement and receiving a response from FNPF on 13/10/15.		\$50.00  \$100.00	\$50.00
23.	To writing letter to FNPF on 20/10/15.		\$100.00	\$50.00
24.	Attending to drafting PTC Minutes and forwarding the same to the defendant Solicitors by our letter dated 21/10/15.		\$700.00	\$400.00
25.	To receiving and perusal of letter from FNPF on 30/10/15.		\$50.00	Not Allowed
26.	Attending to Lautoka High Court on 03/11/15 when the matter was listed for mention and making appropriate representation, to taking courts direction. Attending to providing our client a progress report.		\$50.00	\$50.00
27.	To receiving and perusal of letter from Messrs Mitchell Keil Lawyers Solicitors of the Defendant on 07/11/15.		\$50.00	Not Allowed
28.	To writing to Messrs Mitchell Keil		\$100.00	

	Lawyers vide our letter dated 11/11/15 enclosing certified true copy of the death certificate and marriage certificate.			
29.	Attending to writing to FNPF on 02/12/15 in regards to PTC Minutes.		\$100.00	\$50.00
30.	Attending to Lautoka High Court on 03/11/15 when the matter was listed for mention and making appropriate representation, to taking courts direction. Attending to providing our client a progress report.		\$50.00	\$50.00
31.	Attending to Lautoka High Court on 26/01/16 when the matter was listed for mention and making appropriate representation, to taking courts direction. Attending to providing our client a progress report.		\$50.00	\$50.00
32.	Attending receiving and perusal of email from FNPF enclosing comments to draft PTC Minutes.		\$50.00	Not Allowed
33.	Attending to finalizing PTC Minutes and writing to FNPF vide our letter dated 12/2/16 enclosing final PTC Minutes for execution.		\$200.00	\$200.00
34.	Attending to receiving executed PTC Minutes from FNPF and attending making copies and filing it in Lautoka High Court and to receiving issued copies from Court and attending to service on FNPF.		\$200.00	Not Allowed
35.	To writing to FNPF vide our letter dated 02/03/16 requesting a report from Fiji Police Force.		\$100.00	\$50.00
36.	Attending to drafting Copy Pleadings, finalizing, compiling and filing in Lautoka High Court and receiving issued copy from Court and attending to service on FNPF on 01/04/16.		\$300.00	\$200.00
37.	Attending to writing to FNPF vide		\$100.00	\$50.00

	our letter dated 23/03/16 enclosing draft Agreed Bundle of Documents for approval.			
38.	Attending to Lautoka High Court on 04/05/16 when the matter was listed for mention to fix a Hearing date on our Originating Summons and making appropriate representation, to taking courts direction. Attending to providing our client a progress report.		\$50.00	\$50.00
39.	Attending to writing to FNPF vide our letter dated 19/5/16.		\$200.00	\$50.00
40.	Attending to drafting Plaintiff's Bundle of Documents, finalizing of the same, compiling and attending to filing in Lautoka High Court. Attending to receiving issued copies from Court and service on FNPF.		\$300.00	\$200.00
41.	Attending to receiving and perusal of Defendants Bundle of Documents on 30/5/16.		\$100.00	\$100.00
42.	Attending to perusal of the file, drafting Preliminary issue at Trial, finalizing the same, printing, compiling and preparing for Hearing.		\$1500.00	} \$3500.00
43.	Attending to perusal of the file, drafting Plaintiff's Opening Statement, finalizing the same, printing, compiling and preparing for Hearing.		\$2000.00	
44.	Attending to further research on case authorities, printing, compiling, making copies, and getting ready for trial.		\$2000.00	
45.	Attending to Lautoka High Court on 27/6/16 for hearing and making appropriate application and presenting the case, obtaining courts direction. Attending to providing our client a progress report.		\$1500.00	

46.	Attending to doing legal research, perusal of case authorities, drafting Submission on behalf of the Plaintiff. To finalizing the same. Printing, photocopying, compiling and filing the same at Lautoka High Court. To organizing the same for service on 18/7/16 on defendant's FNPF.		\$2500.00	\$1500.00
47.	Attending to receiving issued copy of submissions on behalf of the defendant and list of authorities for defendants closing submissions filed by the defendants solicitor on 19/7/16. To updating file. Perusing the same.		\$300.00	\$150.00
48.	Attending to drafting Final Submissions for the Plaintiff in reply on behalf of the Plaintiff. To finalizing the same. Printing, photocopying, compiling and filling the same at Lautoka High Court. To organizing the same for service on 01/09/17 on Defendants solicitors.		\$2000.00	\$1000.00
49.	Attending to Lautoka High Court on 12/9/16 for mention for Ruling and making appropriate application and presenting the case, obtaining courts direction. Attending to providing our client a progress report.		\$50.00	\$50.00
50.	Attending to Lautoka High Court on 22/9/16 for mention for Ruling and making appropriate application and presenting the case, obtaining courts direction. Attending to providing our client a progress report.		\$50.00	\$50.00
51.	Attending to Lautoka High Court on 17/11/16 for Ruling and making appropriate application and presenting the case, obtaining courts direction. Attending to providing our client a progress report.		\$50.00	\$50.00



52.	Attending to Lautoka High Court on 24/01/17 for Ruling and making appropriate application and presenting the case, obtaining courts direction. Attending to providing our client a progress report.		\$50.00	\$50.00
53.	Attending to Lautoka High Court on 07/03/17 for Ruling and making appropriate application and presenting the case, obtaining courts direction. Attending to providing our client a progress report.		\$50.00	\$50.00
54.	Attending to drafting order, filing the same in Lautoka High Court, attending to receiving the same from Court for changes, making changes, making copies and re filing the same in Court. Attending to receiving issued copy from Court. To organizing the same for service on 22/3/17 on Defendants FNPF.	\$10.90	\$200.00	\$100.00
55.	Other incidents herein inclusive of internet use, printing, photocopying, agency, courier, postage, telephone charge etc.		\$1500.00	Not Allowed
56.	Filing fee for Bill of Taxation	\$54.50		
	<b>TOTAL</b>		\$23,050.00	\$12, 050.00
	<b>VAT</b>		\$2,074.50	\$1084.50
	<b>TOTAL DISBURSEMENTS</b>	\$484.40	\$484.40	\$484.40
	<b>GRAND TOTAL</b>		<b><u>\$25,608.90</u></b>	<b><u>\$13, 618.90</u></b>

21. Accordingly, the defendant is ordered to pay the following amounts within 14 days from today:
- a. A sum of \$ 12,050.00 being the total assessed amount,
  - b. A sum of \$ 1,084.50 being the VAT calculated at the rate of 9%,
  - c. A sum of \$ 484.40 being the total disbursement.
22. In result, the grand total to be paid by the defendant is a sum of \$ 13,618.90 and I am satisfied that, this amount is reasonable to compensate the plaintiff, as it was emphasized that, the purpose of an order that one party should pay the other's cost on an indemnity basis is not penal but compensatory (Willis -v- Redbridge Health Authority (1996) 1 WLR 1228 at 1232).



**At Lautoka**  
**04.07.2019**

  
**U. L. Mohamed Azhar**  
**Master of the High Court**