

RWANDA / JUDGMENT

SANLAM ASSURANCES GENERALES Plc v NDAYISABA

RLR V.1-2026

COURT

Supreme Court

DECIDED

14 March 2025

CASE / FILE NUMBER

RS/INJUST/RC 00006/2024/SC

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SANLAM ASSURANCES GENERALES Plc v NDAYISABA [Rwanda SUPREME COURT - RS/INJUST/RC 00006/2024/SC (Hitiyaremye, P.J., Muhumuza, Kalihangabo, J.) 14 March 2025] Civil procedure – Damages arising from an accident – Career damage – For a claimant to be awarded career damages, they must demonstrate that they previously held employment of any kind, and that the accident had consequences which caused them to lose that job, change it, perform it under hardship, or become unable to obtain job promotion. Civil procedure – Career Damage – Evidence – Among the admissible evidence capable of showing that the claimant had employment are attestations issued by local administrative authorities of the area where the claimant resided confirming that they had a job, evidence from former employers or workmates, pay slips or records (MoMo) showing receipt of wages or allowances, or any other probative material capable of establishing that fact. Facts: This case arises from a motorcycle accident in which the vehicle, driven by Bagaragaza, struck Ndayisaba, who was a pedestrian, the collision having resulted from the rider's failure to properly regulate his speed. The accident caused

Ndayisaba a permanent disability assessed at forty-eight percent (48%). He subsequently claimed various heads of compensation from SANLAM ASSURANCES GENERALES Plc (SANLAM), the insurer of the motorcycle involved, but no settlement was reached. He therefore brought an action before the Nyarugenge Intermediate Court, while SANLAM argued that he was not entitled to all the categories of damages claimed. The Court found the claim to be well-founded and ordered the defendant to pay compensation, including compensation for financial loss, career damages, pretium doloris, and other related damages. The defendant appealed that decision to the High Court, arguing that the damages awarded were not granted in accordance with the law because the beneficiary had no identifiable employment at the time of the accident; the Court found the appeal partly founded and upheld all the awarded damages except those relating to temporary incapacity, which it set aside. SANLAM resorted to the procedure of review on grounds of injustice, the matter being referred to the Supreme Court for reconsideration on the specific issue of whether career damages were properly awarded. The appellant argued that Ndayisaba was not entitled to such damages because he had no identifiable employment at the time of the accident, noting that these damages are reserved for a student or any person who previously held a job but lost it, or whose working conditions or prospects for promotion were affected as a result of the accident. The appellant further submitted that the lower court confused damages for loss of opportunity to secure employment with career damages, leading it to award compensation that was not legally justified. Ndayisaba submits that the mere fact of being unemployed does not imply an absence of earning capacity, since any person without a disability is ordinarily capable of securing employment and generating income. He further contends that he worked as a mason's assistant and later as a construction technician, although it is difficult to produce formal evidence of such work because remuneration in that sector is commonly made in cash.

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Held: 1. For a claimant to be awarded career damages, they must demonstrate that they previously held employment of any kind, and that the accident had consequences which caused them to lose that job, change it, perform it under hardship, or become unable to obtain job promotion.

2. Among the admissible evidence capable of showing that the claimant had employment are attestations issued by local administrative authorities of the area where the claimant resided confirming that they had a job, evidence from former employers or workmates, pay slips or records (MoMo) showing receipt of wages or allowances, or any other probative material capable of establishing that fact. The application for the review of judgment on grounds of injustice has merit. Statutes and statutory instruments referred to: Law n° 062/2024 of 20/06/2024 governing evidence, article 4. Presidential order no 31/01 of 25/08/2003 on compensation for personal injury due to accidents caused by motor vehicles, article 19. Cases referred to: RS/INJUST/RC 00004/2023/SC, RADIANT Insurance Company v Murekatete Denyse rendered by the Supreme Court on 2/04/2024; RS/INJUST/RC 00010/2021/SC, Prime Insurance Company Ltd v Uwimanimpaye Jean Claude rendered by the Supreme Court on

02/12/2022; RS/INJUST/RC 00007/2023/SC, Radiant Insurance Company Ltd v Mukaneza Clarisse rendered by the Supreme Court on 05/04/2024.

Judgment

I. BACKGROUND OF THE CASE

This case arises from a road traffic accident that occurred on 07/10/2017, when a TVS Victor motorcycle with registration number RB 479 V, ridden by Bagaragaza Emmanuel, reached Giporoso Village, Kabeza Cell, Kanombe Sector, Kicukiro District, City of Kigali, and struck Ndayisaba Mathieu, who was a pedestrian, causing him bodily injuries. The investigation report prepared by the Judicial Police established that the accident was caused by Bagaragaza Emmanuel's breach of traffic regulations, specifically his failure to maintain proper control of the speed at which he was riding.

