

IN THE HIGH COURT OF FIJI  
AT SUVA  
CIVIL JURISDICTION

Civil Action No. **HBC 54 of 2016**

**BETWEEN:** **SAMUELA SAUTAMATA RITOVA** of Lot 59, Makoi Road, Nasinu.

**PLAINTIFF**

**AND:** **RAIWAQA BUSES LIMITED** a limited liability company having its registered office at 211 Ratu Sukuna Road, Suva.

**DEFENDANT**

**AND:** **SUN INSURANCE COMPANY LIMITED** a limited liability company having its registered office at Level G & 1 Kaunikuila House, Laucala Bay Road, Suva.

**THIRD PARTY**

**Representation:**

**Plaintiff** – In Person.

**Defendant** - Ms. S.D. Prasad (M.A. Khan Esq)

**3<sup>rd</sup> Party** – Ms. Aguilar & Mr. Vananalagi (AK Lawyers)

**Date of Hearing:** 23<sup>rd</sup> July 2025.

**Ruling**

**A. Introduction**

[1] There are two summonses before me. The first one is filed on behalf of the Plaintiff seeking **orders for additional interim payments**. The other is filed on behalf of the third party seeking that an **order for judgment on liability** be determined first in this matter in view of the pending consolidated matters being Civil Action No. 7 of 2015, 324 of 2015, 127 of 2017 and 144 of 2017. The respective summonses are supported by an affidavit of the plaintiff and Binay Dutt (Claims Manager for third party). An affidavit of Krishan Kumar of the defendant company was filed in response to the affidavit of the plaintiff.

[2] The trial commenced on 10<sup>th</sup> June 2024 and concluded on 19<sup>th</sup> June 2024. The judgement is pending. On 27<sup>th</sup> June 2024, the Plaintiff's right leg was amputated from above the knee. The Plaintiff was a passenger in the bus, belonging to the Defendant Company, which was involved in an accident. On 31<sup>st</sup> October 2024, I allowed the plaintiff to adduce further evidence on his medical condition. This is pending. The Plaintiff got new lawyers on board following his previous lawyers withdrawal.

**B. Determination**

**(i) Additional Interim Payments**

[3] The plaintiff is seeking additional interim payment. On 6<sup>th</sup> August 2018 he was granted interim payment of \$30,000.00. The reason for this application is that his residence is under mortgage. He has defaulted due to his inability to work and earn a stable income.

He had support from his son, he is now in Ukraine and contact with him and his support is restricted. He is seeking \$25,000.00 to assist him fully pay his house loan and provide him some funds.

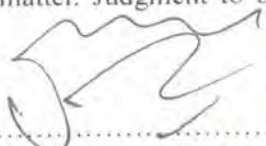
- [4] The defendant and the third-party object to the application. The position of the third party is that the application is late as the trial concluded on 20<sup>th</sup> June 2024. The other issue raised by the third party is that the defendant did not lead evidence of his house loan during the trial.
- [5] The defendant's position is that plaintiff's home loan arrears is \$391.90. It is modest. It does not justify paying \$25,000.00. The home loan statement shows a balance of \$18,332.55. It is a joint loan obligation shared with his spouse.
- [6] The plaintiff's application for interim payment is pursuant to Order 29 Rules 10 and 11 (1) of the High Court Rules 1988. The matter has proceeded to trial. The judgment is pending. I have noted the decision of Justice Byrne in **The AG of Fiji and Ministry of Health v. Loraini Dre (Civil Appeal No ABU 022 of 2009L** that "...there are two basic principles involved. First that normally, unless there are exceptional reasons for not so doing, where it is reasonable to award an interim payment of damages the courts will make such an award. Secondly, there is no requirement for a plaintiff to show need or hardship before an order for interim payment can be made by a Court."
- [7] I note the law. The medical report of the plaintiff is in evidence. The plaintiff received substantial injuries. The trial has concluded. The defendant is a limited liability company with financial means to make the interim payments. With this in mind I order the defendant to make an interim payment of \$10,000.00 to the plaintiff. This payment is to be made to the Plaintiff within 7 days.

(ii) **Judgment on liability**

- [8] The application by the third party on the issue of judgment on liability to be determined has merit. The trial has concluded. Following the conclusion of the trial, the plaintiff was allowed further evidence relating to his medical condition. This has no bearing on liability. It relates to damages. The case has already been pending for long. The determination of liability in this matter has a bearing on 4 other matters.
- [9] The court will determine liability in this matter. The judgment will be delivered on 29<sup>th</sup> August 2025.

**Court Orders**

- (a) Defendant to make an interim payment of \$10,000.00 to the Plaintiff within 7 days.  
(b) Liability to be determined in this matter. Judgment to be delivered on 29<sup>th</sup> August 2025.

  
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Chaitanya S. C. A Lakshman  
Puisne Judge  
30<sup>th</sup> July 2025

