

IN THE MAGISTRATES COURT AT NADI
CIVIL JURISDICTION

Civil Case No. 79 of 2025

BETWEEN : KRITIKA ANUWESH LATA

1st Plaintiff

AND : TONEX (FIJI) PTE LTD

2nd Plaintiff

AND : GURKIRAT SINGH

1st Defendant

AND : SEENAL SHWETA SINGH

2nd Defendant

RULING

This claim was filed on 5 June 2025 and is listed for first call on 24 June 2025. It seeks general damages, aggravated/exemplary damages, special damages, interest, and costs on a solicitor-client basis. The claim arises from an accident that occurred on 18 March 2025.

Filed with the claim is an ex-parte Notice of Motion seeking a stop departure order against the 1st Defendant, which was first called on 9 June 2025. In paragraph 8 of the Affidavit in Support, the 1st Plaintiff deposes that she believes the claim will exceed \$40,000.

When the ex-parte application was first called, the Court noted that the Statement of Claim did not expressly state that the Plaintiff limits the claim to the jurisdiction of the Magistrates Court. As a result, the stop departure order was not granted, and Plaintiff's counsel was informed accordingly.

Let me just state from the outset that **jurisdiction is the foundation of judicial authority**. The \$50,000 monetary ceiling is not a guideline; it is a statutory boundary. Any claim exceeding that limit removes the matter from this Court's jurisdiction - See **section 16(1)(a) of the Magistrates Court Act 1944**.

Counsel for the Plaintiff referred the Court to the High Court decision in *Dhirendra Dinesh Nand v Sara Ismail* [2020] FJHC 765; CA No. HBA 16 of 2020, which suggests that claims do not need to specifically state they are limited to the jurisdiction of the Magistrates Court. That decision also referred to *Chand v Sharma* [2016] FJHC 1022; Civil Appeal 9/14. The Court has considered both authorities.

In *Dhirendra's* case, the High Court suggested that filing in the Magistrates Court gives rise to a presumption that the Plaintiff has limited their claim to within jurisdiction. **With respect, this reverses the proper legal position**, jurisdiction cannot be assumed, it must be clearly established.

The burden is on the Plaintiff to show that the Court has jurisdiction. Choosing this forum does not, on its own, satisfy that requirement. If jurisdiction could be presumed from silence, important procedural safeguards would be undermined.

While I acknowledge the reasoning in *Dhirendra*, this Court is guided by **longstanding legal principles**. Jurisdiction cannot rest on assumptions or be inferred from silence in pleadings. The monetary limit in the Magistrates Court Act must be respected. Unless the Plaintiff **expressly** limits their claim including interest, costs, or any other relief to \$50,000, the Court has no power to proceed.

As noted in *Chand v Sharma*, supra:

"There has been no attempt to limit the amount of interest claimed to within the jurisdiction of the Magistrate's Court."

This confirms the need for clarity in pleadings. Without such clarity, the Court cannot reliably determine if it has jurisdiction.

I note the positions in *Dhirendra* and *Chand*, but they appear to conflict with established authority and longstanding interpretation. Until the Court of Appeal or legislature states otherwise, I consider myself bound by the **earlier line of authority**, which requires that claims be clearly and expressly limited to the Court's jurisdiction.

I am guided by *Ram Khelawan v Budh Ram* (1967) 13 FLR 196 [at 197] on the proposition that *where the Magistrates Court does not have jurisdiction to deal with the matter before the Court it had no powers to amend the Claim to bring it within its jurisdiction [or to transfer the case]*.

As such, this matter is **struck out for want of jurisdiction**. The Plaintiff is at liberty to refile a fresh claim, appropriately pleaded to comply with the jurisdictional requirements of this Court.

Any party aggrieved by this decision has the right to appeal within one month under Order 37 Rule 3 of the Magistrates Court Rules 1945.



Setavana Saumatua
Resident Magistrate
12 June, 2025.