Following the accident, Ndayisaba Mathieu underwent medical assessment to determine the degree of permanent incapacity resulting from the incident, and the evaluation established a permanent incapacity rate of 48%. SANLAM AG Plc, however, indicated that the incapacity attributable to the accident stood at 45%.

On 14/01/2021, Ndayisaba Mathieu requested SANLAM AG Plc, as the insurer of the vehicle that caused the accident, to settle the matter amicably and grant him compensation arising from the accident. As no amicable settlement was reached, he filed a claim before the Nyarugenge

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Intermediate Court seeking various damages. SANLAM AG Plc submitted its defence, arguing that the damages claimed by Ndayisaba Mathieu lacked legal basis, as some of the items he sought were not compensable under the law.

The Court held that the claim filed by Ndayisaba Mathieu was well-founded and ordered SANLAM AG Plc to pay him a total of Frw 9,443,814, comprising Frw 4,933,580 as damages for financial loss, Frw 1,080,000 for pretium doloris, Frw 1,080,000 for aesthetic , Frw 540,000 for loss of career damage, Frw 540,000 for temporary incapacity, Frw 550,234 incurred for medical expenses and follow-up of the case, Frw 200,000 as damages for being dragged into unnecessary lawsuits, Frw 500,000 as counsel fees, and Frw 20,000 for deposited court fees.

SANLAM AG Plc appealed to the High Court, arguing that the damages for financial loss had been improperly assessed, that the award for career damage was granted on the basis of subjective considerations, and that the damages for temporary incapacity were awarded without the Court first analyzing the legal provisions governing such compensation.

In judgment No RCA 00207/2022/HC/KIG rendered on 05/06/2023, the High Court held as follows: That it concurs with the manner in which the Intermediate Court of Nyarugenge calculated the damages for financial loss; That Articles 18 and 19 of Presidential order no 31/01 of 25/08/2003 on compensation for personal injury due to accidents caused by motor vehicles do not provide that a

person without employment is automatically excluded from receiving compensation for career damage, since such compensation would not be awarded to a student with no source of income nor automatically to any person solely because they completed their studies; That it did not follow the position established in judgment No RS/INJUST/RC 00010/2021/SC, rendered by the Supreme Court on 02/12/2022 for Prime Insurance Company Ltd v Uwimanimpaye Jean Claude, because the reasoning therein does not justify denying damages to a person without employment while granting them to a student; That Ndayisaba Mathieu was not entitled to damages for temporary incapacity, as he had already been awarded damages for financial loss in these proceedings.

The Court held that the appeal lodged by SANLAM AG Plc was partly founded; it upheld the damages for financial loss and for career damage as previously awarded against SANLAM AG Plc in judgment No RC 00239/2021/TGI/NYGE rendered by the Intermediate Court of Nyarugenge on 20/04/2022; it set aside the damages for temporary incapacity that had been imposed on SANLAM AG Plc; and it ordered SANLAM AG Plc to pay Ndayisaba Mathieu a total of Frw 8,903,814, comprising Frw 4,933,580 for financial loss, Frw 1,080,000 for pretium doloris, Frw 1,080,000 for aesthetic damage, Frw 540,000 for career damage, Frw 550,234 for medical expenses and file-processing costs, Frw 200,000 for being dragged into unnecessary lawsuits, Frw 500,000 as counsel fees, and Frw 20,000 as court fees.

On 14/06/2023, SANLAM AG Plc wrote to the President of the Court of Appeal requesting the revision of judgment No RCA 00207/2022/HC/KIG rendered by the High Court on 05/06/2023

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on grounds being vitiated by injustice. Upon examining this request, the President of the Court of Appeal wrote to the President of the Supreme Court requesting that the judgment be reviewed. By Decision No 069/CJ/2024 of 15/05/2024, the President of the Supreme Court ordered that the case be transmitted to the Registry of the Supreme Court for re-hearing.

In its submissions, SANLAM AG Plc contends that the alleged injustice warranting the revision of the judgment lies in the fact that the court awarded compensation for career damage in contravention of the law, arguing that Ndayisaba Mathieu had no employment at the time of the accident. Conversely, Ndayisaba Mathieu maintains that no legal provision was violated, asserting that he indeed had a job even though he lacks supporting evidence, as he was paid in cash.

