

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA  
(DAR ES SALAAM DISTRICT REGISTRY)**

**AT DAR ES SALAAM**

**MISC. CIVIL APPLICATION NO. 569 OF 2019**

(Arising from civil Appeal No. 251 of 2017)

**BRITAM INSURANCE TANZANIA LTD.....APPLICANT**

**VERSUS**

**EZEKIEL KINGONGOGO .....1<sup>ST</sup> RESPONDENT**

**SIMON OSIAH MWAMBIGIJA.....2<sup>ND</sup> RESPONDENT**

**RULING**

*Date of last order 29/11/2019*

*Date of Ruling 19/03/2020*

**EBRAHIM, J.**

The applicant has made the instant application under the provisions of **Section 5 (1) (c) of the Appellant Jurisdiction Act, Cap. 141 R.E. 2002 and Rule 45 (a) of the Tanzania Court of Appeal Rules** praying for leave of this court to lodge an appeal to the Court of Appeal from the decision of this Court of 20/09/2019 vide Civil Appeal No. 251/2017.

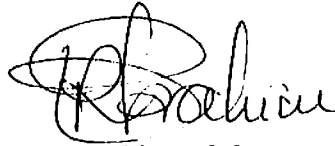
The application is supported by an affidavit of Mr. Mudhihir Athuman Magee, Counsel for the applicant. Counsel for Respondent Ms. Anna Amon has no objection to the application.

The genesis of the application emanates from the decision on Civil Case No. 74 of 2016 at the Resident Magistrate Court Dar Es Salaam Kisutu where the 1<sup>st</sup> Respondent sued the applicant and was awarded specific damages to the tune of TZS. 10,101,300/= arising from the Motor vehicle accident and TZS 20,000,000/= as general damages.

Aggrieved the applicant unsuccessfully appealed to this court on the grounds that the suit was time barred and awarded damages were on a higher side. It is on that back-ground that the applicant wishes to challenge the decision among other issues as to whether on the accident matters time start the to run when the applicant/defendant denied to compensate the victim; and whether the negotiations into setting the matter stop time from running.

Having considered the issues that are sought to invoke the attention of the Court of Appeal are jurisdictional issues, again following the fact that the respondent has no

objection, I am also of the views that this is one of the cases that warrants the guidance of the Court of Appeal. I therefore grant the application. Costs shall follow the outcome of the Appeal.

A handwritten signature in black ink, appearing to read 'R. A. Ebrahim', with a large, stylized initial 'R'.

**R. A. Ebrahim**

**JUDGE**

**19/03/2020**