

RWANDA / JUDGMENT

SANLAM v NYIRAKOMINI NABANDI

RCA 00005/2023/HC/RSZ

COURT

High Court

DECIDED

1 January 2024

CASE / FILE NUMBER

RCA 00005/2023/HC/RSZ

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

SANLAM v NYIRAKOMINI NABANDI

- Source: Amategeko
- Section: Decisions (Judgements)
- Date: 2024-01-01
- Case/document no.: RCA 00005/2023/HC/RSZ
- Collection: High Court

Text

Page 1

SANLAM ASSURANCE GÉNÉRALES Plc v NYIRAKOMINI N'ABANDI [Rwanda URUKIKO RUKURU - RCA 00005/2023/HC/RSZ (Bandora, P.J.) 16 Ukwakira 2023] Amategeko agenga imanza z'imbonezamubano - Amasezerano - Amakosa yakozwe nkana n'uwishingiwe - Iyo nyir'imodoka ariwe wakoze amakosa yo kutubahiriza inshingano afite mu masezerano y'ubwishingizi abizi kandi abishaka nko gupakira ahatwarwa imizigo abantu barenze kure abishingiwe cyangwa iyo modoka igatwarwa n'umushoferi udafite uruhushya rwo gutwara, ayo makosa aba adashobora kurengerwa n'amasezerano y'ubwishingizi haba ku bimureba cyangwa abangirijwe n'ikinyabiziga cyishingiwe, nyirimodoka akaba ariwe ugomba kubiryoza. Incamake y'ikibazo: Uru rubanza rukomoka ku mpanuka yabaye ikozwe n'imodoka yari itwawe na Nshimiyimana igahitana uwitwara Nzarora, iyo modoka ikaba yari ifite ubwishingizi bwa SANLAM ASSURANCE GÉNÉRALES Plc (Sanlam). Abaregera indishyi basabye umwishingizi ko yabaha indishyi mu bwumvikane ariko ntiyagira icyo abasubiza, batanga ikirego mu Rukiko rwisumbuye rwa Karongi barusaba ko rwabahesha izo ndishyi. Urukiko rwasanze ikirego gifite ishingiro, rutegeka Sanlam gutanga indishyi zinyuranye. Sanlam yajuririye uru rubanza mu Rukiko Rukuru ivuga ko nta buryozwe bw'indishyi z'iyi mpanuka kuko uwahohotewe nayo yari umukozi kuri icyo kinyabiziga, ndetse ko

amakosa yakozwe n'uwari utwaye ikinyabiziga ashyira abantu aho batagomba kuja cyane ko bari batwawe inyuma hejuru y'amabuye. Muri uru rubanza Urukiko rwasuzumye ikibazo cyo kumenya niba uwahohotewe yafatwa nka rubanda kandi yari mu kibanza kitemewe cyamuteza ibyago kandi ibyo bikaba umuyobozi w'ikinyabiziga abyirengagije. Urukiko rwabanje gusuzuma ibijyanye n'umuzungura wa Nyirakomini wapfuye kandi yari mu rubanza aho Sanlam yavugaga ko inyandiko y'izungura yakozwe n'utabifitiye ububasha ariko ruza gusanga ibyo nta shingiro bifite kuko uzungura witwa Niyomugabo, uhagarariye n'umubyeyi we, yabimenyesheje kandi akaba yarabyemeye hanyuma urubanza rukomeza hasuzumwa ikibazo cyavuzwe hejuru. Sanlam ivugako impanuka yaturutse ku makosa y'umushoferi na nyakwigendera. Umushoferi yatwaye abantu inyuma hejuru y'amabuye kandi imodoka yari ifite ubwishingizi bwe gusa. Naho nyakwigendera yemeye kugenda inyuma mu kinyabiziga hejuru y'amabuye, ahantu hashoboraga kumuteza ibyago bityo akaba nta ndishyi zikwiye kuryozwa umwishingizi. Abaregera indishyi bo basobanura ko kuri vignette iyo modoka itwara abantu icyenda kandi ko bese batajya muri cabinet ya Fuso kuko hajyamo batatu abandi bakajya inyuma. Bavuga ko kandi kuba umushoferi yarakoresheje ubu burenganzira agatwara bariya bantu nta kibazo kirimo. Bakomeza basobanura ko kuvuga ko nyakwigendera yagenze ahatagendwa asanga ataribwo ari uburyo bwo kwanga kwishyura indishyi basabwe. Incamake y'icyemezo: Iyo nyir'imodoka ariwe wakoze amakosa yo kutubahiriza inshingano afite mu masezerano y'ubwishingizi abizi kandi abishaka nko gupakira ahatwarwa imizigo abantu barenze kure abishingiwe cyangwa iyo modoka igatwarwa n'umushoferi udafite uruhushya rwo gutwara, ayo makosa aba adashobora kurengerwa n'amasezerano y'ubwishingizi haba ku bimureba cyangwa abangirijwe n'ikinyabiziga cyishingiwe, nyirimodoka akaba ariwe ugomba kubiryoza. Bityo rero, ibyo abaregera indishyi bavugaga nta shingiro bifite kuko

