



**THE REPUBLIC OF UGANDA  
IN THE INDUSTRIAL COURT OF UGANDA AT GULU  
LABOUR DISPUTE REFERENCE NO. 7 OF 2024  
(Arising from Labour Complaint No.GCC/NORTH/LC/032/2024)**

**KOMAKECH JOHN**.....**CLAIMANT**

**VERSUS**

1. **MUTTICO TECHNICAL SERVICES LTD**.....**RESPONDENTS**  
2. **UMEME LTD**

**Before:**

The Hon. Mr. Justice Anthony Wabwire Musana

**Panelists:** Hon. Adrine Namara, Hon. Susan Nabirye & Hon. Michael Matovu.

*Representation:*

- 1. *The Claimant appeared pro se*
- 2. *Mr. Ferdinand Musimenta of M/S S&L Advocates for the Respondent.*

Case Summary

*Jurisdiction-preliminary objection whether the Industrial Court of Uganda has jurisdiction to hear claims for compensation under the Workers Compensation Act Cap.233 225*

---

**RULING**

**Introduction**

[1] This ruling is in respect of two preliminary points of law raised by Mr. Musimenta, appearing for the 2<sup>nd</sup> Respondent, to the effect that the Claimant's memorandum of claim does not disclose a cause of action against his client, and this Court does not have jurisdiction to entertain the claim in the manner in which it is presented.

**Background**

[2] By way of background, the 2<sup>nd</sup> Respondent is an electricity distribution company. It executed an agreement with the 1<sup>st</sup> Respondent by which the 1<sup>st</sup> Respondent would provide labour services and personnel. On the 26<sup>th</sup> of June 2008, the Claimant was employed by the 1<sup>st</sup> Respondent as a casual labourer for six months, renewable, at a gross monthly payment of UGX 208,000/=. He was later elevated to Lines Assistant,

Assistant Linesman and Assistant Technical Officer in January 2018. The elevations came with improved pay, overtime pay, medical insurance, and social security contributions.

- [3] On the evening of the 16<sup>th</sup> of May 2022, while the Claimant was carrying out repair work 14 meters atop an electrical pole near Stanbic Bank(U) Ltd on Andrea Olal Road in Gulu, he was engulfed in flames. He sustained severe burns to his right hand and took refuge on an Aerial Bundle Cables(ABC)Conductor. These are overhead power lines using several insulated phase conductors bundled tightly together, usually with a bare neutral conductor<sup>1</sup> which sat on the Low Voltage stand. He cried out to his colleagues on the ground. A crane was summoned to lower him onto firm ground, and he was rushed to a medical facility. His right-hand developed gangrene and was surgically amputated. He spent over two months in hospital. When he returned to work, he pleads that he was not paid his benefits from August 2022 to February 2024. He filed a complaint at the Gulu Labour Office. He contended that he suffered permanent incapacity and sought various remedies from this Court, including declarations relating to his injury, medical insurance, unremitted NSSF contributions, Risk Allowance, Medical care expenses, three months' pay in lieu of notice, compensation for discrimination, aggravated and general damages, interest and any other remedy the Court deemed fit. His monetary claims are in the region of UGX 659,099,900/=.
- [4] In its memorandum of reply, the 2<sup>nd</sup> Respondent denied liability, suggesting that the Claimant was not its employee but an employee of the 1<sup>st</sup> Respondent. The 2<sup>nd</sup> Respondent raised the preliminary objections laid out in paragraph[1] above, the subject of this ruling. The 2<sup>nd</sup> Respondent also contended that it had not been served with any hearing notice by the labour officer.
- [5] When the matter was called before us on the 30<sup>th</sup> of May 2024, the parties made oral submissions regarding the preliminary points. These were augmented in written submissions, which we have summarised below.

#### Submissions of the 2<sup>nd</sup> Respondent

- [6] On whether the Claimant had a cause of action against the 2<sup>nd</sup> Respondent, Mr. Musimenta argued that he did not. Counsel cited *Auto Garage v Motokov No.3*<sup>2</sup> and *Ssekamwa v Umeme Ltd*<sup>3</sup> for the proposition that the pleadings did not show that the Claimant had a right against the 2<sup>nd</sup> Respondent and that the 2<sup>nd</sup> Respondent had violated that right<sup>4</sup>. It was Counsel's prayer that the memorandum of claim be struck out.<sup>5</sup>
- [7] On the question of jurisdiction, citing Sections 1 and 14 of the Workers Compensation Act Cap. 225, ('the WCA'), it was submitted that claims under WCA are to be brought

