

RWANDA / JUDGMENT

KAMPAYANA vs SANLAM/ALLIANZ GI Plc

RS/INJUST/RC 00022/2024/SC

COURT

Supreme Court

DECIDED

19 December 2025

CASE / FILE NUMBER

RS/INJUST/RC 00022/2024/SC

Source: amategeko.gov.rw · Research copy typeset by Esheria. Not court-issued or certified.

KAMPAYANA vs SANLAM/ALLIANZ GI Plc

- Source: Amategeko
- Section: Decisions (Judgements)
- Date: 2025-12-19
- Case/document no.: RS/INJUST/RC 00022/2024/SC
- Collection: Supreme Court

Text

Page 1

KAMPAYANA vs SANLAM/ALLIANZ GI Plc [Rwanda URUKIKO RW'Ikirenga – RS/INJUST/RC 00022/2024/SC (Hitiyaremye, P.J; Cyanzayire na Kazungu J.) 19 Ukuboza 2025] Amategeko mbonezamubano – Ubwishingizi – Indishyi – Indishyi mbangamiraburambe ku kazi – Nta gihe kigomba kuba gishize umuntu ari mu kazi kugira ngo ahabwe indishyi zo gutakaza uburambe mu kazi. Incamake y'ikibazo: Uru rubanza rwatangiye Kampayana arega SANLAM/ALLIANZ GI Plc mu Rukiko Rwisumbuye rwa Gasabo asaba SANLAM kumuha indishyi zitandukanye zikomoka ku mpanuka yatewe n'ikinyabiziga yishingiye ikamusigira bumuga bwa 27%, akagerageza kuyisaba indishyi mu bwumvikane ntibishoboke. Urukiko mu rubanza RC00017/2020/TGI/GSBO rwemeje ko ikirego cya Kampayana gifite ishingiro kuri bimwe, rutegeka SANLAM kumwishyura indishyi zitandukanye zingana zose hamwe na 6.272.527Frw. Kampayana yajuririye icyo cyemezo mu Rukiko Rukuru, avuga ko Urukiko Rwisumbuye rwirengagije amasezerano y'akazi yari afitanye na SNV mu gihe impanuka yabaga agaragaza ko yahembwaga 45.000Frw ku muni. Yasabye guhabwa indishyi z'ibangamira ry'uburambe mu kazi zingana na 8.100.000Frw, indishyi za moto yangiritse kuko Urukiko rubanza rutayamuhaye. Urukiko mu rubanza RCA00325/2020/HC/KIG rwemeje ko ubujurire bwa Kampayana bufite ishingiro kuri bimwe, rutegeka SANLAM kumuha

indishyi z'ibangamira ry'uburambe mu kazi zingana na 540.000Frw, 843.000Frw yo gukoresha moto no kwishyura iminsi yamaze idakora, yiyongera ku yo yagenewe n'Urukiko Rwisumbuye. Kuko rwasanze agomba guhabwa indishyi zibariwe ku mushahara muto ntarengwa wemewe n'amategeko (SMIG), kuko umushahara avuga ko yahembwaga yari amaze gukora gusa iminsi 15 gusa mu gihe ikiraka yagombaga gukora cyari amezi 10, ruvuga ko icyo gihe gito yari amaze kitafatwa nk'uburambe mu kazi. Urukiko rwemeje kandi ko amafaranga yakoresheje mu kwivuza asaba mu bujurire atayahabwa, ko ahubwo hagumaho ayo yahawe mu rubanza rujuririrwa. Kampayana yandikiye Perezida w'Urukiko rw'Ubururire asaba ko urubanza RCA00325/2020/HC/KIG rwasubirwamo ku mpamvu z'akarengane. Amaze gusuzuma ubwo busabe, nawe yandikiye Perezida w'Urukiko rw'Ubururire amusaba ko urwo rubanza rwasubirwamo ku mpamvu z'akarengane, na we amaze gusuzuma raporo yarukozweho afata icyemezo ko rwongera kuburanishwa n'Urukiko rw'Ubururire. Kampayana avuga ko icyo anenga Urukiko rwaciye urubanza asaba ko rwasubirwamo ku mpamvu z'akarengane, ari uko mu kumubarira indishyi z'ibangamira ry'uburambe mu kazi rwamufashe nk'umuntu utagira akazi kandi yari agafite. Avuga ko ikindi arunenga ari uko yari yasabye gusubizwa amafaranga y'ibyo yakoresheje mu kwivuza kubera impanuka ntayahabwe yose nta n'ibisobanuro ahawe. SANLAM yo ivuga ko nta karengane kari mu rubanza Kampayana yasabye ko rwasubirwamo. Urukiko mu rubanza RS/INJUST/RC 00022/2024/SC, rwemeje ko ikirego cyo gusubirishamo urubanza RCA00325/2020/HC/KIG gifite ishingiro. Incamake y'icyemezo: Nta gihe kigomba kuba gishize umuntu ari mu kazi kugira ngo umuntu ahabwe indishyi zo gutakaza uburambe mu kazi. Bityo, mu kubara indishyi z'ibangamira ry'uburambe ku kazi hashingirwa ku mushara uwangirijwe n'impanuka yatahanaga hatitawe ku gihe yaramaze akora ako kazi. Amategeko yashingiweho:

Page 2

Itegeko N° 22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruza, iz'umurimo n'iz'ubutegetsi, Ingingo ya 111 Itegeko N° 41/2001 ryo ku wa 19/09/2001 ryerekeye imyishyurire y'abangirijwe n'impanuka zitewe n'ibinyabiziga bigenzwa na moteri, Ingingo ya 3 Iteka rya Perezida N° 31/01 ryo ku wa 25/08/2003 rishyiraho uburyo bwo kwishyura indishyi ku bubabare bw'umubiri buturutse ku mpanuka zitewe n'ibinyabiziga, Ingingo ya 13,19. Nta manza zashingiweho. Urubanza.

