IN THE COURT OF APPEAL FOR ZAMBIA **APPEAL/168/2019**
HOLDEN AT LUSAKA **CAZ/08/281/2018**
(Civil Jurisdiction)

BETWEEN:

PACIFIC PARTS ZAMBIA LIMITED **APPELLANT**

AND

MARIA ROZALIA OGONOWSKA WISINIEWSKI **RESPONDENT**

CORAM: Kondolo SC, Chishimba, Sichinga SC, JJA
On 15th March, 2022 and 15th December, 2022.

For the Appellant: Mr. E.S. Lilanda of Messrs Tutwa Ngulube & Company

For the Respondent: Ms. M. Mukuka of Messrs Ellis & Company

JUDGMENT

KONDOLO SC, JA delivered the judgment of the Court

CASES REFERRED TO

1. **Nkhata & Four Others v The Attorney General (1966) ZR 124 CA**
2. **China Henan International Economic Technical Cooperation v Mwange Contractors Limited (2002) ZR 28.**
3. **Chibwe v Chibwe SCZ/28/2000**
4. **Kenmuir v Hattingh (1974) ZR 162**
5. **McGraddie v McGraddie [2013] UKSC 58; [2013] 1 WLR 2477**
6. **Fage UK Ltd v Chobani UK Ltd [2014] EWCA Civ 5; [2014] ETMR 26 para [114]**
7. **Imbuwa v Mundia (Appeal 11 of 2016) [2018] ZMCC 265 (19 March 2018)**
8. **Samson Mbavu and others v The People (1963-1964) Z. and N.R.L.R.164 (C.A.) 19.**

PUBLICATIONS REFERRED TO

1. **Archbold Criminal Pleading, Evidence and Practice (2010) at paragraph- 8-137, page 1359.**
2. **Phipson on Evidence, 17th Edition (Thomson Reuters Legal Limited 2010)**
3. **Civil Litigation Brief, 2013-2022 (http://www.civillitigationbrief.com)**

1. INTRODUCTION

1.1. This is an appeal against a judgment of the High Court delivered by the Honourable Mrs. Justice M. Chanda on 23rd August, 2018 under Cause No. 2016/HP/0701.

2. BACKGROUND

2.1. In the High Court, the Appellant was the Defendant and the Respondent was the Plaintiff. We shall refer to the parties as Appellant and Respondent throughout this judgment.

2.2. The Respondent commenced an action against the Appellant and filed a statement of claim alleging that the Appellant's forklift driven by its employee negligently crashed into and damaged the Respondent's motor vehicle Toyota Fortuner, resulting in the Respondent suffering personal injuries.

2.3. That the said employee, Geoffrey Kangwa crashed into the Respondent's vehicle after misjudging its distance and speed, thus causing damage to the bonnet, rear wheel, right

headlamp, grill, front bumper/guard, left front fender and left right indicator.

2.4. The Respondent claimed that she suffered various injuries, including cuts on the head, bruises on the head and nose, permanent facial damage and injuries to her left knee.

2.5. She further averred that she travelled to London and Poland for medical examinations which revealed that she suffered internal injuries which caused her to suffer headaches, dizziness, neck and arm pain and other complications.

2.6. That she reported the accident to the police, who charged and fined the driver of the fork lift with the offence of dangerous driving.

2.7. The Respondent claimed the following;

1. *Damages for personal injuries.*
2. *The sum of US$50,212.50 being the estimated value of her damaged motor vehicle.*
3. *Special damages of US15,000 being the cost of air tickets and other travelling expenses to London and Poland for medical examination, treatment and surgery.*
4. *Loss of business for her medical practice.*
5. *Damages for permanent facial damage mental shock, pain and suffering.*
6. *Punitive and exemplary damages.*
7. *Interest on the said sums and damages at the current commercial bank lending rates*
8. *Costs*

2.8. The Appellant settled a defence in which it denied that its employee caused the road accident and contended that the Respondent was thus not entitled to the reliefs claimed.

3. HIGH COURT PROCEEDINGS

3.1. The Respondent testified that as she was driving along Kafue Road, her car suddenly jumped, swerved right and in order to avoid hitting some pedestrians she steered left and hit into a stationary Canter (light truck).