Page 2

amasezerano y'ubwishingizi agaragaza ko hishingiwe umushoferi gusa, wakoze amakosa yo gutwara abantu adafite ubwishingizi. Ubujurire bufite ishingiro kuri bimwe; SANLAM ASSURANCE GÉNÉRALES Plc, siyo igomba kuryozwa indishyi. Amategeko yashingiweho: Itegeko N° 15/2004 ryo ku wa 12/06/2004 ryerekeye ibimenyetso mu manza n'itangwa ryabyo, ingingo ya 4. Imanza zifashishijwe: RS/INJUST/RC 00002/2021, AKARERE KA KIREHE v. SAHAM ASSURANCE RWANDA Ltd n'abandi rwaciye n'Urukiko rw'Ikirenga ku wa 31 Ukuboza 2021. Urubanza I. IMITERERE Y'URUBANZA [1] Ku wa 20/03/2022 uwitwa Nzarora Vianney yahitanywe n'imodoka MITSUBISHI FUSO ifite Plaque RAC332U, yari itwawe na Nshimiyimana Onesme, impanuka ibera mu mudugudu wa Nyabikenke, akagari ka Kayenzi, umurenge wa Bwishyura, akarere ka Karongi. [2] Imodoka yateje impanuka ikaba yari ifite ubwishingizi muri Sanlam buhera kuwa 30/04/2021 bukeze kuwa 29/04/2022. Abaregera indishyi babanje kugerageza gusaba indishyi umwishingizi mu bwumvikane, bamugezaho inyandiko isaba indishyi kuwa 20/05/2022, hashira igihe cy'ukwezi umwishingizi atabamenyesheje ko yemera uburyozwe, nyuma baregeye urukiko rwisumbuye rwa Karongi barusaba ko rwabahesha indishyi zitandukanye zingana na 15,118,644Frw. [3] SANLAM Assurance générales Plc yatanze inzitizi ivuga ko mu nyandiko imenyekanisha impanuka nyakwigendera yarari mu kazi kuko yari yagiye gupakira amabuye hamwe na bagenzi be, nyuma

bajya hejuru yiyo modoka bagiye kuyapakurura. imodoka ikase ikorosi nyakwigendera arahanuka aragwa yitaba Imana. Ko rero ikirego cye kitakwagirwa ariko urukiko rufata icyemezo ko nta shingiro ifite. [4] Mu rubanza RC 00031/2022/TGI/KNG rwaciwe n'Urukiko Rwisumbuye rwa Karongi kuwa 10/01/2023 Rwemeje ko inzitizi ya SANLAM Assurance générales Plc nta shingiro zifite. Rwemeje ko ikirego cya Nyirakomini Rachel, Niyibizi Theoneste na Ufitamahoro Agnes mu izina ry'umwana we Niyomahoro Geovanie gifite ishingiro Rwemeje ko Musabirema Innocent na Mukankaka Angelique nta ndishyi bakwiye kugenerwa kuko atari abavandimwe ba nyakwigendera. Rwategetse SANLAM ASSURANCE GENERALES OLC guha umuryango wa Nzarora Vianney (abo Nyakwigendera yari atunze) indishyi z'ibangamirabukungu zingana na miliyoni zirindwi n'ibihumbi magana atan na makumyabiri n'umunani n'ijana na mirongo itanu (7,528,150Frw).

