

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF
TANZANIA
(COMMERCIAL DIVISION)
AT DAR-ES-SALAAM**

COMMERCIAL CASE NO.06 OF 2020

BRITAM INSURANCE TANZANIA LTD.....PLAINTIFF

VERSUS

UDA RAPID TRANSIT
PUBLIC LTD COMPANY.....1ST DEFENDANT
THE HON.ATTORNEY GENERAL.....2ND DEFENDANT
SKYSTARS INSURANCE BROKERS LTD.....3RD DEFENDANT

Last Order: 07th February 2023

Judgement: 08th February 2023

CONSENT JUDGEMENT

NANGELA, J.:

This is a consent judgement. The Plaintiff sued the Defendants and is seeking from this Court, judgement and decree as follows:

1. Payment of **TZS**
317,507,014, being an
outstanding amount on
Motor Vehicle Insurance
Policies.
2. Commercial interest at
the Bank of Tanzania
lending rate as applicable
on the 28th April 2017 to
the date of judgement.

3. Interest on the decretal sum at Court's rate of 7% per annum from the date of judgment to the date of full payment.
4. Cost of this suit
5. Any other relief as the Court may deem just to grant.

Although the 1st and 2nd Defendants appeared and filed their respective defences and through a third-party application brought into this suit the 3rd Defendant, the parties asked for time to engage out of court to resolve their matter amicably.

Generally, an amicable settlement of dispute is a preferred option and whenever an opportunity for it unfolds the Court will have to accommodate it. This stated position was echoed by the Sixth Circuit of the United States Court of Appeals, in the case of **Goodyear Tire & Rubber Co. v. Chiles Power Supply, Inc.**, 332 F.3d 976, 980 (6th Cir. 2003), where it was observed that:

"Settlement of a dispute is an important and a welcome process.... The ability to

negotiate and settle a case ...
fosters a more efficient, more
cost-effective, and
significantly less burdened
judicial system.”

On the 09th day of February 2023, a date when the matter was fixed for orders, this Court noted that the parties filed on the same day a Deed of Settlement under Order XXIII Rule 3 of the Civil Procedure Code, Cap.33 R.E 2019, detailing how their dispute was brought to an end.

Appearing before the Court on this material date, was Ms Fatma Mgunya, learned advocate, (appearing for the Plaintiff) as well as Ms Sechelela Chitinka, learned State Attorney who appeared for 1st and 2nd Defendants. In court as well was Mr Lewis Lyimo, learned Advocate for the 3rd Defendant.

Ms. Mgunya addressed this Court informing it that, early this 09th day of February 2023, the parties filed a deed of settlement which they request that, it be registered as forming the Judgment and Decree of this Court in accordance with the requirements of the law. Her submission was supported by the Ms Chitinka and Mr. Lyimo all praying that the Deed be registered under Order XXIII Rule 3 of the Civil Procedure Code, Cap. 33 R.E 2019 as forming the Decree of this Court.

In essence, under Order XXIII Rule 3 of the Civil Procedure Code, Cap.33 R.E 2019, which forms the basis

upon which the Deed filed by the parties herein is premised, the Court will have to be satisfied whether the agreement is lawful and compromises the suit in whole or in part.

The respective provision of Order XXIII Rule 3 provides as follows:

"Where it is proved to the satisfaction of the court that a suit has been adjusted wholly or in part by any lawful agreement or compromise, or where the defendant satisfies the plaintiff in respect of the whole or any part of the subject matter of the suit, the court shall order such agreement, compromise or satisfaction to be recorded, and shall pass a decree in accordance therewith so far as it relates to the suit."

I am also reminded of the decision of the Court of Appeal in the case of **Motor Vessel Sepideh and Another vs. Yusuf Mohamed Yussuf and two Others** (Civil Application No.237 of 2013) (unreported) where the Court stated that:

"where there is a lawful agreement or compromise the court is bound to record

a settlement once it is
arrived at by the parties."

I have taken the liberty of examining the Deed of Settlement and, having gone through it I am satisfied that it complies with the requirement of the law and does wholly settle the dispute between the parties. In view of that, I hereby proceed to record and declared it to be forming part and parcel of this Consent Judgment of the Court, as well as its decree.

That being said, the present suit, is, therefore, marked settled at the instance of the parties and in accordance with the terms and conditions set out in their Deed of Settlement executed and filed in this Court on this 09th day of February 2023. Consequently, the Deed of Settlement filed in this Court by the parties herein, do form part and parcel of this Court's Decree.

It is so ordered

**DATED AT DAR-ES-SALAAM ON THIS 9TH DAY OF
FEBRUARY 2023**



.....
DEO JOHN NANGELA
JUDGE