I. IMITERERE Y'URUBANZA [1] Ku wa 21/07/2017, mu Murenge wa Kacyiru, Akarere ka Gasabo, Umujyi wa Kigali, habereye impanuka yakozwe n'imodoka ifite ibirango (plate number) RAB 696 V yishingiye na SAHAM yahindutse SANLAM/ALLIANZ GI Plc (SANLAM muri uru rubanza), aho yagonganye na moto ifite ibirango (plate number) RAD 531 N yari itwawe na Kampayana Fidèle, agakomereka ndetse bikamuviramo ubumuga buri ku kigero cya 27%. [2] Ubwumvikane ku ndishyi zigomba kwishyurwa ntibwashobotse, bituma Kampayana Fidèle atanga ikirego mu Rukiko Rwisumbuye rwa Gasabo asaba SANLAM kumuha indishyi z'ibangamirabukungu, iz'akababaro, iz'ibangamira ry'uburanga, iz'ibangamira ry'uburambe mu kazi, amafaranga y'indishyi za moto yangiritse, amafaranga yakoreshejwe mu bikorwa byo kwivuza kubera impanuka, n'amafaranga y'ikurikiranarubanza hamwe n'ay'igihembo cya Avoka. [3] Mu rubanza RC00017/2020/TGI/GSBO rwaciye ku wa 13/10/2020, Urukiko Rwisumbuye rwa Gasabo rwemeje

ko ikirego cya Kampayana Fidèle gifite ishingiro kuri bimwe, rutegeka SANLAM kumwishyura indishyi zikurikira: Indishyi z'ibangamirabukungu zingana na 3.499.200Frw ; Indishyi z'akababaro zingana na 432.000Frw ; Indishyi z'ibangamira ry'uburanga zingana na 216.000Frw ; Amafaranga yakoreshejwe mu bikorwa byo kwivuzza kubera impanuka angana na 1.125.327Frw ; Amafaranga y'igihembo cya Avoka n'ay'ikurikiranarubanza angana na 1.000.000Frw. Yose hamwe akaba 6.272.527Frw. [4] Urwo Rukiko rwemeje ko Kampayana Fidèle adakwiye guhabwa indishyi z'ibangamira ry'uburambe mu kazi kubera ko ntakigaragaza akazi yakoraga n'uburyo kamuhembaga, runemeza ko n'indishyi zo kwishyura moto yangiritse adakwiye kuzihabwa kubera ko atazigaragariye ibimenyetso. [5] Kampayana Fidèle yajuririye icyo cyemezo mu Rukiko Rukuru, avuga ko Urukiko Rwisumbuye rwirengagije amasezerano y'akazi yari afitanye na SNV mu gihe impanuka yabaga agaragaza ko yahembwaga 45.000Frw ku munsu. Yasabye guhabwa indishyi z'ibangamira ry'uburambe mu kazi zingana na 8.100.000Frw, indishyi za moto yangiritse, asaba no gusuzuma ikibazo cy'amafaranga yakoreshejwe mu bikorwa byo kwivuzza no gusubizwa amafaranga y'igihembo cya Avoka. [6] Mu rubanza RCA00325/2020/HC/KIG rwaciye ku wa 23/12/2022, Urukiko Rukuru rwemeje ko ubujurire bwa Kampayana Fidèle bufite ishingiro kuri bimwe, rutegeka SANLAM kumuha indishyi z'ibangamira ry'uburambe mu kazi zingana na 540.000Frw, 843.000Frw yo gukoresha moto no kwishyura