Page 3

Rwategetse SANLAM ASSURANCE GENERALES OLC guha Nyirakomini Rachel na Niyibizi Theoneste (ababyeyi ba nyakwigendera) amafaranga miliyoni imwe n'ibihumbi magana atandatu na makumyabiri (1,620,000frw) y'indishyi z'akababaro. Rwategetse SANLAM ASSURANCE GENERALES OLC guha Niyomugabo Geovanie umwana wa nyakwigendera indishyi z'ibangamira ry'umuco zingana n'amafranga y'u Rwanda ibihumbi magana inani na cumi (810,000frw frw) y'indishyi z'akababaro. Rwategetse SANLAM ASSURANCE GENERALES OLC guha umuryango wa Nzarora Vianney amafaranga y'u Rwanda ibihumbi magana atanu na mirongo itanu (550,000frw) yakoreshejwe bashyingura, imodoka yatwaye umurambo, gukaraba, ibyangombwa ndetse no kuura dossier y'impanuka. Rwategetse SANLAM ASSURANCE GENERALES OLC gusubiza abarega amafranga ibihumbi Magana atanu (500000Frw) y'igihembo cy'Avoka, ibihumbi magana abiri (200000Frw) y'ikurikiranarubanza n'amafranga y'u Rwanda ibihumbi makumyabiri (20,000frw), batanzeho ingwate y'amagarama barega. [5] SANLAM ASSURANCE GENERALES PLC Ltd yajuririye uru rukiko ubujurire bwayo bwandikwa kuri RCA 00005/2023/HC/RSZ, urubanza ruburanishwa mu ruhamwe ku wa 17/10/2023. SANLAM ASSURANCE GENERALES PLC Ltd ihagarariwe na Me Nsengiyumva Niyondora, Abajuriye baburanirwa na Me Manirakiza Claude. [6] Mu myanzuro y'ubujurire no mu miburanire ya SANLAM ASSURANCE GENERALES PLC Ltd ivuga ko nta buryozwe bw'indishyi z'iyi mpanuka cyane ko uwahohotewe nayo yari umukozi kuri icyo kinyabiziga, ndetse ko amakosa yakozwe n'uware utwaye ikinyabiziga ashyira abantu aho batagomba kujya bityo ko atari ibyo yishingiye cyane ko uvugwa guhohoterwa yari mumodoka atari hanze yayo ngo imugonge. [7] Mu myanzuro no mumiburanire y'uhagarariye abaregwa basaba indishyi yavuze ko uwahohotewe yarari mu modoka yakoze impanuka kandi ko ubwishingzi imodoka yari afite ari ubwabantu icyenda/9, bityo ko nawe yagombye kuba arimo, agahakana ko uwahohotewe yari umukozi kuri icyo kinyabiziga ahubwo ko yasabye ko Umuyobozi w'icyo kinyabiziga amwunguruza/lift bityo ko bitakwitiranwa no kuba yari umukozi kuri icyo kinyabiziga. [8] Mbere yaho hari hagaragjwe ikibazo cya Nyirakomini Rachel waje kwitaba Imana urubanza rwe rugeze mu bujurire, bityo urubanza rurasubikwa kugira ngo hazagaragazwe uzazungura urubanza rwe nyuma hagaragazwa ko ari Niyomahoro Geovanie uhagarariwe na nyina Ufitamahoro Agnes ugomba kumuzungura. [9] Urukiko, rushingiye kuri izo

mpaka, rusanga hakwiye gusuzumwa ibibazo bikurikira: a) Niba ari Niyomahoro Geovanie uhagarariwe na nyina Ufitamahoro Agnes ariwe ugomba kuzungura urubanza rwa Nyirakomini Rachel witabye Imana. b) Niba impanuka yahitanye Nzarora Vianney yari impanuka y'akazi cyangwa impanuka yamuhitanye nka rubanda udafitanye isano n'ikinyabiziga. c) Niba SANLAM ASSURANCE GENERALES PLC Ltd nta buryozwe bw'indishyi z'iyi mpanuka igomba kubazwa.