The public hearing was held on 13/02/2025, with SANLAM AG Plc represented by Counsel Nkeza Sempundu Clément and Ndayisaba Mathieu represented by Counsel Abasa Fazili. During the proceedings, the parties presented opposing arguments regarding whether Ndayisaba Mathieu was entitled to career damage, as well as the legal basis for the other damages claimed in the case. II. ANALYSIS OF LEGAL ISSUES IN THE CASE 1. Whether Ndayisaba Mathieu is entitled to career damage

Counsel Nkeza Sempundu Clément, representing SANLAM AG Plc, submits that Ndayisaba Mathieu was not entitled to career damage, noting that in the lower courts he consistently stated that he had no identifiable employment at the time of the accident, which is why all awarded damages had been calculated on the basis of the SMIG (Interprofessional Guaranteed Minimum Wage) of Frw 3,000. He argues that it was therefore surprising that the High Court held that Articles 18 and 19 of Presidential order no 31/01 of 25/08/2003 on compensation for personal injury due to accidents caused by motor vehicles, contain no provision excluding an unemployed person from receiving compensation for career damage while a student with no income is entitled to them.

He further contends that the High Court, in its interpretation of Article 19 of the above-mentioned Presidential Order, erred when it held that although an accident victim may not yet have secured a salaried position, this does not preclude the possibility that they perform other forms of work, such as daily labour, while awaiting formal employment, and that the accident could deprive them of the opportunity to obtain such work compared to the prospects they would have had if the accident had not occurred. He argue that this reasoning lacked any factual or legal basis, as Ndayisaba Mathieu had no employment of any kind prior to the accident.

He further submits that Article 19 of the cited Presidential Order expressly provides that career damages are reserved only for two categories of persons : students and individuals who previously held salaried employment but lost it as a result of the accident. He argues that, since Ndayisaba Mathieu does not fall within either of these two categories, such damages cannot be grounded on speculative future prospects. He adds that any permanent incapacity resulting from the accident, and its impact on his capacity to work, was already compensated through other forms of indemnification. He therefore maintains that, given that the High Court itself acknowledged that

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Ndayisaba Mathieu neither held formal employment nor was a student at the time of the accident, the Court lacked any legal basis for awarding him career damages, as the law restricts such indemnities to persons earning a salary.

He argues that the High Court's finding that Ndayisaba Mathieu could potentially lose employment opportunities in the future is inconsistent with the Presidential Order as well as with the jurisprudential position previously adopted by the Supreme Court in similar matters. He referred to Supreme Court judgment No RS/INJUST/RC 00010/2021/SC1, in which the Court held that a person who cannot demonstrate that they held gainful employment at the time of the accident cannot be awarded career damages, since there is no actual loss to be compensated. He also cites Supreme Court judgment No RS/INJUST/RC 00007/2023/SC2, where the Court clarified that the impact of permanent incapacity on one's career relates specifically to the diminished prospects of promotion or advancement for someone who was already employed. He concludes that, since Ndayisaba Mathieu had no known salaried employment at the time of the accident, he was not eligible for career damages.

He further argues that the High Court conflated loss of opportunity with career damage. He submits that counsel for Ndayisaba Mathieu did not, and could not, base the claim on alleged “unknown employment,” since no such category exists in law, and that the Court therefore erred by treating speculative future opportunities as equivalent to a legally cognizable career damage.

He concludes on this point that, based on the positions established by the Supreme Court, it has been indicated that Ndayisaba Mathieu is not entitled to compensation for career damage, as he does not meet the requirements set out in Article 19 of the above-mentioned Presidential Order. He therefore requests the Supreme Court to order him to reimburse SANLAM AG Plc the amount of Frw 540,000 corresponding to compensation that was improperly awarded.

Counsel Abasa Fazili, representing Ndayisaba Mathieu, argues that the grounds invoked by SANLAM AG Plc to seek a review of the judgment on the basis of an alleged of injustice are unfounded. He submits that, according to the reasoning provided by the High Court, the intention was to clarify that, even where a person does not hold a formally recognized occupation, this does not negate the fact that they provide value to themselves or to others. He further notes that the Court demonstrated that, as long as an individual is not disabled, they are capable of performing some form of work; therefore, when that individual later becomes disabled, such incapacity prevents them from carrying out the work they had ordinarily been able to undertake prior to the impairment.