Page 3

iminsi yamaze idakora, na 250.000Frw y'igihembo cya Avoka yiyongera ku yo yagenewe ku rwego rwa mbere, yose hamwe akaba 1.633.000Frw yiyongera kuri 6.272.527Frw yategetswe n'Urukiko Rwisumbuye rwa Gasabo. [7] Mu gufata icyo cyemezo, Urukiko Rukuru rwasanze Kampayana Fidèle agomba guhabwa indishyi zibariwe ku mushahara muto ntarengwa wemewe n'amategeko (SMIG), ruvuga ko atabarirwa ku mushahara avuga ko yahembwaga kuko yari amaze gukora iminsi 15 gusa mu gihe ikiraka yagombaga gukora cyari amezi 10, icyo gihe gito yari amaze akora kikaba kitafatwa nk'uburambe mu kazi. [8] Urukiko rwasanze kandi Kampayana Fidèle agomba guhabwa indishyi za moto z'igihe yamaze idakora ndetse no kuba yarangijwe, akishyurwa indishyi z'ibyangijwe hashingiwe kuri devis yagaragaje ingana na 543.000Frw. [9] Urukiko rwasanze amafaranga yakoresheje mu kwivuzza asaba mu bujurire atagomba kuyahabwa, ko ahubwo hagomba kugumaho ayo yahawe mu Rukiko Rwisumbuye kuko mu bujurire atabashije kugaragaza icyo atishimiye. [10] Kampayana Fidèle yandikiye Perezida w'Urukiko rw'Ubujurire asaba ko urubanza RCA00325/2020/HC/KIG rwaciye n'Urukiko Rukuru rwasubirwamo ku mpamvu z'akarengane. Amaze gusuzuma ubwo busabe, Perezida w'Urukiko rw'Ubujurire yandikiye Perezida w'Urukiko rw'Ikirenga amusaba ko urwo rubanza rwasubirwamo ku mpamvu z'akarengane, na we amaze gusuzuma raporo yarukozweho afata icyemezo ko rwongera kuburanishwa, ruhabwa RS/INJUST/RC 00022/2024/SC. [11] Mu myanzuro ye, Kampayana Fidèle avuga ko icyo anenga Urukiko rwaciye urubanza asaba ko rwasubirwamo ku mpamvu z'akarengane, ari uko mu kumubarira indishyi z'ibangamira ry'uburambe mu kazi rwamufashe nk'umuntu utagira akazi kandi yari agafite. Avuga ko ikindi arunenga ari uko yari yasabye gusubizwa amafaranga y'ibyo yakoresheje mu kwivuzza kubera impanuka ntayahabwe yose nta n'ibisobanuro ahawe. Abahagarariye SANLAM bo bavugaga ko nta karengane kari mu rubanza

Kampayana Fidèle yasabye ko rwasubirwamo. [12] Urubanza rwaburanishijwe mu ruhamwe ku wa 10/11/2025, Kampayana Fidèle ahagarariwe na Me Ndikumana Elisé, naho SANLAM ihagarariwe na Me Nkeza Sempundu Clément afatanyije na Me Niyondora Nsengiyumva, hasuzumwa ibibazo bikurikira : Kumenya niba hari icyo Kampayana Fidèle yinjizaga igihe yakoraga impanuka ku buryo ari cyo cyashingirwaho mu kumubarira indishyi z'ibangamira ry'uburambe mu kazi ; Kumenya umubare w'amafaranga y'ibyakoreshejwe mu kwivuza kubera impanuka Kampayana Fidèle yahabwa ; Kumenya ishingiro ry'indishyi zisabwa muri uru rubanza. II. ISESENGURWA RY'IBIBAZO BIGIZE URUBANZA Kumenya niba hari icyo Kampayana Fidèle yinjizaga igihe yakoraga impanuka ku buryo ari cyo cyashingirwaho mu kumubarira indishyi z'ibangamira ry'uburambe mu kazi [13] Me Ndikumana Elisé uhagarariye Kampayana Fidèle avuga ko mu kumugenera indishyi z'ibangamira ry'uburambe mu kazi, Urukiko Rukuru rwirengagije amasezerano y'umurimo y'igihe kizwi (amezi 10) yari afitanye na SNV kandi bari bayagaragaje, rumufata nk'umuntu utari ufite akazi kazwi gafite icyo kamwinjiriza. Avuga ko Iteka rya Perezida No 31/01 ryo ku wa 25/08/2003 rishyiraho uburyo bwo kwishyura indishyi ku bubabare bw'umubiri buturutse ku mpanuka zitewe n'ibinyabiziga, mu ngingo

Page 4

yaryo ya 19, riteganywa ko usaba izo ndishyi aba afite akazi akora mu gihe impanuka yabaga, ndetse yaranahembwe. [14] Avuga kandi ko kuba urwo Rukiko rwarabonye ko Kampayana Fidèle afite amasezerano y'akazi kandi rukabona ko atakomeje akazi kubera impanuka, rwari kubona ko yabuze uburambe mu kazi, ibyo akaba ari byo umushingamategeko yateganyije ko bizatangirwa indishyi, cyane cyane ko yari yagaragaje aho yahembewe iminsi yakoze. Asoza asaba ko Kampayana Fidèle yagenerwa indishyi zingana na $1.350.000 \times 6 = 8.100.000$ Frw kuko yakoreraga 45.000 Frw ku muni nk'uko amasezerano y'akazi yari afite abigaragaza. [15] Ababuranira SANLAM bavuga ko nta karengane Kampayana Fidèle yatewe n'urubanza yasabye ko rusubirwamo ku mpamvu z'akarengane ku ngingo irebana n'indishyi z'ibangamira ry'uburambe mu kazi, kuko atabashije kugaragariza Urukiko ikimenyetso cyerekana akazi yakoraga akaba yaragatakaje kubera impanuka. Bakomeza bavuga ko nta masezerano y'akazi yigeze agaragariza Urukiko, ko icyo yarugaragariye ari inyemezabwishyu yerekanaga ko hari ikiraka cy'iminsi 9 yakoze muri SNV mu kwezi kwa Kamena 2017 n'indi minsi 6 mu kwezi kwa Nyakanga, akaba atagaragaza akazi gahoraho yatakaje. [16] Bakomeza bavuga ko nubwo yaba yarakoreraga 45.000 Frw ku muni atari yo yashingirwaho mu kumubarira indishyi kuko ari mbumbe (brut), ko hagombaga kvanwaho 15 % y'imisoro kuko yari umukozi wigenga n'andi mafaranga atandukanye ateganywa n'amategeko. [17] Ku kibazo cy'umuntu ugomba guhabwa indishyi z'ibangamira ry'uburambe mu kazi kandi, bavuga ko Urukiko rw'Ikirenga rwatanze umurongo mu rubanza RS/INJUST/RC00007/2023/SC rwaciye ku wa 05/04/2024, aho mu gika cya 52 n'icya 53 rwasobanuye ko uhabwa izo ndishyi ari umuntu wari usanzwe afite akazi akagatakaza cyangwa akagira ubumuga bwamugizeho ingaruka zo gutakaza ubushobozi bwo kugakora cyangwa gutakaza agaciro ku isoko ry'umurimo. [18] Banavuga ko mu gika cya 24 cy'urubanza RS/INJUST/RC 00006/2024/SC, nabwo Urukiko rw'Ikirenga rwasobanuye neza ko indishyi z'ibangamira ry'uburambe mu kazi zigenerwa umuntu wari ufite umurimo, yaba yarawuvuyeho cyangwa se