3.2. The Respondent sustained injuries and her car was damaged as described in her statement of claim. She explained that she had glass embedded in her face and underwent medical treatment for facial injuries in London and was treated for insomnia at a neurology facility in Poland. That she had undertaken six trips and each trip cost her about US$15,000.

3.3. Southern Cross Motors assessed that her car was damaged beyond repair and its estimated value was US$50,212 and she prayed that she be compensated for the medical expenses and value of the car.

3.4. She informed the Court that a bystander Harrison Banda, who she called as PW2, informed her that a forklift had punctured her front and rear wheels, thereby causing the accident.

3.5. That the driver of the forklift told the police that he was at fault and paid an admission of guilt fee.

3.6. Under cross examination she admitted that she did not see who caused the accident as she was just told by PW2. When asked about the blue paint found on her vehicle, she said it could have been from a bus she almost hit into.

3.7. PW2 testified on behalf of the Respondent and explained that he was standing on the island in the middle of Kafue Road when he saw the Respondent driving in his direction. In the meantime, the forklift was on a side road waiting to join Kafue Road but its forks were protruding into the road.

3.8. The Respondent hit into the forks, lost control, almost hit into a blue mini bus and ended up hitting into a Canter. He said the blue paint on the Fortuner was probably from contact it might have had with the blue minibus it almost hit into.

3.9. He told the court that the driver of the forklift DW2 fled the scene and was pursued by some taxi drivers and other concerned members of the public.

3.10. PW2 went to the Fortuner and observed that the Respondent's face and mouth were bleeding. She looked confused and remained in a confused state even after the police arrived and took her to the hospital.

3.11. Later in the day PW2 and the Respondent met and went to the police station together and two days later the police recorded a statement from him.

3.12. In cross examination PW2 said he was about 3 to 4 meters from where the accident occurred and basically repeated what he had said in-chief. He added that the Fortuner did not hit into the bus but only scratched it and that's where the blue paint on the Fortuner came from.

3.13. The Defendant's first witness, DW1, was its operations manager, Fred Wamala. He testified that he was two vehicles behind the forklift as it was trying to join Kafue Road. That a blue minibus joined the fork lift at the junction and very quickly joined Kafue Road, and the Fortuner, which was headed in the direction of Kafue hit into a light truck.

3.14. The police arrived and people at the scene were saying that it was the forklift that caused the accident.

3.15. DW1 accompanied the police to the police station where he told them that the Fortuner did not hit the forklift forks but had hit into the blue minibus which then sped off and that's why there was blue paint on the Fortuner's tyre. That it hit the bus and then crashed into the Canter.

3.16. He explained that the forks still had their slippers and if indeed they had hit the Fortuner, they would have come off.

3.17. His second point was that the forks were elevated 1.5 meters off the ground, meaning that if they hit the Fortuner, they would have damaged the fender and doorway all the way to the rear and not the tyres as alleged.

3.18. Thirdly, he alleged that when the forklift is moving on the road, the forks are not spread but kept in the middle and that being the case, there was no way they could have hit the Fortuner at the same time.

3.19. In cross examination DW1 said the forks would have ripped the Fortuner if they had hit it.

3.20. He admitted that he was behind and did not see the position of the forklift and neither did he see the position of the forks.

3.21. DW2 was Godfrey Kangwa, the driver of the forklift, who testified that as he was waiting to cross Kafue Road, a blue minibus parked next to him and quickly joined the road. The next thing he heard was a bang and a vehicle passed in front of him and hit into another car.

3.22. He crossed Kafue road and continued on his way to his destination at Jan Japan. When he came out of Jan Japan

some people he found outside told him that his forklift had caused an accident.

3.23. Two days later he made a statement at the police station and had not seen them since. He said the police never charged him and he never paid admission of guilt.

3.24. In cross examination DW2 confirmed seeing the Fortuner pass in front of the forklift but the two had no contact with each other.

3.25. He denied running away from the accident scene.

4. HIGH COURT DECISION

4.1. The trial judge noted that the issue for determination was whether the injury and loss suffered by the Respondent was caused by the Appellant.

4.2. In so doing, she observed that the evidence of the Respondent's and Appellant's witnesses were in conflict and resolving the question of liability would largely depend on her findings as to the credibility of the witnesses. In so doing, she followed the advice given by the learned authors of **Archbold Criminal Pleading, Evidence and Practice (2010) at paragraph- 8-137, page 1359.**

4.3. The trial judge noted that she took the greatest care to observe the demeanour of PW2, an eye witness, and she found him to be a composed and reliable witness. She

further noted that his testimony pertaining to his reconstruction of the accident was unambiguous and consistent and he remained unshaken under cross examination.