He further submits that, in everyday life, Ndayisaba Mathieu initially worked as a mason’s assistant and later as a mason; therefore, counsel argues, SANLAM AG Plc cannot persuasively claim that he had no occupation, given that throughout that period he was supporting his wife and children. He notes that the nature of such work makes it difficult to produce documentary proof, as wages were paid in cash. He adds that the fact that his client was awarded compensation for financial loss demonstrates that he indeed performed income-generating activities. Counsel

1 See judgment No RS/INJUST/RC 00010/2021/SC rendered by the Supreme Court on 02/12/2022, Prime Insurance Company Ltd v Uwimanimpaye Jean Claude, paragraph 27. 2 See judgment No RS/INJUST/RC 00007/2023/SC rendered by the Supreme Court on 05/04/2024, Radiant Insurance Company Ltd v Mukaneza Clarisse, paragraph 53.

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concludes that this aligns with Article 19 of the referenced Presidential Order, which provides that a person eligible for compensation for career damage is one who is engaged in work and earns an income, irrespective of the type of occupation one holds.

He also argues that it is inconsistent for SANLAM AG Plc to accept the award of compensation for financial loss granted to Ndayisaba Mathieu while simultaneously contending that he should not receive compensation for career damage, despite having sustained a permanent incapacity as certified by a medical professional. He submits that this incapacity has had a profound impact on his client, rendering him unable to perform work as he previously did and constituting a barrier

to obtaining any form of employment. As a result, he returned to his home area in the Western Province because he could no longer work, and he remains under medical treatment to date.

He concludes by submitting that the High Court did not depart from the jurisprudential position established in judgment No RS/INJUST/RC 00010/2021/SC, as its decision is consistent with that precedent. Rather, the Court explained that the reasoning contained in that judgment is insufficient to support the view that a person who did not hold a formally recognized occupation at the time of the accident is automatically ineligible for career damages, since such a person is deprived of the opportunity to obtain and retain employment. The Court further held that the earlier judgment does not provide adequate clarification on this issue, as was also explained in judgment No RS/INJUST/RC 00007/2023/SC referenced above. DETERMINATION OF THE COURT

The issue in dispute between the parties in this case is whether a person who is unemployed or who does not hold a well-determined job should be entitled to career damages. In addressing this question, it is necessary to clarify the nature and purpose of this category of compensation, to identify the persons who qualify for it, and to determine whether Ndayisaba Mathieu had any form of employment at the time the accident occurred. a. The issue of career damages and those entitled to them

Article 19 of the Presidential order no 31/01 of 25/08/2003 on compensation for personal injury due to accidents caused by motor vehicles provides that career damage shall stand for (i) either loss of a definite career opportunity reasonably expected for a pupil, a high school, technical or university student or equivalent ; or (ii) the career damage of a person already in working life. In its last paragraph, this provision stipulates that career damage shall be restricted to six months of income calculated and limited to 30 times the guaranteed minimum wage.

In judgment No RS/INJUST/RC 00004/2023/SC, the Court relied on the legal expert Joëlle Marteau-Péretié, who explained that career damage is understood as the loss of income resulting from the work a person performed before the accident, and that its purpose is to compensate for the professional consequences suffered by the victim, such as being forced to change their occupation, perform their previous work under more onerous conditions, or shift to a different type

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of activity³. The expert further clarified that compensation awarded under the category of professional impact is intended to cover the effects of the accident that may reduce a person's value on the labour market, compensate for the increased hardship in performing the work previously undertaken or future work to be performed, address situations where the individual is compelled to change employment, or cover the loss of opportunities for career promotions resulting from the accident⁴.

Based on this precedent, it is evident that compensation for career damage is reserved for a person who had an occupation, whether they ceased to earn income due to the consequences of the accident, changed to work they are still capable of performing, continued in the same activity

but under more onerous conditions resulting from the accident, or remained in the same job but lost prospects for promotions due to diminished productivity. This necessarily implies that a person with no occupation does not fall within the scope of such compensation. It follows that an applicant seeking compensation for career damage must demonstrate that they indeed had some form of employment, together with the impact the accident had on that employment, whether through loss, change, increased hardship, or loss of promotion opportunities. This burden of proof was reiterated in judgment No RS/INJUST/RC 00010/2021/SC5, where the Court found that Uwimanimpaye Jean Claude was not entitled to such compensation because he failed to provide evidence of the employment, he claimed to have held⁶. b. Whether Ndayisaba Mathieu had any form of employment at the time the accident occurred

Article 4 of the Law n° 062/2024 of 20/06/2024 governing evidence reads that a claimant has the burden to prove his or her claim. The respondent provides arguments substantiating his or her defence. And article 12 of the Law n° 22/2018 of 29/04/2018 relating to the civil, commercial, labour and administrative procedure states that the claimant must prove a claim, failing which the respondent wins the case.