atagishobora kugira ibyo yinjiza kubera ingaruka z'impanuka, yaba yarawuhinduye kugira ngo akore uwo ashoboye, yaba akiwurimo ariko awukora mu buryo buvunanye kubera ingaruka z'impanuka, yaba akiwurimo ariko atagishobora kuzamurwa mu ntera kubera ko atagitanga umusaruro nka mbere, byumvikanisha ko udafite akazi atarebwa n'indishyi z'ibangamira ry'uburambe mu kazi. [19] Barangiza bavuga ko kuba mu Rukiko Rwisumbuye rwa Gasabo Kampayana Fidèle yaragenewe indishyi z'ibangamirabukungu zibariwe kuri SMIG ntabijuririre, byerekana ko na we yemeraga ko nta kazi yari afite igihe cy'impanuka, akaba atavugaga ko yari agafite ari uko bageze ku ndishyi z'ibangamira ry'uburambe mu kazi, nubwo atabasha kugaragaza ako kazi. UKO URUKIKO RUBIBONA [20] Impaka ziri muri uru rubanza kuri iyi ngingo, ni ukumenya niba mu gihe cy'impanuka Kampayana Fidèle yari afite akazi ahemberwa ku buryo mu kumubarira indishyi z'ibangamira ry'uburambe mu kazi hashingirwa ku musaruro yinjizaga. [21] Ingingo ya 19 y'Iteka rya Perezida N° 31/01 ryo ku wa 25/08/2003 rishyiraho uburyo bwo kwishyura indishyi ku bubabare bw'umubiri buturutse ku mpanuka zitewe n'ibinyabiziga, iteganya ko amafaranga yo gutakaza uburambe mu kazi ku muntu wari usanzwe akora, agarukira gusa ku mezi atandatu y'umusaruro abazwe kandi atarengeje inshuro 30 umushahara w'umwaka muto ntarengwa wemewe n'amategeko.

Page 5

[22] Ku birebana no kumenya niba Kampayana Fidèle yari afite akazi igihe yakoraga impanuka, dosiye y'urubanza igaragaza amasezerano y'ubujyanama (Consultancy Contract) yasinywe ku wa 19/06/2017 hagati ya SNV na Kampayana Fidèle agaragaza ko ahawe amasezerano atangira ku wa 20/06/2017 kugeza ku wa 30/04/2018, ni ukuvuga amezi 10 n'iminsi 10. [23] Ingingo ya 3.1. y'amasezerano amaze kuvugwa, iteganya ko Kampayana Fidèle n'umukoresha we bumvikanye ko azajya ahembwa 9.000.000Frw zihwanye na 45.000Frw ku minsi mu minsi 200 y'akazi. Ibi bisobanuye ko mu kwezi yagombaga gukoramo iminsi 20 akaba ari yo ahemberwa. [24] Kuba rero Kampayana Fidèle yarakoze impanuka ku wa 21/07/2017, Urukiko rurasanga icyo gihe yari afite akazi, bityo akaba agomba guhabwa indishyi z'ibangamira ry'uburambe mu kazi asaba zibariwe ku musaruro yinjizaga. [25] Ku bivugwa n'ababuranira SANLAM ko kuba yari amaze iminsi 15 gusa mu kazi atafatwa nk'uwari ufite uburambe mu kazi, Urukiko rurasanga ibyo nta shingiro byahabwa kuko ingingo ya 19 y'Iteka rya Perezida ryavuzwe haruguru nta gihe iteganya kigomba kuba gishize kugira ngo umuntu ahabwe indishyi zo gutakaza uburambe mu kazi. [26] Ku birebana n'uko indishyi z'ibangamira ry'uburambe mu kazi Kampayana Fidèle asaba zigomba kubarwa, Urukiko rurasanga umushahara wa 45.000Frw ku minsi Kampayana Fidèle yahembwaga ari umushahara mbumbe (salaire Brut) kuko mu ngingo ya 3.5 y'amasezerano y'akazi yavuzwe haruguru, bateganyije ko Kampayana Fidèle aziyishyurira imisoro (the Consultant shall be solely responsible for the payment of his taxes...). Kubera iyo mpamvu, Urukiko rukaba rurasanga Kampayana Fidèle agomba guhabwa indishyi zibazwe hashingiwe ku mushahara yatahanaga (salaire net). [27] Ingingo ya 56, igika cya 2, y'Itegeko N° 016/2018 ryo ku wa 13/04/2018 rishyiraho imisoro ku musaruro ryakoreshwaga igihe Kampayana Fidèle yakoraga impanuka, iteganya ko hatitawe ku gika cya mbere cy'iyi

