



Mr. Adamu Samaru accepted the role of factory manager at Jintech Factories Limited, a renowned food and beverages manufacturing company in Nigeria. Mr. Samaru commenced his duties at one of the company's locations in 2015 and oversaw the mixing, preparation, and packaging of beverage bags, along with supervising warehouse operations for inventory management. Despite the

demanding responsibilities, Mr. Adamu felt fairly compensated compared to his industry peers.

In 2018, a senior factory worker fell ill at the same time a substantial order arrived from one of the company's longstanding clients. Mr. Samaru, having received adequate training on the mixing machine and previously operated it without issue, decided to step in to manage the situation. Unfortunately, he sustained a severe injury to his right hand before completing the order. Opting for treatment at his brother-in-law's hospital due to its proximity and their relationship, Mr. Samaru underwent successful surgery for the damaged hand but required intensive physiotherapy for full recovery. However, he delayed informing his employers and upon notification to them three weeks later, he requested immediate sick leave to recuperate fully and undergo necessary physiotherapy hoping to restore full function to his right hand.

The company approved his request, offering comprehensive financial assistance for physiotherapy and other medical expenses, and ensuring payment of full salary and leave allowances throughout his absence. Upon his return, Mr. Samaru demonstrated admirable resolve in adapting to his changed circumstances, even though the expected benefits from physiotherapy had not materialized as anticipated. Despite his best attempts, he struggled to meet the rigorous performance benchmarks anticipated of a factory manager, resulting in substandard outcomes and failure to achieve key performance indicators (KPIs). Consequently, Mr. Samaru was terminated a few months later on grounds of redundancy and he was paid his terminal benefits.

Feeling unjustly treated and underpaid, Mr. Samaru plans to lodge a complaint against his former employer with the Nigeria Social Insurance Trust Fund (NSITF) Management Board and the National Council for Occupational Safety and Health for his unsuccessful application for compensation at the NSITF due to Jintech Factories Limited's failure to report his accident. Mr. Samaru also intends to pursue a civil action at the National Industrial Court for compensation and



damages. Jintech Factories Limited has now been notified of Mr. Samaru's intentions and views it as an attempt to extort more money, arguing that they provided adequate financial support to him during and after his accident without any complaints from him. The above claims of Mr. Samaru are similar to the employee's claims in ***Mr. Inyima Uma Kalu v DHL Global Forwarding Nigeria Limited NICN/LA/363/2016, judgment delivered by Hon. Justice M.N Esowe on January 16, 2024*** where the National Industrial Court of Nigeria (NICN) considered among other issues, the responsibility of both the employer and employee in determining compensation for workplace injury.

FACTS AND FINDINGS

Mr. Inyima was employed by DHL Global Forwarding Nigeria Limited ("the Company") as a contract staff from October 2006 to June 2008 and in March 2016, was offered full employment. Mr. Inyima claimed that in 2011, while carrying out an errand for the Company, he sustained an injury and that the Company failed to provide adequate medical treatment or report the incident to the Nigerian Social Insurance Trust Fund (NSITF) for proper processing of his compensation. He also alleged that his employment was



terminated in 2016 without proper notice or compensation and claimed special damages for medical expenses he incurred during the time of his incapacitation.

Upon review, the National Industrial Court determined that most of Mr. Inyima's claims were unsupported by evidence. Specifically, the Court highlighted his failure to present evidence regarding the circumstances surrounding his injury, including pertinent details such as the date, location, and time of the incident. Mr. Inyima's reliance on general statements devoid of evidence weakened his case and frustrated the Court, particularly his inability to pinpoint the date of the injury. As for his claim for compensation and damages stemming from the alleged negligence of the Company in providing safe transportation, the Court found insufficient evidence to substantiate this assertion. The Court also clarified that the burden of proof rested on Mr. Inyima to demonstrate the type of transportation typically provided by the Company for employees and its practices concerning external transportation, among other particulars.

While acknowledging Mr. Inyima's non-compliance to the provisions of the Employee Compensation Act, 2010 (ECA) on prompt notification of injury or accident to the employer, the Court ruled that the Company's neglect and refusal to ensure his proper treatment upon



notification constituted negligence. Regardless, the Court still dismissed Mr. Inyima's request for reimbursement of medical expenses for failure to substantiate this claim. In all, the Court was unable to grant Mr. Inyima's claims for compensation in line with the Employment Handbook of the company because of his non-compliance with ECA provisions and lack of evidence establishing the circumstances of his purported accident, his job responsibilities outside the workplace, and the specific factors that contributed to the accident.

For the other claims on termination of employment, the Court found that the Company acted in accordance with the specific procedures outlined in the Company's handbook and refused the claims bordering on Mr. Inyima's termination.

In conclusion, the Court upheld Mr. Inyima's claim of negligence against the Company and awarded him One Million Naira (₦1,000,000) in general damages. However, his other claims, including the claim for reimbursement and compensation under the ECA were dismissed due to lack of sufficient evidence.