In this case, Ndayisaba Mathieu, who claims to have held employment that supported him and for which he sought compensation for career damage, bears the burden of adducing evidence; failure to do so results in him losing the case. His Counsel contends that he worked as a mason after having performed a mason's assistant, but asserts that no evidence can be produced to verify the work Ndayisaba Mathieu performed due to its informal nature, as he was paid in cash.

The Court finds that counsel for Ndayisaba Mathieu should have presented any available evidence capable of demonstrating that he performed that work, such as testimony from local administrative authorities confirming his employment, statements from persons for whom he worked or his workmates, wage receipts, payment records, or any other relevant proof. In the

3 Judgment RS/INJUST/RC 00004/2023/SC rendered by the Supreme Court on 2/04/2024, *RADIANT Insurance Company v MUREKATETE Denyse*, paragraph 36. 4 See paragraph 37 of the same judgment. 5 See Judgment No RS/INJUST/RC 00010/2021/SC rendered by the Supreme Court on 02/12/2022, *Prime Insurance Company Ltd v Uwimanimpaye Jean Claude*, paragraph 27. 6 The position established in this case was refined and elaborated in judgment No RS/INJUST/RC 00007/2023/SC, rendered by the Supreme Court on 05/04/2024, *Radiant Insurance Company Ltd v Mukaneza Clarisse*, at paragraph 53, where the Court held that compensation for career damage should not be construed as compensation for loss of employment itself.

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absence of such evidence, Ndayisaba Mathieu was not entitled to compensation for career damage because he failed to demonstrate that he had employment at the time of the accident.

Based on the applicable legal provisions and the foregoing explanations, the Court finds that Ndayisaba Mathieu was not entitled to compensation for career damage and must therefore reimburse SANLAM AG Plc the amount of Frw 540,000 corresponding to the compensation previously awarded to him in violation of the law. 2. The legal basis for damages requested in this case

Counsel Nkeza Sempundu Clément, representing SANLAM AG Plc, submits that the award of compensation for career damage to Ndayisaba Mathieu caused the company he represents to be dragged into unnecessary lawsuits. He therefore asks this Court to order Ndayisaba Mathieu to pay SANLAM AG Plc a total of Frw 2,000,000, comprising Frw 700,000 as counsel fees for the proceedings before the High Court, Frw 800,000 as counsel fees for the current proceedings, and Frw 500,000 as procedural fees at each level, given that the company engaged legal counsel to represent it.

Counsel Abasa Fazili, representing Ndayisaba Mathieu, responds that the damages claimed by SANLAM AG Plc are unfounded because all the awards granted to his client were lawfully justified. He further states that he will not reimburse the Frw 540,000 awarded as compensation for career damage, as it had been confirmed by the Court. He concludes by requesting the Court to order SANLAM AG Plc to pay Ndayisaba Mathieu damages for being dragged into lawsuits, amounting to Frw 2,000,000 as counsel fees and Frw 1,000,000 as procedural fees.

Counsel for SANLAM AG Plc maintains that the damages sought by Ndayisaba Mathieu have no merit, as he is unable to rebut the precedent-setting cases previously litigated by SANLAM AG Plc, which support the claim it now brings before the Court. DETERMINATION OF THE COURT

The Court finds that Ndayisaba Mathieu is not entitled to the damages he seeks, as he is a loser in this case. With respect to the damages claimed by SANLAM AG Plc, the Court holds that the company is entitled to certain amounts because it has won this case. Concerning the counsel and procedural fees claimed for the proceedings before the High Court, the Court finds that the company should not be awarded such an amount, as the company has partly lost the case at that level. However, it deserves to be awarded the amounts claimed at this level. The Court nonetheless considers the sums requested to be excessive and unsupported by evidence ; exercising its discretion, it awards Frw 500,000 as counsel fees and Frw 300,000 as procedural costs. III. DECISION OF THE COURT

Declares the application filed by SANLAM AG Plc for the review of the judgment N° RCA 00207/2022/HC/KIG rendered by the High Court on 05/06/2023 on grounds of being vitiated by injustice, well-founded;

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Orders Ndayisaba Mathieu to reimburse SANLAM AG Plc Frw 540,000 awarded as compensation for career damage;

Orders Ndayisaba Mathieu to pay SANLAM AG Plc Frw 800,000 for both counsel and procedural fees.

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