ngingo, umusoro wa nyakabyizi utangwa ku gipimo cyihariye cya cumi na gatanu ku ijana (15%). icyakora, mu kubara umusoro wa nyakabyizi, amafaranga atarenze ibihumbi mirongo itatu (30.000Frw) ku kwezi, asoreshwa ku ijanisha rya zeru (0%). [28] Hashingiwe ku ngingo y'Itegeko imaze kuvugwa no ku ngingo y'amasezerano Kampayana Fidèle yagiranye n'umukoresha we yavuzwe haruguru, Urukiko rurasanga Kampayana Fidèle wahembwaga 45.000 Frw ku muni, yaragombaga kuyatangira umusoro wa 15% uhwanyeye na 45.000 Frw $\times 15\% = 6750$ Frw. Bikumvikana ko umushahara yatahanaga (salaire net/net salary) ku muni uhwanyeye na 45.000Frw - 6.750Frw = 38.250Frw, akaba ari nayo agomba gushingirwaho habarwa indishyi z'ibangamira ry'uburambe mu kazi. [29] Hashingiwe ku bisobanuro byose byatanzwe, indishyi z'ibangamira ry'uburambe mu kazi Kampayana Fidèle akwiye guhabwa zigomba kubarwa mu buryo bukurikira : 38.250Frw $\times 20 \times 6 = 5.590.000$ Frw. Kumenya umubare w'amafaranga y'ibyakoreshejwe mu kwivuzwa kubera impanuka Kampayana Fidèle yahabwa. [30] Me Ndikumana Elisé uhagarariye Kampayana Fidèle avuga ko Urukiko rwaciye urubanza basabye ko rwasubirwamo ku mpamvu z'akarengane, rwamurenganyije rukamuha amafaranga makeya cyane ugereranyije n'ayo yakoresheje yivuzwa. Avuga ko urwo Rukiko rwirengagije factures zo kwa muganga

1 In consideration for the services provided by the Consultant/Associate Advisor, SNV, shall pay the Consultant/Associate Advisor the total amount of Nine Million Rwandan Francs (Rwf 9,000,000) all costs included. This is based on a daily remuneration of Rwf 45,000 and 200 working days.

Page 6

n'izakozwe n'umushoferi wa taxi voiture wamujyanaga kwivuzwa, zigaragaza ko yakoresheje 3.623.551Frw, rukamugenera 1.125.000Frw rutanatanze ibisobanuro. [31] Akomeza avuga ko Urukiko Rukuru rwarenganyije Kampayana Fidèle aho rwavuze ko hari inyemezabwishyu zitabona, izindi akaba ari fotokopi rwirengagije ko mu manza z'ubwishingizi bukomoka ku mpanuka, inyandiko z'umwimerere zihabwa umwishingizi. [32] Asoza asaba Urukiko rw'Ikirenga gutegeka SANLAM gutanga amafaranga yakoreshejwe yose nk'uko yayavuze haruguru, haba hari inyemezabwishyu zitagaragara rugategeka SANLAM kuzizana. [33] Abahagarariye SANLAM bavuga ko basanga nta karengane kari mu rubanza Kampayana Fidèle yasabye ko rusubirwamo ku mpamvu z'akarengane ku birebana n'amafaranga y'ibyakoreshejwe mu kwivuzwa, kuko uretse gutondekanya inyemezabwishyu zitandukanye harimo n'izidasomeka, atigeze agaragariza Urukiko uko abara indishyi asaba kugera ku giteranyo cya 3.623.551Frw. Bavuga ko ahubwo igiteranyo cy'amafaranga ari ku nyemezabwishyu zose ari 1.556.028Frw, kandi ko muri ayo mafaranga hakwiye gukurwamo ayiswe ingwate (caution) kuko ingwate itangwa mbere yo guhabwa services z'ubuvuzi, maze ikiguzi cy'izo services umurwayi ahawe kikagenda gikurwa mu ngwate yatanze mbere kugeza ishizemo, bityo gusaba gusubizwa amafaranga yishyuwe nk'ingwate bikaba byaba ari ukwishyura inshuro 2, ariyo mpamvu mu giteranyo bagaragaje hakwiye kuvanwamo 541.820Frw hagasigara 1.024.208Frw. [34] Bakomeza bavuga ko na 1.025.327Frw Kampayana Fidèle yagenewe mu Rukiko Rukuru atayakwiye, kuko hari inyemezabwishyu z'ingendo zo kujya no kuva kwa muganga yerekana zidafite ireme, nubwo