Page 4

II. ISESENGURA RY'IBIBAZO BIGIZE URUBANZA Kubijyanye no kumenya niba ari Niyomahoro Geovanie uhagarariwe na nyina Ufitamahoro Agnes ariwe ugomba kuzungura urubanza rwa Nyirakomini Rachel witabye Imana [10] Nyuma yaho bigaragaye ko Nyirakomini Rachel yaje kwitaba Imana urubanza rwe rumaze kujuririrwa, byabaye ngombwa ko uwamuburaniraga amaze kumvikana n'umuryango we bemeza ugomba kuzazungura uru rubanza no kurukomeza, hanyuma bazana icyemezo cyemeza abazungura cyanditswe n'Umunyamabanga Nshingwabikorwa w'Akagali ka Ruragwe yemeje ko nyakwigendera nta mwana yasize ariko hari umwuzukuru we witwa Niyomahoro Geovanie uhagarariwe n'umubyeyi we witwa Ufitamahoro Agnes wari usanzwe uri no muri uru rubanza akaba ariwe uzamuhagararira muri uru rubanza. [11] SANLAM ASSURANCE GENERALES PLC Ltd uyiburanira yavuze ko uburyo byakozwe bitubahirije amategeko kuko icyemezo kitajyanye n'icyo urukiko rwasabye kandi cyakozwe n'umuntu utabifitiye ububasha, asanga kwemeza umuntu uzakomeza urubanza bikorwa n'inama y'izungura ikemeza uzarukomeza kandi ashobora kubyemera cyangwa akabyanga. Inama y'izungura hakurikijwe ingingo ya 84 y'itegeko rigenga izungura niyo yamugena. [12] Avuga ko Inama y'izungura ifite uburyo iterana kandi niyo igomba kwemeza abazungura noneho muribo hakagira uwemera gukomeza urubanza. Iyo bibaye ngombwa mu nama y'izungura hazamo gitifu w'Umurenge ntabwo ari uw'Akagari. Bityo asoza avuga ko aya ari amakuru gitifu yatanze ariko ibyo yakoze binyuranije n'amategeko. UKO URUKIKO RUBIBONA [13] Urukiko rusanga nyuma yizo mpaka, icyingenzi kandi kitagishwaho impaka ni uko nyakwigendera Nyirakomini Rachel nk'uko byemezwa n'inzego z'ibanze nyakwigendera nta mwana yasize, umugabo cyangwa umuvandimwe ibyo byumvikane rero ko ibisabwa n'uhagarariye umwishingizi bidashoboka kujya mubikorwa. [14] Urukiko rusanga iki kibazo cy'izungura uzakomeza urubanza atari ngombwa ko binyura munzira uburanira umwishingizi avuga icyingenzi ni uko ugomba kuzungura yamenyeshejwe ko ariwe uzaruzungura kandi nk'uko bivugwa n'uburanira uwahohotewe nawe akaba ari mubarega muri uru rubanza bityo hemejwe ko uwazunguye nyakwigendera muri uru rubanza ari Niyomahoro Geovanie uhagarariwe n'umubyeyi we witwa Ufitamahoro Agnes wari usanzwe uri no muri uru rubanza. Kubijyanye no kumenya niba impanuka yahitanye Nzarora Vianney yari impanuka y'akazi cyangwa impanuka yamuhitanye nka rubanda udafitanye isano n'ikinyabiziga. [15] Uburanira SANLAM ASSURANCE GENERALES PLC Ltd avuga ko Ikibazo nyamukuru cyatumye bajurira ni ukumenya niba nyakwigendera impanuka yagize ariyo mu kazi cyangwa niba bidafitanye isano. Urukiko mu gika cya 14 cy'urubanza rubanziriza urundi JADD ruvuga ko SANLAM itagaragaje ikimenyetso cyemeza ko nyakwigendera yari umukozi ku