4.4. The trial judge noted that PW1 was not an eye witness whereas PW2 saw what happened.

4.5. The trial judge placed little capital on the evidence of DW2, who she said deliberately withheld information and gave an unclear and ambiguous testimony in order to mislead the Court. That his behaviour of having deserted the scene of the accident further soured his testimony.

4.6. The trial judge threw out DW2's testimony that the blue minibus caused the crash, in part, because, even according to his own testimony, onlookers told him that he had caused the accident. The trial judge also considered the fact that there was no evidence that the driver of the blue minibus was confronted by members of the public or the police in connection with the accident.

4.7. The trial judge accepted the evidence of PW2 as opposed to that of DW2 and she held that DW2, the Appellant's driver caused the accident because he negligently allowed the forks of his fork-lift to protrude into the road, thus causing the Respondent to hit into them.

4.8. On this basis the Court awarded the Respondent the following;

1. *Compensatory damages for the personal injuries sustained and for mental shock, pain and suffering to be assessed by the Deputy Registrar plus interest on the said sums.*
2. *The sum of US$50,212 as replacement value of the damaged Toyota Fortuner on the basis of the valuation report from Toyota Zambia which, according to the judge, was not objected to by the Appellant.*
3. *Special damages in the sum of US$15,000 for pecuniary loss suffered in the form of medical expenses.*

4.9. The claim for exemplary damages was refused.

5. THE APPEAL

5.1. The Appellant promptly appealed, initially listing four grounds of appeal as follows;

1. **The Court below erred in law and fact by failure to make a finding of fact that at the intersection of the road where the accident occurred there was also present a blue Toyota Hiace minibus.**

2. **The Court below erred in law and fact when it stated that the testimony of PW2 categorically showed that the accident occurred when the tyres of the Plaintiff's vehicle were pierced first by the forks of the Defendant's Komatsu Fork lift by failure to take into account the position of the blue Toyota Hiace minibus to that of the Komatsu Fork Lift prior to the accident happening.**
3. **The Court below erred in law and fact by failing to take into account that the patches/scratches of the blue colour on the Plaintiff's vehicle and tyres and the absence of yellow colour on the Plaintiff's vehicle and tyres clearly showed that the accident was caused by the Blue Toyota Hiace Minibus.**
4. **The Court below erred in law and fact by shifting the burden of proof from the Respondent to the Appellant regarding the police report.**

5.2. The Appellant later moved the Court to amend the notice of appeal and memorandum of appeal to add three more grounds.

5.3. The Appellant also filed an application to adduce new evidence and which application was heard and refused.

5.4. When the application to amend the notice of appeal and memorandum of appeal came up for hearing, counsel for the Appellant informed the Court that he was withdrawing the application because, according to him, our refusal to allow the Appellant to introduce fresh evidence had rendered the application before court otiose.

5.5. The parties then proceeded to argue the appeal on the original 4 grounds of appeal.

6. APPELLANT'S ARGUMENTS

6.1. The Appellant filed Heads of argument supporting its grounds of appeal.

6.2. In ground one, the Appellant pointed out that it was attacking the trial Judge's findings of fact and the same applied to grounds 2 and 3. It was submitted that an Appellate court was entitled to interfere with a trial court's findings of fact if the conditions set out in the case of **Nkhata & Four Others v The Attorney General** [1] are met. It was highlighted that this included situations where a court failed to take into account some matter which it ought to have taken into account.

6.3. The Appellant pointed to page 609 and pages 613 to 617 of the record of appeal where PW1 and PW2 referred to the Blue Minibus respectively. He further pointed to pages 620 and 629 where DW1 and DW2 also referred to the blue Minibus.

6.4. It was argued that the finding of fact by the trial court should be reversed in that the trial judge failed to take into account the presence of a blue minibus immediately before the accident which is a material fact which ought to have been taken into account. Further, that the court should have given its reasoning for refusing to accept that the accident was caused by the blue bus and not the forklift.