badasaba ko yakurwaho kuko ataribo basubirishijemo urubanza ku mpamvu z'akarengane. Bavuga ko icyo bazinenga ari uko atari inyemezabwishyu za EBM, ko zitagaragaza amafaranga yishyuye, ko ari reşus zatanze n'umuntu watwaraga taxi voiture zitakwizerwa, kuko ukurikije imiterere yazo basanga ari inyandiko zabonwa na buri wese kandi akuzuzaho umubare w'amafaranga ashaka. Bazinenga kandi kuba zitagaragaza izina ry'umucuruzi wo gutwara abagenzi wazitanze, akaba atari n'ikigo cyemewe gisanze gitwara abagenzi cyazitanze, kuba nimeroyi ya telefone igaragaraho ya 08566331 itabaho mu Rwanda ; ko ibyo byose byerekana ko urega yazanye ibimenyetso bidafite ireme agamije gushakira urwunguko ku mwishingizi kandi bibujijwe mu mategeko. [35] Basaza bavuga ko kuba na Kampayana Fidèle yemera ko hari inyemezabwishyu zidasomeka, bisobanuye ko nta kimenyetso kigaragarira buri wese cyirengagijwe, ko ibyo avuga ko inyemezabwishyu z'umwimerere yazihaye umwishingizi nta kimenyetso abitangira, kandi nyamara ari we ufite ishingano zo kugaragaza ibimenyetso by'ibyo aregera. UKO URUKIKO RUBIBONA [36] Ingingo ya 3 y'Itegeko N° 41/2001 ryo ku wa 19/09/2001 ryerekeye imyishyurire y'abangirijwe n'impanuka zitewe n'ibinyabiziga bigenzwa na moteri kandi bigenda ku butaka, iteganya ko uwangirijwe n'impanuka itamuviriyemo urupfu, afite uburenganzira bwo kuvuzwa cyangwa gusubizwa amafaranga yatanze yivuzwa n'ayo yaguze imiti kubera uburwayi yatewe n'iyi mpanuka. Iteganya kandi ko afite uburenganzira bwo kwishyurirwa cyangwa gusubizwa amafaranga yatanze ku ngendo zo kujya kwivuzwa, amafaranga yatanze yitoza gusubira uko yari amaze mbere n'ayo yatanze yongera kwitoza umwuga we, kimwe n'amafaranga yo kugura amenyo y'amakorano cyangwa gusimbura ingingo zindi zamugaye, n'andi mafaranga yose yatanze n'uwangirijwe n'impanuka cyangwa yatanze n'undi muntu wese wamwitagaho ku buryo ubwo ari bwo bwose. [37] Ingingo ya 13, igika cya mbere, y'Iteka rya Perezida N° 31/01 ryo ku wa 25/08/2003 rishyiraho uburyo bwo kwishyura indishyi ku bubabare bw'umubiri buturutse ku mpanuka zitewe n'ibinyabiziga, iteganya ko amafaranga yo kwivuzwa, yo gushyirwa mu bitaro, yo kugura imiti, yo gutwarwa mu modoka

Page 7

itwara abarwayi, yo kongera kumenyereza umubiri, yo kugorora ingingo, y'ibyuma bikoreshewa, y'insimburangiro n'ay'ingendo zo kujya kwivuzwa arihwa n'uwateje impanuka cyangwa umwishingizi we, hakurikijwe ibiciro biriho mu Rwanda. Agomba kwishyurwa n'abo bombi bamaze kubona inzandiko zibihamya, mu kwezi kw'iyakirwa ry'izo nyandiko. [38] Hashingiwe ku ingingo zimaze kuvugwa haruguru, Urukiko rurasanga amafaranga y'ibyakoreshejwe mu kwivuzwa kubera impanuka yishyurwa n'uwateje cyangwa umwishingizi we, iyo yagaragarijwe ibimenyetso. [39] Dosiye y'urubanza igaragaza inyemezabwishyu (Factures), Kampayana Fidèle yakoresheje mu ngendo zo kwivuzwa harimo : Fracture No 20 yo ku wa 14/08/2017, igaragaza ko yishyuye 60.000Frw ajya ku Bitaro byitiriwe umwami Faycal no kumusubiza iwe mu rugo; Kuri iyi tariki ya 14/08/2017, hari inyandiko y'ibyo bitaro (Bill Receipt) igaragaza ko Kampayana Fidèle yakorewe Consultation Specialist visit yishyura 1.500 Frw, anakorerwa X-Ray of the Ankle Unilateral nabwo yishyura 1.500Frw ; Fracture No 35 yo ku wa 21/08/2017, igaragaza ko yishyuye 60.000Frw ajya ku Bitaro byitiriwe umwami Faycal no kumusubiza iwe mu rugo ; Kuri iyi tariki ya 21/08/2017, hari inyandiko igaragaza ko Kampayana Fidèle yakorewe Old Pop removal and