Page 5

kinyabiziga cyamuhitanye, nyamara muri PV d'accident imodoka yari itwaye abantu bari bamaze gupakira amabuye bagiyeye kuyapakurura nuko imodoka ikora impanuka. [16] Avuga ko Isano Nzarora yari afitanye n'ikinyabiziga igaragara muri PV d'accident. Amasezerano y'umurimo ashobora kuba yanditse cyangwa atanditse y compris kuba umupolisi asanze impanuka imaze kuba akabigaragaza. [17] Avuga ko Imvugo z'abaregera indishyi nazo zemeza ko nyakwigendera yagiye muri icyo kinyabiziga amaze kugipakira amabuye. Nzarora ngo si yari ari mu kinyabiziga gitwara amabuye n'ibindi ni muri urwo rwego yakigiyemo, bityo asanga indishyi zikwiye kubazwa RSSB cyangwa umukoresha mu gihe yaba ataramuteganiye. Ubundi akavuga ko iyo impanuka ibaye, nyiri ikinyabiziga aza kumenyekanisha impanuka akavuga uko byagenze, iki kibazo bagihaye urukiko rwa mbere ntirwagifataho icyemezo, bityo asaba ko byasuzumwa maze indishyi zose zagenwe zigakurwaho. Uyu murongo akavuga ko wafashwe n'uru rukiko mu rubanza RCA 00003/2023/HC/RSZ na RCA 00006/2023/HC/RSZ ku bakozi bari mu kinyabiziga bagiyeye gupakurura amabati. Urukiko rwavuze ko umuntu atajya gupakira amabati ku busa, ni bimwe rero n'uru rubanza. [18] Uburanira abareze yavuze ko imodoka zitwara amabuye n'imirima habaho abakozi ba 2, shoferi na aide we umufasha imirima itari iyo gutwara ikinyabiziga. Ntawundi mukozi ujya akora ku mudoka, kuriyi cas, SANLAM irumvikanisha ko amabuye bayapakira bakajya kuyapakurura, ibi ntabwo aribyo, ziriya modoka ziribenzira. SANLAM irabihuzaga n'aho imodoka yari ipakiye amabati, amabati ntabwo wayabenzira, yo arapakururwa. Ntabwo duhakana ko Nzarora yari yapakiye amabuye mu kirombe. Hariya yari umukozi wa nyiri ikirombe, amaze gupakira yasabye lift nk'abandi bese. UKO URUKIKO RUBIBONA [19] Ingingo 4 itegeko N° 15/2004 ryo ku wa 12/06/2004 ryerekeye ibimenyetso mu manza n'itangwa ryabyo iteganyaga ko Urukiko ruca urubanza rwaregwe hakurikijwe ibimenyetso bihujwe na kamere y'ikiburanwa. [20] Dosiye yerekana ko Umugenzacyaha ushinze ibibazo byo mu muhanda yanditse ko ku wa 20/03/2022 saa 19h00 Mukarere ka Karongi, umurenge wa Bwshyura, akagali ka Kayenzi, umudugudu wa Nyabikenke, habereye impanuka y'imodoka ya Fuso RAC332U yari itwawe na Nshimiyimana Onesme w'imyaka 26, yavaga Bwishyura yerekeza i Rubengera apakiye amabuye hejuru yayo atwayeho abantu batanu bari bamaze ku mupakirira ayo mabuye, byageze aho akase ikoni rihari umwe muri abo bantu bari muri icyo gice cy'inyuma hejuru y'amabuye witwaga Nzarora Vianney w'imyaka 26, ahubuka muri icyo modoka agwa muri Ligole y'umuhanda arakomereka bamujyana ku muvuriza ku bitaro bya Kibuye ahageze ahita apfa. [21] Uburanira umwishingizi mu kwemeza ko nyakwigendera yari umukozi kuri icyo modoka ashingira kuri ibyo byanditswe n'uriya Mugenzacyaha, ariko icyumvikana muri icyo nyandikomvugo, ni uko nyakwigendera n'abandi bari muri icyo modoka bari bapakiye iriya modoka amabuye, nyuma banajyana nayo, kuba barapakiriyemo icyo modoka ntabwo uru rukiko rwakwemeza ko ari uwari utwaye iriya modoka wabahaye akazi, kuko bisanzwe bizwi ko amabuye imirima n'ibindi bisa nabyo biba biri mu birombe bisanzwe bizwi, kandi banyiri ibyo