<sup>1</sup> [https://en.wikipedia.org/wiki/Aerial\\_bundle\\_cable](https://en.wikipedia.org/wiki/Aerial_bundle_cable)

<sup>2</sup> (1971) EA 519

<sup>3</sup> [2014] UGCommC 105

<sup>4</sup> *The Micro Finance Support Centre Ltd v The Uganda Micro Entrepreneurs and Ors* [2006] UGCommC 26

<sup>5</sup> Mr. Musimenta referred us to Order 6 r 30 and Order 7 r 11 CPR and Rule 5(2) of the Labour Disputes(Arbitration and Settlement) (Industrial Court Procedure) Rules 2012. He also referred us to *Draga v Jesa Farm Dairy Limited* [2022] UGIC 43



before a Magistrates Court. Our attention was directed at *Maate v Hima Cement Ltd*<sup>6</sup> where this Court dismissed a similar claim for lack of jurisdiction.

### Submissions of the Claimant

- [8] The Claimant, self-representing, in an oral address to the Court, made three points: First, he inquired if Mr. Musimenta had a valid practicing certificate. Secondly, he asked why the 2<sup>nd</sup> Respondent's lawyer was in court if there was no claim against it. Thirdly, he said the objection could not stand because the injuries were sustained while working for the 2<sup>nd</sup> Respondent. It was his view that all his documents supported his claim.

### Rejoinder

- [9] In rejoinder, Mr. Musimenta referred us to several documents in the Claimant's trial bundle showing the 1<sup>st</sup> Respondent as the employer and an independent contractor relationship between the 1<sup>st</sup> and 2<sup>nd</sup> Respondents. In closing, he said that the 2<sup>nd</sup> Respondent's impending exit from jurisdiction did not create a cause of action against it.

### Determination

- [10] In our view, ordering the issues in the manner proposed by Mr. Musimenta was not the most helpful approach. This is because jurisprudence places jurisdiction as a primary question for any Court. The judicial or procedural economy would give preference to the determination of jurisdiction before determining whether a cause of action subsists or, indeed, any other question. Several passages from our decisions in *Kamukama v Summit Project Limited*<sup>7</sup> support adopting this approach. In *Kamukama*, we cited *Attorney General of the United Republic of Tanzania v African Network of Animal Welfare*.<sup>8</sup> The Appellate Division of the East African Court of Justice observed that jurisdiction is a most if not the most, fundamental issue a court faces in any trial. It is the very foundation upon which the judicial edifice is constructed, the foundation from which springs the flow of the judicial process. Without jurisdiction, a court cannot take even the proverbial first Chinese step in its judicial journey to hear and dispose of a case. In short, the EACJ counseled that a court must try jurisdiction before any other question. We think this should be the approach in the present case, and we shall first resolve the question of jurisdiction.

### Jurisdiction

- [11] It is trite jurisdiction of the Court that can only be granted by law, and if the Court conducts proceedings without jurisdiction, they are a nullity.<sup>9</sup> In *Baku Raphael Obudra and Another v Attorney General*<sup>10</sup> it was held that jurisdiction is a creature of statute. Jurisdiction cannot be assumed even with the consent of parties. Proceedings made by

<sup>6</sup>

<sup>7</sup> [2023] UGIC 54

<sup>8</sup> Appeal No. 3 of 2011 EACJLR 2005-2011 395 at 399

<sup>9</sup> *Desai v Warsaw* [1967]EA 351.

<sup>10</sup> [2006] UGSC 5

a Court lacking competent jurisdiction are illegal and amount to a nullity.<sup>11</sup> These decisions reinforce our approach to resolving jurisdiction before cause of action, given that any other approach could nullify the proceedings before us.

