

**IN THE HIGH COURT OF FIJI
AT SUVA
CIVIL JURISDICTION**

Civil Action No. **HBC 301 of 2018**

BETWEEN: **IRENE MEENA CHAND** of Lot 56 Siga Road Laucala Beach Estate,
Suva, Supervisor as the Administratrix of the Estate of Corporal Manoj
Chand.

PLAINTIFF

AND: **THE COMMANDER OF THE REPUBLIC OF FIJI MILITARY
FORCES** of Berkley Crescent, Suva.

1st DEFENDANT

AND: **THE ATTORNEY GENERAL OF FIJI** of Suvavou House, Victoria
Parade, Suva.

2nd DEFENDANT

Representation:

Plaintiff: Mr. Y. Kumar (Jiten Reddy Lawyers)

First Defendant: Mr. A. Paka (Army Legal Services)

Date of Hearing: 18th August 2025.

Judgment

- [1] A summons to strike out was filed on behalf of the 1st Defendant. It is pursuant to Order 18 rule 18 (1) (a), (b) and (d) of the High Court Rules 1988. The summons supported by an affidavit of Aisake Oatley Rabuku (Commander (Navy)), Principal Legal Officer, Army Legal Services. An affidavit in opposition of the Plaintiff was filed.
- [2] The 1st Defendant seeks to strike out the matter pursuant to Section 52 of the Republic of Fiji Military Forces Act 1949. They argue that this Act gives RFMF immunity from any civil liability if the matter has not been instituted within 3 months period after giving notice of 1 month. They further relied on a Court judgment, **Kaiava Tadrau v. RFMF HBC 334 of 2020**. It was delivered on 4th July 2023.
- [3] For the Plaintiff, the submission is that the summons be struck out. Their position is that the matter is not frivolous, vexatious and scandalous. It has serious purpose. The claim is meritorious and ought to be tried in court. For the Plaintiff the time lapse is accepted as a serious hurdle.
- [4] The Plaintiff instituted this action on 3rd October 2018 by way of writ of summons seeking damages from the Commander of RFMF following the demise of Manoj Chand.

According to the statement of claim, Manoj Chand, was the husband of the Plaintiff and a Corporal in the Military. He passed away on 12th October 2015 at CWM Hospital, Suva as a result of septic shock and foot sepsis. At the time of his demise, Manoj Chand was employed by Republic of Fiji Military Forces (RFMF). It is claimed that the deceased was a diabetes type 2 patient and was undergoing treatment at RFMF. It is further claimed that despite the Defendant knowing the condition of Manoj Chand deployed him for work with RFMF Engineers in Sigatoka. That Manoj Chand was working at the site when he became ill and could not continue to work.

[5] Section 52 of the Republic of Fiji Military Forces Act 1949 provides:

52 (1) No action shall be brought against any officer or soldier for anything done by him or her under this Act unless the same is commenced within 3 months after the act complained of was committed nor unless notice of such action has been given at least one month before such action was commenced.

[subs (1) am Ordinance 56 of 1961 s 3, effective 21 December 1961]

(2) In every action brought against any officer or soldier for anything done by him or her under this Act the plaintiff shall expressly allege in his or her statement of claim that such act was done either maliciously or without reasonable and probable cause or through gross negligence, and if at the trial of such action he or she fails to prove such allegation he or she shall be non-suited or a verdict shall be given for the defendant.

[subs (2) am Ordinance 56 of 1961 s 3, effective 21 December 1961]

[6] The Commander of RFMF is an 'officer' in terms of Section 2 of the RFMF Act 1949.

[7] The action was instituted on 3rd October 2018 seeking damages from the Commander (RFMF) following Manoj Chand's demise on 12th October 2015.

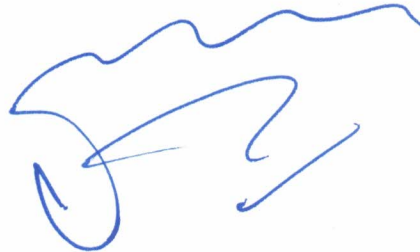
[8] The time period for institution of an action under Section 52 of the RFMF Act 1949 is stated to be three months after giving notice of one month.

[9] The Plaintiff initiated this action nearly 3 years from the demise of Manoj Chand. The Plaintiff cannot proceed as Section 52 confers immunity to the Commander of RFMF.

[10] The action is struck off. No orders as to costs.

Court Orders

- (i) Action is struck off.
- (ii) No costs.



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Hon. Justice Mr. C S C A Lakshman

Puisne Judge
26th September 2025