Page 6

birombe nibo akenshi bakoresha abo bapakira iyo micanga n'amabuye n'ibindi cyane ko uwuba aje kupakira iyo arangije hari amafaranga agomba guha nyiri ikirombe, bityo kuba baba barapakiye iyo kodoka ntabwo cyaba ikimenyesto gihagije cyakwerekana ko bari basanzwe ari abakozi kuri iyo modoka. [22] Urukiko rusanga na none kuba nyuma abo bapakiye ayo mabuye kuri iyo modoka barajyanye n'ayo modoka bari hejuru yayo, uburanira umwishingizi ashaka kumvikanisha ko bari bagiye gupakurura ayo mabuye, ariko ibi nabyo ntabwo byaba ikimenyetso cyatuma bafatwa nkabakozi kuri iriya modoka cyane ko nk'uko bikomozwaho n'uburanira abaregeye indishyi ntabwo amabuye yikorewe n'imodoka ari ngombwa ko agira abakozi bagera kuri batanu bayipakurura, kuko ibisanzwe bizwi kandi bigaragarira buri wese, ni uko bene iza kanyo nizo ubwazo zipakururira amabuye cyangwa imicanga ntabwo haba hakenewe abantu bayipakurura. [23] Urukiko rusanga mu manza uburanira umwishingizi ashingiraho zitahuzwa n'uru rubanza kuko zitandukanye cyane ko murizo abantu baje kugira impanuka bari mu kinyabiziga bagiye gupakurura amabati ndetse hanzurwa ko rwavuze ko umuntu atajya gupakira amabati ku busa/ku buntu bitandukanye naha rero aho amabuye rwose adakaneye gupakururwa n'umukozi aribyo ashinzwe byo nyine kubera impamvu zasobanuwe. Bityo impanuka yahitanye nyakwigendera ntabwo ari impanuka y'akazi/umurimo ariyo mpamvu nta kosa ryo gukosora ryaba ryarakozwe kuri iyi ngingo n'urukiko rwisumbuye rwa Karongi. Kubijyanye no kumenya niba SANLAM ASSURANCE GENERALES PLC Ltd nta buryozwe bw'indishyi z'iyi mpanuka igomba kubazwa. [24] SANLAM ASSURANCE GENERALES PLC Ltd uyiburanira avuga ko Uru rukiko niyo rwaba rufite ububasha ikinyabiziga cyari kigenewe gutwara imizigo ukakigira igitwara abagenzi, Urukiko rw'Ikirenga rwemeje ko ari ukwica amasezerano. [25] Avuga ko hiyongeraho amakosa y'uwahohotewe wemera kugenda ahantu hatuma ubuzima bwe bujya mu kaga. Itegeko rishya rigenga umurimo w'ubwishingizi mu ngingo ya 100 ngo rikuriraho umwishingizi uburyozwe igihe uwahohotewe n'ikinyabiziga yabaye intandaro y'impanuka. Risque Nzarora yagize ngo zituma umwishingizi ntacyo agomba kuryozwa. Iri tegeko rya 2021 rikuriraho umwishingizi uburyozwe kimwe n'urubanza rwaciwe SC yavuze mu mwanzuro. [26] Uburanira abaregeye indishyi yavuze ko nyakwigendera amaze gupakira yasabye lift nk'abandi bese kandi kuri vignette iyi modoka itwara abantu 9 kandi ko bese batajya muri cabinet ya Fuso hajyamo 3 abandi bakajya muri caisse arriere/injyuma. [27] Avuga ko kuba shoferi yarakoresheje ubu burenganzira agatwara bariya bantu nta kibazo kirimo. Ahubwo akibaza aho bariya bantu icyenda/9 imodoka yemerewe gutwara aho bajya [28] Avuga ko kuvuga ko nyakwigendera yagenze ahatagendwa asanga ataribwo ahubwo asanga ari uburyo bwo kwanga kwishyura indishyi basabwe. UKO URUKIKO RUBIBONA