- [12] In paragraph 3 of the memorandum of claim, the Claimant seeks a declaration that he sustained a permanent total injury, his termination after injury was unlawful and unjust, and he seeks compensation for discrimination, reimbursement for medical expenses and other remedies. In paragraphs 7 and 8, his particulars relate to permanent total incapacity because of what he regards as a "fatal right-hand injury" leading to amputation, which resulted in his loss of employment. He, therefore, founded this action on the injuries sustained on the evening of the 16<sup>th</sup> of May 2022. The short question is whether the law permits the Industrial Court to hear and determine a case arising from injuries in the workplace.
- [13] The answer is in the Workers Compensation Act Cap.225 (the WCA). The long title of this Act provides for compensation to workers for injuries suffered and scheduled diseases incurred in the course of their employment. Under Section 1(i), "injury" means an accident or scheduled disease. In the second schedule to the WCA, loss of a hand or arm is provided for. Under Sections 9-15WCA, the procedure for compensation is laid out, and we shall elaborate on this point in paragraph [16] of this ruling. However, for purposes of jurisdiction, in these provisions, there is a reference to the court in assessing compensation (*See Sections 11(3), 12(3), 14(3) and 15(1)*). Under Section 1(a) WCA, "court" means a magistrate's court established under the Magistrates Courts Act, presided over by a Chief Magistrate or Magistrate grade I, having jurisdiction in the area where the accident occurred to the worker. The interpretation provision does not refer to the Industrial Court, nor is the Industrial Court of Uganda mentioned anywhere within the WCA. Under Section 16WCA, appeals from decisions of the court lie to the High Court. Therefore, the framers of the WCA did not intend for the Industrial Court to preside over disputes relating to workplace injuries. From a plain reading of the WCA, this Court does not have jurisdiction to hear any matters about workplace injury or scheduled diseases.
- [14] In the present matter, in paragraph 3 of the memorandum of claim, the Claimant pleaded as follows:

That the Claim upon the Respondents jointly and severally before this Court be in the form of a declaration that the Claimant sustained a permanent total injury while executing the Respondent due diligent work and his employment contract termination after the injury was unlawful and unjust, compensation for discrimination, reimbursement of medical expenses, unremitted NSSF, unpaid Risk Allowance and Medical Insurance., payment in lieu of notice, aggravated and general damages, interest at 9% rate per annum and costs.

---

<sup>11</sup> The term jurisdiction is defined in *Owners of Motor Vessel Lillian "s" v Caltex Oil Kenya Limited* [1989] KLR 1 which was cited in the case of *Ozuu Brothers vs Ayikoru Milka* H.C.C.R 006 of 2016



- [15] The Claim, as it stands, is grounded on an injury sustained at work. The Second Schedule to WCA lists loss of an arm at the Shoulder at 70% and Loss of hand at the Wrist at 60% permanent incapacity. The range for a loss of the arm is between 60 and 70%, depending on the point between the shoulder and wrist at which the arm is amputated. The Claimant particularised his permanent total physical and mental incapacity as the basis for his claim for other remedies and the grounds for his termination. This Court's opinion is that it cannot consider the termination without reference to the injury, which would mean considering a matter where this Court does not have jurisdiction. The line between venturing into territory that the framers of WCA did not intend this Court to enter is very thin. Had the Claimant separated his claim, this Court might have considered the lawfulness of his termination. Therefore, where the Claimant has originated a claim for workplace injury, this Court is not seized to hear. For the reason that we find that the Industrial Court does not have jurisdiction to entertain such disputes, we must, as Nyarangi JA put it in *Owners of Motor Vessel Lillian "s" v Caltex Oil Kenya Limited*,<sup>12</sup> down our tools in respect of all the matters relating to compensation for injury in the case before us because we hold the opinion that we are without jurisdiction.
- [16] We are fortified in that approach by this Court's decision in *Taremwa v New Times Express Ltd*<sup>13</sup> where the Court declined to entertain a prayer under WCA. This is the difficulty expressed in the words of Mulenga JSC(RIP) in *Mohan Musisi Kiwanuka v Asha Chand*<sup>14</sup> where His Lordship observes that if a court has no jurisdiction over part of the case before it, it has no jurisdiction to try the case. Or as even more succinctly laid out by Kakuru JA(RIP) in *Mugyenzi v Uganda Electricity Generation Co. Ltd.*<sup>15</sup> In that case, the Court of Appeal found it disturbing for litigants to be uncertain about which forum to file an action in. This is so because, unlike the High Court, which enjoys unlimited original jurisdiction in all matters<sup>16</sup>, this Court enjoys appellate and referral jurisdiction. Since the WCA explicitly does not grant this Court jurisdiction to entertain claims under that Act, the Court cannot assume a jurisdiction that a statute says the Court does not have.
- [17] The other difficulty that the Claimant finds himself in this matter is the procedure under the WCA(outlined in paragraph [13] above) does not aid his case. In *Pernix Construction LLC vs Ambalali Mazad and 4 Others*<sup>17</sup>, the High Court upheld the procedure of assessing compensation by a Labour Officer following an examination by medical personnel. In that case, after making the assessment, the Labour Officer forwarded the claim to a Magistrates Court for enforcement. The Appellant challenged this procedure. Ssekaana J found that the Labour Officer was procedurally correct. The procedure is under Section 9 WCA, a notice of an accident is issued within one month of the accident. The Employer is required to report the accident to the Labour Officer under Section 10(1) WCA. Under Section 11 WCA, the employer is required to arrange for a medical examination. After that, under Section 12 WCA, the parties may agree to the amount of