COMMENTS

The Employee Compensation Act, 2010 (ECA) in Nigeria addressed the gaps on compensation and benefits to employees who sustain injuries, disabilities, diseases, or die in the course of employment. The ECA aims to provide prompt, fair and adequate compensation for workers and their dependents in the event of work-related accidents or illnesses and covers various aspects of compensation-related issues, including medical treatment, rehabilitation, disability benefits, and death benefits.

The prevailing principle throughout the ECA for a viable compensation claim is that the death, injury, disease, or disability of the employee must have occurred during the course of employment or arising directly from it¹. The ECA goes on to describe a workplace accident as one that occurs between the employee's place of work and primary or secondary place of residence, where he eats, or where he collects salary². If an employee experiences an accident outside the typical workplace, they may still be eligible for compensation where it is successfully established by the employee and determined by the Court that the employer's business operations extend beyond the regular workplace, that the nature of the job demands both indoor and outdoor work, and the employee is authorized by the employer to work outside the usual workspace³. In effect, the employment must be the cause of the injury and the injury must have occurred in relation to that employment or incidental to the employment. Regardless, a successful compensation claim must always must always establish some causal relationship between the injury sustained and the employment.

¹ Section 7 of the Employee Compensation Act, 2010

² Section 7(2) of the Employee Compensation Act, 2010

³ Section 11 of the Employee Compensation Act, 2010





Where compensation for an injury is under the ECA, both the employer and employee have obligations under the ECA for a successful application for payment of compensation to the Nigeria Social Insurance Trust Fund⁴ Management Board (“Board”). Section 4 of the ECA requires an employee to inform the employer within 14 days of the occurrence of any injury and in the case of death, notice

by the dependant within the same deadline. Upon receipt of the notification of the injury, the employer is required under Section 5 of the ECA to within 7 days of the receipt of information regarding any disabling occupational injury or disease, or claim for same, report the injury to the Board. This notification to the Board, paves way for the application for compensation to be made by the employee and a failure on the part of the employer to notify the Board inhibits the employee’s right to claim compensation under section 6 of the ECA while exposing the employer to criminal liabilities.⁵

The employee is also responsible for proving that the personal injury was caused by an accident arising out of and in the course of employment⁶ and in this regard, the information provided by the employee should include particulars such as the employee’s name, time and place of injury or death, and nature of the injury or disease. Failure to provide the necessary information within the required time bars an employee from claiming compensation under the ECA except the Board is convinced that the information provided is sufficient to describe the disease, and the employer had knowledge of the disease⁷. The employee or dependant must also submit their application for compensation within one year from the date of the incident. In cases of delay, the Board may still consider applications submitted within three years if special circumstances that prevented timely filing are established.

In modern workplaces, employee compensation must be taken seriously by all parties as the ECA underlines the responsibilities of both employers and employees in ensuring successful compensation for workplace-related injuries, disabilities, diseases, or fatalities. While employers are entrusted with the duty to provide a safe and healthy work environment, ensuring compliance with their industry safety regulations and standards, they are also responsible for creating a seamless reporting structure/policy that allows for promptly reporting workplace accidents and illnesses, facilitating medical treatment, and providing fair compensation to affected employees

⁴ NSITF.

⁵ See sections 5(1) (5) and 71 of the Employees Compensation Act.

⁶ See *Anike V. S.P.D.C. (Nig.) Ltd* (2011) 7 NWLR (pt. 1246) 227

⁷ See section 4(4) of the Employee Compensation Act, 2010

and their dependants as per the provisions outlined in the ECA. It is also considered best practice for employers to also help injured or disabled employees through rehabilitation processes and facilitate their return to work whenever possible.

On the other hand, employees have a vital role in ensuring their own safety and well-being at the workplace. This includes adhering to safety protocols, reporting hazards or unsafe conditions promptly, and seeking necessary medical attention promptly in case of injuries or illnesses sustained during work hours. In this regard, upon occurrence of any workplace injury, employees should notify their employers within the required timeline. Employees must also do well to understand their rights under the ECA, and more importantly, their obligations, and notify their dependants of same so as to take appropriate steps to claim compensation in case of work-related incidents.

Clearly, fulfilling reporting obligations is a crucial step for employees aiming for successful compensation claims. As can be gleaned from ***Mr. Inyima Uma Kalu v DHL Global Forwarding Nigeria Limited***, complying with reporting obligations by an employee not only aids the employee in a successful compensation application but also assists the employer in documenting pertinent details and safeguarding relevant documents that may serve as crucial evidence for compensation claims when needed. This is especially important for the employee because the burden of proving the existence and occurrence of the injury can only be borne and satisfied by the employee. The employer's reporting obligation to NSITF does not also arise without notification by the employee, or knowledge of the injury or disease.

In essence, the framework of employee compensation underscores a shared responsibility between employers and employees to uphold safety standards, mitigate workplace risks, and ensure fair and timely compensation for injuries or illnesses suffered. Through collaboration and adherence to these responsibilities, workplaces can foster a culture of safety, support, and mutual respect.

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