application of new Pop, yishyura 3.000Frw ndetse anagaragaza bill pharmacy imwe ifite 7.520Frw, indi ifite 30Frw ; Facture No 63 yo ku wa 21/09/2017, igaragaza ko yishyuye 60.000Frw ajya ku Bitaro byitiriwe umwami Faycal no kumusubiza iwe mu rugo, ariko ntagaragaza service yahawe kuri iyo tariki. Facture No 64 yo ku wa 26/09/2017, igaragaza ko yishyuye 60.000 Frw ajya ku Bitaro byitiriwe umwami Faycal no kumusubiza iwe mu rugo; Kuri iyo tariki yo ku wa 26/09/2017, hari inyandiko igaragaza ko Kampayana Fidèle yakorewe Physio session yishyura 3.915Frw; Facture No 65 yo ku wa 27/09/2017, igaragaza ko yishyuye 60.000Frw ajya ku Bitaro byitiriwe umwami Faycal no kumusubiza iwe mu rugo; Kuri iyo tariki yo ku wa 27/09/2017, hari inyandiko igaragaza ko Kampayana Fidèle yakorewe Physio session yishyura 3.915Frw; Facture No 80 yo ku wa 05/10/2017, igaragaza ko yishyuye 60.000 Frw ajya ku Bitaro byitiriwe umwami Faycal no kumusubiza iwe mu rugo; Kuri iyo tariki ya 05/10/2017, hari inyandiko y'ibyo bitaro (Bill Receipt) igaragaza ko Kampayana Fidèle yakorewe Consultation Specialist visit (Follow up) yishyura 1.600Frw, anishyura Pharmacy bill ingana na 876 Frw ; Facture No 87 yo ku wa 23/10/2017, igaragaza ko yishyuye 60.000Frw, ajyaku Bitaro byitiriwe umwami Faycal no kumusubiza iwe mu rugo ; Kuri iyo tariki yo ku wa 23/10/2017, hari inyandiko igaragaza ko Kampayana Fidèle yakorewe Physio session yishyura 2.635Frw ; Facture No 88 yo ku wa 24/10/2017, igaragaza ko yishyuye

Page 8

60.000Frw, ajya ku Bitaro byitiriwe umwami Faycal no kumusubiza iwe mu rugo ; Kuri iyo tariki yo ku wa 24/10/2017, hari inyandiko igaragaza ko Kampayana Fidèle yakorewe Local Massage yishyura 2.155Frw ; Facture No 89 yo ku wa 25/10/2017, igaragaza ko yishyuye 60.000Frw, ajya ku Bitaro byitiriwe umwami Faycal no kumusubiza iwe mu rugo ; Kuri iyo tariki yo ku wa 25/10/2017, hari inyandiko igaragaza ko Kampayana Fidèle yakorewe Physio session na Local Massage yishyura 2.635 Frw ; Facture No 101 yo ku wa 27/10/2017, igaragaza ko yishyuye 60.000 Frw, ajya ku Bitaro byitiriwe umwami Faycal no kumusubiza iwe mu rugo; Kuri iyo tariki yo ku wa 27/10/2017, hari inyandiko igaragaza ko Kampayana Fidèle yakorewe Physio session na Local Massage yishyura 2.635Frw ; Facture No 3 yo ku wa 05/02/2018, igaragaza ko yishyuye 60.000Frw, ajya ku Bitaro byitiriwe umwami Faycal no kumusubiza iwe mu rugo ; Kuri iyo tariki yo ku wa 05/02/2018, hari inyandiko igaragaza ko Kampayana Fidèle yakorewe X- RAY yishyura 4.560Frw, hari na Pharmacy Bill yishyuye ingana na 4.752Frw, anakorerwa Consultation Specialist Visit yishyura 3.200Frw ; Facture No 4 yo ku wa 12/03/2018, igaragaza ko yishyuye 60.000Frw, ajya ku Bitaro byitiriwe umwami Faycal no kumusubiza iwe mu rugo ; Kuri iyo tariki yo ku wa 12/03/2018, hari inyandiko igaragaza ko Kampayana Fidèle yakorewe Consultation Specialist Visit yishyura 3.200Frw, yanakorewe General Anesthetist Review yishyura 5.000Frw, yanakoze Lab tests yishyura 25.845Frw, anatanga Cash Deposit for entry in Hospital angana na 100.000Frw. [40] Ku zindi Fractures zirebana no kwivuka Kampayana Fidèle yagaragaje harimo : Facture yo ku wa 21/07/2017, igaragaza ko kuri Faycal yakorewe X-RAY yishyura 1.500Frw; kuri iyo tariki anagaragaza indi facture yerekana ko yishyuye 166.078Frw ya Cash deposit for entry in Hospital; Facture yo ku wa 31/07/2017 ya cash deposit monthly closure bill igaragaza ko yishyuye 251.450 Frw; Facture yo ku wa 07/08/2017, igaragaza ko yatanze amafaranga ya Closure deposit and

Hospitalisation payment ingana na 290.370Frw; Facture yo ku wa 11/09/2017, igaragaza ko yakorewe Consultation – Specialist visit yishyura 3.200Frw ndetse anakorerwa Tynor walker boot M1Pce yishyura 8.700 Frw; Facture yo ku wa 09/10/2017, igaragaza ko yishyuye Medical report ya 50.000 Frw; Facture yo ku wa 14/03/2018, igaragaza Cash deposit ya 56.565 Frw; Facture yo ku wa 24/08/2018, yerekana ko yakorewe kinésithérapie akishyura 586,25 Frw, anakorerwa consultation yishyura 407,95 Frw; Facture yo ku wa 27/08/2018, yerekana ko yakorewe Kinésithérapie yishyura 284,35Frw ; Facture yo ku wa 06/09/2018, yerekana ko yishyuye 100.000Frw ya contre expertise ;