6.5. In ground 2, it was argued that the Court's finding of fact that the accident occurred when the forks of the Respondent's fork lift pierced the tyres of the Appellant's Fortuner was made in the absence of any eye witness evidence.

6.6. It was submitted that quite to the contrary, the picture at page 50 of the record of appeal showed blue marks on the Fortuner's tyre and damaged right hand fender which showed that the accident occurred when the blue mini-bus collided with the Fortuner. That PW1 did not dispute the

presence of the blue paint and testified that the Fortuner had no stain of yellow paint, the colour of the forklift.

6.7. Under ground three, it was argued that the trial judge should have found that the absence of the yellow colour on the Fortuner meant that the accident involved the blue minibus, and the Appellant should have been exonerated. That the presence of blue paint and the absence of yellow paint was not disputed by the Respondent and should thus be deemed to be an admission. On this point, the Appellant cited the case of **China Henan International Economic Technical Coopereation v Mwange Contractors Limited** [2].

6.8. In ground four, it was postulated that the law is well established that in civil cases, he who alleges must prove his case on a balance of probabilities.

6.9. It was argued that the Respondent produced a police report in which DW2 allegedly admitted causing the accident but the author of the report was not called as a witness, meaning that it amounted to hearsay. It was submitted that DW1 denied ever having admitted to any criminal charge or paying any admission of guilt fee.

6.10. Under this ground, the Appellant also attacked the trial judge's finding as to the credibility of the witnesses. It was

argued that the trial judge did not assess the conflicting stories between the Appellant and Respondent's witnesses.

6.11. The Appellant referred to **Archbold, Criminal Pleading, Evidence and Practice (2010) at paragraph 8-137, page 1359** and to **Phipson on Evidence, 17th Edition (Thomson Reuters Legal Limited 2010) paragraph 12-36, page 365** and concluded that the trial judge erred when she found that PW2's evidence was unambiguous, without inconsistencies and remained unshaken under cross examination.

6.12. That the trial judge ignored the inconsistencies in PW2's testimony where he said that he saw the Fortuner's right front and rear tyres hit into the forks (p.613 record of appeal) and, in the same breath he said that he didn't see the impact (p. 618 record of appeal).

6.13. The Appellant pointed to a further inconsistency in PW2's evidence where at page 613 of the record of appeal, he stated that he was crossing the road 6 meters from where the accident happened but also stated that he was standing on the island 3 to 4 meters from where the accident occurred.

6.14. The Appellant concluded by stating that quite contrary to the trial judge's findings, in cross examination, PW2's

testimony was exposed to have exaggerations, mere assumptions, improbabilities and inconsistencies on the aspect of not seeing the impact and how high the forks were to have allegedly caused the accident.

6.15. The Appellant augmented its heads of arguments *viva voce* by stating that a court's decision must be based on all the evidence brought before it and cited the case of **Chibwe v Chibwe** [3].

6.16. In its oral arguments before court, the Appellant merely expanded on the arguments advanced in the filed heads of argument and largely dwelt on the Respondents observations vis-à-vis the already referred to photograph at page 50 of the record of appeal.

6.17. Further, the Appellant stressed that if the forklift had indeed caused the accident, the following two features would have stood out;

1. *Patches of yellow paint on the Fortuner*
2. *Damage on the fork lift*

7. RESPONDENT'S ARGUMENTS

7.1. The Respondent argued grounds 1 and 2 together and submitted that the two grounds were totally misconceived as nowhere in the record did the trial judge find that no blue Toyota Minibus was at the intersection at the time of the

accident. That the Appellant failed to show where, in the ruling, the Court made such a finding.

7.2. Secondly, the Appellant's assertion that there was no eye witness testimony confirming that the forklift caused the accident was also a misdirection. The Respondent pointed to pages 11, 12 and 14 of the record of appeal, where the trial judge specifically identified PW2 as an eye witness and recounted the eye witness testimony.

7.3. It was submitted that the trial judge meticulously evaluated and analysed the evidence with regard to the blue mini bus and the blue paint seen on the Fortuner.

7.4. The Respondent further submitted that the trial judge explained why she arrived at the conclusion that PW2 was a credible witness and that DW2 was not. The case of **Kenmuir v Hattingh** [4] was cited, where it stated that with regard to the question of credibility, *the appellate court, which has not had the advantage of seeing and hearing the witnesses, will not interfere with the findings of fact made by the trial judge unless it is clearly shown that he has fallen into error.*

7.5. In ground 3 the Respondent argued that both PW1 and PW2 adequately explained how the Fortuner ended up stained

with blue paint from the mini bus and they both clearly testified that the blue mini bus did not cause the accident.