Page 7

[29] Ikibazo kirimo gusuzumwa kijyanye no kumenya niba uwahohotewe yafatwa nka rubanda kandi yari mu kibanza kitemewe cyamuteza ibyago kandi ibyo bikaba umuyobozi w'ikinyabiziga abyirengagije [30] Ikibazo kirimo gusuzumwa ntabwo ari ubwa mbere kigeze mu nkiko kuko mu rubanza RS/INJUST/RC 00002/2021 rwaciwe n'Urukiko rw'Ikirenga ku wa 31 Ukuboza 2021, rwanzuye ko: "Iyo nyir'imodoka ariwe wakoze amakosa yo kutubahiriza inshingano afite mu masezerano y'ubwishingizi abizi kandi abishaka, ayo makosa aba

adashobora kurengerwa n'amasezerano y'ubwishingizi haba ku bimureba cyangwa abangirijwe n'ikinyabiziga cyishingiwe. Bityo, iyo imodoka ikoze impanuka itwawe n'umushoferi udafite uruhushya rwo gutwara ikinyabiziga rwihariye (category) ndetse no gupakira abantu barenze kure abateganyijwe mu masezerano ahantu ubundi isanzwe ipakira imizigo, nyirimodoka niwe wenyine ugomba kubiryoza." [31] Kubijyanye n'uru rubanza, urukiko rubona mu masezerano yari hagati y'umwishingizi na nyiri imodoka mu rurimi rw'igifaransa yanditse muri ubu buryo: "L'assuré déclare que le Véhicule est utilisé au transport ou à la livraison de toutes marchandises à l'exclusion des produits pétroliers et de toutes transports de personnes à titre onéreux. Cette police couvre le conducteur du véhicule contre les dégâts corporels d'accident à bord du véhicule assuré, bishatse kuvuga ko ubwo bwishingizi bureba umuyobozi w'ikinyabiziga ku bijyanye n'impanuka yatera ibikomere cyangwa urupfu. Ibi bigaragaza ko nta wundi muntu wari wishingiwe mu bakora kuri iyo modoka, uretse umuyobozi w'ikinyabiziga, nyakwigendera akaba atari mu bushingiwe ku mpamvu z'uko ubwishingizi bwari bwarafatiwe umuntu umwe, ariwe muyobozi w'ikinyabiziga. [32] Urukiko rusanga kubijyanye n'umubare wishingiwe wateje impaka, aho uburanira abaregeye indishyi yavugaga ko hishingiwe abantu icyenda bityo ko na nyakwigendera yarari murabo, nabyo byamaze gusubizwa mu masezerano y'ubwishingizi aho yanditsemo ko mubantu bazaba bari mumodoka imbere uwishingiwe ari umushoferi, bityo bitandukanye n'ibivugwa n uburanira uwahohotewe wavugagaga ko hishingiwe abantu icyenda kandi kuba imodoka yaba ifite ubushobozi bwo gutwara abantu benshi atari itegeko ko bese bafatirwe ubwishingizi, ibyo biterwa n'uwafata ubwishingizi n'inyungu abibonamo, ndetse ko kuba kuri vignette haba handitsemo umubare w'abantu imodoka itwara, bitavuze ko byanze bikunze aribyo biri mu masezerano kandi iyo havutse impaka nkizi, hasuzumwa amasezerano icyo yavuze cyangwa yashatse kuvuga. [33] Mu gika cya 20 hagaragijwe ko Umugenzacyaha ushinze ibibazo byo mu muhanda yanditse ko ku wa 20/03/2022 saa 19h00 Mukarere ka wa Bwishyura, akagali ka Kayenzi, umudugudu wa Nyabikenke, habereye impanuka y'imodoka ya Fuso RAC332U yari itwawe na Nshimymana Onesme w'imyaka 26, yavaga Bwishyura yerekeza I Rubengera apakiye amabuye hejuru yayo atwayeho abantu batanu bari bamaze ku mupakirira ayo mabuye, byageze aho akase ikoni rihari umwe muri abo bantu bari muri icyo gice cy'inyuma hejuru y'amabuye witwa Nzarora Vianney w'imyaka 26, ahubuka muri iyo modoka agwa muri Ligole y'umuhanda arakomereka bamujyana ku muvuriza ku bitaro bya Kibuye ahageze ahita apfa. [34] Icyumvikana muri iyi nyandikomvugo ni uko nyakwigendera yari yicaye hejuru y'amabuye imodoka yararimo yari apakiye, kandi byamaze kugaragazwa amasezerano yari hagati y'umwishingizi na nyiri imodoka ko yishingiraga shoferi mubantu baba bari mu modoka, ibyo uwari utwaye iriya modoka yakoze impanuka yagombye kuba yarabizi, bityo kuba