Page 9

Facture yo ku wa 02/08/2018, yerekana ko yishyuye 2000Frw ya consultation. [41] Hashingiwe ku bimenyetso bigaragajwe haruguru, Urukiko rurasanga amafaranga Kampayana Fidèle yakoresheje mu ngendo agomba gusubizwa ari agaragara kuri factures No 20, 35, 64, 65, 80, 87, 88, 89, 101, 3 na 4, kuko anerekana serivisi yahawe n'ibitaro byitiriwe Umwami Faycal uwo muni. Ayo mafaranga akaba ahwanye na $60.000 \times 11 = 660.000$ Frw. Naho 60.000 Frw agaragara kuri facture No 63 yo ku wa 21/09/2017, akaba atagomba kuyahabwa kubera ko atagaragaza icyari cyamuzanye kuko nta service igaragara yahawe kwa muganga uwo muni. [42] Ku bivugwa n'abahagarariye SANLAM ko inyemezabwishyu z'ingendo zitakwemerwa kubera inenge bagaragaza, Urukiko rurasanga na bo badahakana ko hari ikiguzi Kampayana Fidèle yatanze aza kwivuka, 60.000 Frw muri taxi voiture guturuka mu Murenge wa Mayange mu Karere ka Bugesera aho atuye uza i Kigali no gusubiraye akaba ari mu rugero rukwiye. [43] Ku birebana n'amafaranga yakoresheje yivuka, Urukiko rurasanga ayo yagaragariye ibimenyetso nk'uko byasobanuwe haruguru ahwanye na 1.111.614,55Frw. [44] Hashingiwe ku bimenyetso byose byagaragajwe haruguru bigizwe n'inyemezabwishyu, Urukiko rurasanga umubare w'amafaranga y'ibyakoreshejwe mu kwivuka kubera impanuka Kampayana Fidèle agomba guhabwa ahwanye na 1.111.614,55Frw yishyuye yivuka, kongeraho 660.000Frw y'ingendo, yose hamwe akaba 1.771.614,55Frw. Kumenya ishingiro ry'indishyi zisabwa muri uru rubanza [45] Me Ndikumana Elisé uburanira Kampayana Fidèle asaba ko mu gihe Sanlam yatsindwa urubanza yategukwa kwishyura 2.000.000Frw y'igihembo cya Avoka. [46] Abahagarariye SANLAM bavugaga ko indishyi uburanira Kampayana Fidèle asaba atazikwiye kubera ko nta karengane kabaye muri uru rubanza. Basaba ko ahubwo Kampayana Fidèle yategukwa guha SANLAM 1.500.000Frw y'igihembo cya Avoka na 300.000Frw y'ikurikiranarubanza kubera kuyisiragiza mu manza nta mpamvu. [47] Me Ndikumana Elisé uhagarariye Kampayana Fidèle avugaga ko biramutse bigaragaye ko nta karengane kari muri uru rubanza, byumvikana ko SANLAM yakwishyurirwa Abavoka bayiburanira. UKO URUKIKO RUBIBONA [48] Ingingo ya 111 y'Itegeko N° 22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruza, iz'umurimo n'iz'ubutegetsi nk'uko ryahinduwe, iteganyaga ko ikirego cy'amafaranga y'ikurikiranarubanza ari ikirego gishamikiye ku kirego cy'iremezo kigamijwe kwishyura ibyakoreshejwe mu rubanza. [49] Hashingiwe kuri iyi ngingo, Urukiko rurasanga Kampayana Fidèle akwiye guhabwa amafaranga y'igihembo cya Avoka kubera ko ari we watsinze urubanza, kandi bikaba bigaragara ko yashatse Avoka wo kumuburanira. Rurasanga ariko 2.000.000 Frw asaba akabije kuba menshi kandi atagaragaza ko ariyo yakoresheje, bityo mu bushishozi

bw'Urukiko akaba agenewe 1.000.000Frw. III. ICYEMEZO CY'URUKIKO [50] Rwemeje ko ikirego cya Kampayana Fidèle cyo gusubirishamo ku mpamvu z'akarengane urubanza RCA00325/2020/HC/KIG rwaciwe n'Urukiko Rukuru ku wa 23/12/2022, gifite ishingiro;

Page 10

[51] Rwemeje ko imikirize y'urubanza RCA00325/2020/HC/KIG rwaciwe n'Urukiko Rukuru ku wa 23/12/2022 ihindutse ku byerekeye indishyi z'ibangamira ry'uburambe mu kazi n'amafaranga y'ibyakoreshejwe mu kwivuza kubera impanuka; [52] Rutegetse SANLAM AG Plc kwishyura Kampayana Fidèle 5.590.000Frw y'indishyi z'ibangamira ry'uburambe mu kazi; [53] Rutegetse SANLAM AG Plc kwishyura Kampayana Fidèle 1.771.614,55Frw y'ibyakoreshejwe mu kwivuza kubera impanuka ; [54] Rutegetse SANLAM AG Plc guha Kampayana Fidèle 1.000.000Frw y'igihembo cya Avoka.

Source & reproduction note

Judgment wording, source notices and original paragraph numbers are retained. Esheria supplies the layout and this PDF's page numbers; these are not the source pagination. This is a research copy, not an official or certified court document. Check quotations, citations and publication restrictions against the original source before relying on it.

ORIGINAL SOURCE <https://www.amategeko.gov.rw/view/doc/10434/10987>

CASE PAGE <https://chat.esheria.ai/case-law/rwanda/kampayana-fidele-v-sanlamallianz-gi-plc-compensationforlossofearningcapacity-supreme-court-2025>

Prepared on 12 October 2026 · Esheria