7.6. With regard to the absence of yellow paint on the Fortuner, the Respondent referred to the testimony of DW1, who stated that the forks are not yellow in colour. It was pointed out that the judge found that there was no yellow paint on the Fortuner because the point of contact with the fork lift was the forks which were not yellow.

7.7. Under ground 4 it was argued that the police report was part of the evidence as it was in the bundles of documents and had not been objected to by the Appellant.

7.8. It was further submitted that the trial judge did not only rely on the police report when determining this case but also on the demeanour and credibility of the witnesses, the testimony of DW1 and DW2 themselves that bystanders besides PW2 took DW1 to task for having caused the accident but there was no evidence of anyone confronting the mini bus driver.

7.9. Finally, under this ground, it was submitted that the Appellant had attempted to mischaracterise the testimony of PW2 in respect of his physical position when the accident occurred. It was pointed out that PW2's testimony at page 617 described where he was at different

points from the time he disembarked from a bus, crossed the road and finally stood on the island about 3 to 4 meters from where the accident occurred.

7.10. The Respondent prayed that all the grounds of appeal be dismissed with costs.

7.11. The Respondent reacted to the Appellant's *viva voce* submissions by submitting that it was never the Respondent's case that the body of the fork lift collided with the Fortuner. That as stated by the trial judge and as confirmed by DW1, the forks of the fork lift were not yellow in colour.

7.12. With regard to the blue paint on the Fortuner, it was further submitted that it was not in dispute that after coming into contact with the fork lift, the Fortuner, spun out of control and came into contact with the blue mini bus.

8. APPELLANT'S REPLY

8.1. The Appellant submitted that the Respondent had not challenged the assertion that the fork lift would have been damaged if it had been involved in the accident.

8.2. It was further submitted that the Appellant's *viva voce* submissions with regard to the blue paint are not supported by any evidence.

9. DECISION OF THIS COURT

9.1. We have considered the record of appeal as well as the filed and *viva voce* arguments advanced by the parties.

9.2. It is important that we begin by clarifying from the outset that this appeal is purely with regard to liability. It is important that this point be emphasised because the Respondent's application to amend the notice of appeal and memorandum of appeal sought to introduce grounds of appeal intended to assail the basis and the quantum of damages awarded to the Respondent by the trial judge.

9.3. Once the Appellant withdrew its application to add additional grounds of appeal, the remaining grounds of appeal, save for ground 4, all spoke only to liability with regard to who was responsible for the accident.

9.4. We shall address grounds 1, 2 and 3 together because they are all in relation to the accident and only differ in that they attack various findings that led the trial judge to conclude that the Appellant was responsible for causing the accident.

9.5. The entire appeal, save for ground 4, essentially attacks the trial judge's findings of fact.

9.6. It has long been established that appellate courts are loath to interfere with a trial court's findings of fact. This point

was discussed at length by Gordon Exall in his publication in the **Civil Litigation Brief, 2013-2022 (http://www.civillitigationbrief.com)** in which he stated that *"the correct approach of an appellate court when invited to interfere with the factual findings of a trial judge was restated, not for the first time, by the Supreme Court in* ***McGraddie v McGraddie [2013] UKSC 58; [2013] 1 WLR 2477*** [(5)] and accurately summarised in the head note:

> *"It was a long settled principle, stated and restated in domestic and wider common law jurisprudence, that an appellate court should not interfere with the trial judge's conclusions on primary facts unless satisfied that he was plainly wrong."*

Exall further cited Lewison L.J. in the case of **Fage UK Ltd v Chobani UK Ltd [2014] EWCA Civ 5; [2014] ETMR 26 para [114]** [(6)] where he said as follows:

> *"Appellate courts have been repeatedly warned, by recent cases at the highest level, not to interfere with findings of fact by trial judges, unless compelled to do so. This applied not only to findings of primary fact, but also the evaluation of those facts and to inferences*

to be drawn from them. ... The reasons for this approach are many. They include;