Page 8

yabirengaho, imodoka yari atwaye akemera ko hari abandi bayijyamo azi neza ko nta bwishingizi bafite, byafatwa nko kwica amasezerano shebuja yagiranye n'umwishingizi, ariyo mpamvu uyu wa nyuma atariwe wagombye kurega izondishyi. [35] Urukiko rusanga hari imanza urukiko

rwisumbuye rwashingiye zaciwe n'uru rukiko zari zaba zarafashe umwanzuro utandukanye n'uriya watanzwe n'urukiko rw'ikirenga, ariko nk'uko bizwi imanza zaciwe n'urukiko rw'ikirenga n'Itegeko ku zindi nk'inkiko. Bityo indishyi zatanzwe hirengagijwe ibyo bisobanuro zigomba kuvaho. Mu yandi magambo mbere yo kurega umwishingizi hagombaga kubanza kurebwa amasezerano icyo avuga. [36] Kubijyanye n'izindi ndishyi zasabwe kuri uru rwego, ntazitanzwe kuko buri ruhande rufite ibyo rwatsindiye n'ibyo rwatsindiwe. III. ICYEMEZO CY'URUKIKO [37] Rwemeje ko Ubujurire bwa SANLAM Assurance générales bufite ishingiro kuri bimwe. [38] Rwemeje ko Niyomahoro Geovanie uhagarariwe n'umubyeyi we witwa Ufitamahoro Agnes wari usanzwe uri no muri uru rubanza ariwe uzunguye nyirakuru Nyirakomini Rachel witabye Imana urubanza rutaracibwa burundu. [39] Rwemeje ko urubanza RC 00031/2022/TGI/KNG rwaciwe n'Urukiko Rwisumbuye rwa KARONGI kuwa 10/01/2023 ruhindutse. [40] Rwemeje ko impanuka yahitanye nyakwigendra ari impanuka yo mumuhanda [41] Rwemeje ko SANLAM Assurance générales atariyo igomba kuryozwa indishyi z'impanuka yahitanye nyakwigendera. [42] Rwemeje ko indishyi zose SANLAM Assurance générales yaciwe n'urukiko rwisumbuye rwa Karongi zivanyweho. [43] Rwemeje ko nta zindi ndishyi zitanzwe kuri uru rwego kuko buri ruhande rufite ibyo rwatsindiye n'ibyo rwatsindiwe. [44] Uru rubanza rusomwe mbere y'itariki rwari rwahawe, kuko iriya tariki yari irenze igihe rwagombaga gusomerwaho.

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/3640/3810>

CASE PAGE <https://chat.esheria.ai/case-law/rwanda/sanlam-assurance-generales-plc-motorvehicleinsurance-high-court-2024>

Prepared on 13 October 2026 · Esheria