<sup>12</sup> [1989]KLR 1

<sup>13</sup> [2020] UGIC 24. See also *Dr Bunoti v AAR Health Care Uganda Limited and Another* [2022] UGIC 9

<sup>14</sup> [2003] UGSC 27

<sup>15</sup> [2019] UGCA 120

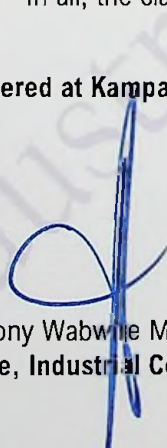
<sup>16</sup> In *Ssentamu v Jibu Corporate Uganda Limited* [2022] UGHCCD 72, Wamala J found that a plaintiff could properly join a claim under the WCA with other claims before the High Court because it enjoys unlimited original jurisdiction.

<sup>17</sup> [2023] UGHCCD 6

compensation. If the parties dispute the disability assessment, the parties may apply to the Labour Officer to refer the matter to the medical arbitration board. Under Section 14(1) WCA, if the employer does not agree in writing to compensation, the worker may file a claim before the court, that is, the Magistrate's Court in the jurisdiction where the accident occurred. It does not mean the Industrial Court. In the present case, the senior labour officer of Gulu City, Mr. Geoffrey Lakwonyero, referred the matter to the industrial court. That option was not available to him under Sections 13(1) and 14(1) WCA require a labour officer to refer the matter to a magistrates Court. The procedural jurisdiction does not reference the Industrial Court. We came to the same conclusion in *The Normandy Company v Tumushabe*.<sup>18</sup>

- [18] Therefore, where the Claimant has originated a claim for workplace injury, this Court is not seized to hear the matter. For the reason that we find that the Industrial Court does not have jurisdiction to entertain such disputes, we must, as Nyarangi JA put it in *Owners of Motor Vessel Lillian "s" v Caltex Oil Kenya Limited*,<sup>19</sup> down our tools, as we hereby do.
- [19] For the reasons above, we uphold the preliminary objection that this Court does not have jurisdiction to entertain the claim for compensation under the WCA. As we do not have jurisdiction to try the claim in the manner it is formulated, it is dismissed with no order as to costs.
- [20] It is also unnecessary to consider the second objection of whether there is a cause of action or not because we have found that we do not have jurisdiction to hear the matter.
- [21] One final point: the Claimant argued that the 2<sup>nd</sup> Respondent had filed its memorandum out of time. Ordinarily, that would be a valid objection. However, we have found that we do not have jurisdiction, so the objection is moot. There is nothing to consider.
- [22] In all, the claim is dismissed with no order as to costs.

Delivered at Kampala this 5<sup>th</sup> day of July, 2024.

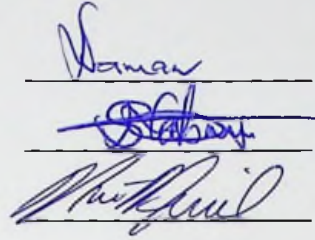
  
Anthony Wabwire Musana,  
Judge, Industrial Court

<sup>18</sup> [2023] UGIC 95

<sup>19</sup> [1989] KLR 1

**The Panelists Agree:**

1. Hon. Adrine Namara,
2. Hon. Susan Nabirye &
3. Hon. Michael Matovu.



**5<sup>th</sup> July 2024**

**9:44 a.m.**

**Appearances**

- |  |  |
|--|--|
| 1. For the Claimant:                   | The Claimant is absent.                            |
| 2. For the 1 <sup>st</sup> Respondent: | None   |
| 3. For the 2 <sup>nd</sup> Respondent: | Mr. Rodney Nganwa on brief for Ferdinand Musimenta |

Court Clerk: Mr. Samuel Mukiza.

Mr. Nganwa: Matter is for ruling.

Court: Ruling handed down in open Court.



Anthony Wabwire Musana,  
Judge, Industrial Court