1. *The expertise of the trial judge in determining what facts are relevant to the legal issues to be decided, and what those facts are if they are disputed.*
2. *The trial is not a dress rehearsal. It is the first and last night of the show.*
3. *Duplication of the trial judge's role on appeal is a disproportionate use of the limited resources of an appellant court, and will seldom lead to a different outcome in an individual case.*
4. *In making his decisions, the trial judge will have regard to the whole of the sea of evidence presented to him, whereas an appellate court will only be island hopping.*
5. *The atmosphere of the courtroom cannot, in any event, be recreated by reference to documents (including transcripts of evidence).*
6. *Thus even if it were possible to duplicate the role of the trial judge, it cannot in practice be done."*

9.7. It is thus evident that attempting to have an appellate court overturn a trial court's findings of fact is an uphill battle.

This has been confirmed by numerous decisions of our Supreme Court, including the case of **Nkhata & Four Others v The Attorney General (supra)** cited by the Appellant, whose sum total is to the effect that an appellate court will only interfere with a trial judge's findings of fact where the trial judge completely misconstrued and failed to properly evaluate the evidence before him, leading to erroneous findings of fact.

9.8. Much of the Court's decision on the question of liability rested on its finding that PW2 was a more credible witness that DW2.

9.9. The question of credibility was commented upon by the Constitutional Court in the case of **Imbuwa v Mundia** [7] where it cited the case of **Samson Mbavu and others v The People** [8] in which the Court of Appeal held as follows

> *"When, as often happens, much turns on the relative credibility of witnesses who have been examined and cross-examined before the judge, the court is sensible of the great advantage he has had in seeing and hearing them. It is often very difficult to estimate correctly the relative credibility of witnesses* from written depositions*; and when the question arises which witness is to be believed rather than*

another, and that question turns on manner and demeanour, the court of appeal always is, and must be, guided by the impression made on the judge who saw the witnesses. But there may obviously be other circumstances, quite apart from manner and demeanour, which may show whether a statement is credible or not; and these circumstances may warrant the court in differing from the judge, even on a question of fact turning on the credibility of witnesses whom the court has not seen."

9.10. We have painstakingly combed through the record and considered the points in the evidence which the Appellant submits are sufficient to warrant this Court interfering with the trial judge's findings of fact and the finding that PW2 was a more credible witness than DW2.

9.11. The trial judge considered the evidence of DW1's and found that it was of little or no probative value because he did not witness the accident (see J16 at page 194 of the record of appeal).

9.12. With regard to the credibility of the witnesses, all we needed to do was to consider the trial judge's observations in that regard and they are located at page 195 of the record of appeal where she stated, *"I took time to study his*

demeanour while giving evidence and formed a definite opinion that PW2 was a composed and reliable witness". She added that his evidence was straight forward, unambiguous, consistent and remained unshaken during cross examination.

9.13. By stark contrast, she found the evidence of DW2 as unreliable on account of his demeanour and she described his testimony as "*deliberately given in an ambiguous or unclear manner in order to mislead or withhold information from the Court".*

9.14. We have no reason to doubt the trial judge's observations with regard to DW2's testimony.

9.15. The Appellant placed a lot of capital in trying to convince this court to interfere with the trial court's finding that the fork lift driven by DW2 caused the accident. The main argument was to the effect that the fork lift was yellow in colour and if it had come into contact with the Fortuner, the Fortuner would have had some yellow paint on it. That since the Fortuner was stained with only blue paint, it followed that it only came into contact with the blue mini bus.

9.16. This question was determined by the trial judge at pages 194 to 195 of the record of appeal. The trial judge noted

that PW2 explained that the Fortuner collided with the Fork lifts forks which were protruding into the road. That DW1 had conceded in cross examination that the forks were not yellow and the trial judge correctly concluded that this was the reason there was no yellow paint on the Fortuner.

9.17. We hold the view that the trial judge carefully analysed and evaluated the evidence before her and decided in favour of the Respondent on a preponderance of probability.

9.18. We find it unnecessary to determine ground four because the view we take of this appeal has rendered that ground academic.

10. CONCLUSION

10.1. We find no merit in the appeal and it is accordingly dismissed with costs to the Respondent.

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M.M. KONDOLO, SC
COURT OF APPEAL JUDGE

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F.M. CHISHIMBA
COURT OF APPEAL JUDGE

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D.L.Y. SICHINGA, SC
COURT OF APPEAL JUDGE