

RWANDA SOCIAL SECURITY BOARD (RSSB) v. TWAGIRAMUNGU

[Rwanda SUPREME COURT –
RS/INJUST/RAD00004/2018/SC – (Rugege, P.J., Cyanzayire,
Kayitesi, Rukundakuvuga and Hitiyaremye, J.) July 30, 2019]

Labour law – Work related accident – Mental illness – Compensation for the disability caused by mental illness caused by work accidents is calculated in the same way as the compensation for the physical disability caused by work accidents that are provided by the Presidential order are calculated.

Facts: Twagiramungu had a work accident, his employer informed Rwanda Social Security Board (RSSB), the doctor who consulted him demonstrated that he has a permanent disability of 45%, whereas RSSB's doctor demonstrated that he has 10% of disability. He requested help to RSSB due to that disability he incurred and replied to him that nothing it can do because there are no documents to prove his disability.

Twagiramungu sued RSSB to the Intermediate Court of Nyarugenge; requesting to be given what provided by the law due to that work accident he incurred and requesting to be given the various damages. That Court ordered RSSB to reimburse him the medical fees he expensed, transport fees; salary compensation for the time he cannot be able to work, the money for disability per month and procedure fees. In determining the money for permanent disability, it relied on the degree of

disability of 45% that was confirmed by the doctor of the hospital where he was treated for.

RSSB appealed to the High Court stating that the previous Court confirmed the degree of disability of 45% with disregarding internal rules and ordered it to pay the medical fees to Twagiramungu while he paid it to the hospital which treated him; allocated the transport fees illegally; computed wrongly salary compensation and it ordered him to pay damages while his opponent was the one who dragged it into unnecessary lawsuit. Twagiramungu filed also cross-appeal. The court held that the appeal of RSSB has merit on what concerns with medical fees; transport fees, it ruled that the cross-appeal has merit on what concerns with procedure and counsel fees, and also the money of permanent disability for each month should be given from the day following the accident to 22/03/2013 instead of 31/5/2013.

RSSB wrote to the office of ombudsman requesting for a review of that judgment due to injustice, stating that in determining the permanent disability, the High Court disregarded laws while they provide for means of resolving the disputes relate to the degree of disability of work accident. The office of ombudsman wrote to the President of the Supreme Court, requesting to review that judgment due to injustice. The president of the Supreme Court decided to review that judgment.

During the hearing, Twagiramungu appeared but weak to plead, rather he asked the court to order RSSB to give him medical fees and sign so that he can go to the hospital for treatment since it cannot give him money properly and it refused to sign for him while he has Rendez-Vous with the doctor of mental illness. The Court ordered RSSB to help Twagiramungu to be treated at CARAES Ndera Hospital for mental illness, and take him for

treatment of physical disability caused by the accident at King Faysal Hospital, and help him to get the medicine prescribed by the doctors of that hospital, and It ordered RSSB to comply with the court decision concerns with the amount it was ordered to give him together with arrears, during the time of waiting for the doctor decision

RSSB state that the first injustice this judgment contains is that in computing the money for physical disability the degree of disability based on was 45% which was determined by incompetent organ, but now, it is resolved by the report of the medical committee established by MINISANTE which indicates that he has a physical disability of 20%, thus, they request that to use this degree of disability in computing the money for physical disability.

Twagiramungu also states that he agrees with 20 % of physical disability demonstrated by the committee of doctors.

RSSB state that the other ground of injustice bases on salary compensation he was calculated for, while his employer continued to renumerating him from the day of the accident, he got four (4) months of salary; therefore, it realizes that what he should be given is that from the day his employer stopped to remunerate him. Twagiramungu states that the court did not err in their calculation, thus the money should sustain.

On the issue of determining whether the mental disability of 80% he has been caused by the work accident so that he could be given the money related to it, he states that it was caused by the fact that RSSB did not take him for treatment properly, he explains that the medical report indicates that his mental disability relates to the work accident, therefore, he requests, RSSB to be held liable for that negligence.

RSSB states that nothing proves that that disability was caused by the accident, thus, it finds that it should not be held liable for his mental disability.

Held: Pension and the money of the accident resulted from work that is given to affiliate shall not be less to 13,000,000Frw per month. Thus, he should be given 13,000,000 Frw every month, instead of 20,947Frw as it was decided in the judgment subjected to the application of the review due to injustice.

As it is indicated by the report drafted by the various doctors, in their explanation, all demonstrate that the accident injured the brain, RSSB did not take him for treatment of that another illness while it was demonstrated by the doctors who treated him.

Calculation of the damages that are awarded to the one who has a mental disability caused by a work accident, is similar to those of physical disability caused by a work accident that is provided by the law.

**Application for the review due to injustice has merit in part,
The cross appeal has merit in part;
The defendant has a physical disability of 20% and 80% of
mental disability;
The plaintiff should continue to take the defendant for
treatment of all illnesses caused by the work accident.**

Statutes and Statutory instruments referred to:
Decree-law of 30 July 1888 relating to Contracts or
conventional obligations, article 259,

Law N° 22/2018 of 29/4/2018 relating to the civil, commercial, labour and administrative procedure, article 12
Ministerial Order N°1931/bis/06 of 08/12/1974 establishing the procedure of informing accident and illness caused by work, article 6 paragraph 4.
Decree-law of 22/08/1974 governing Social Security as it is amended and completed to date, article 22 and 23.
Presidential order N° 069/01 of 13/04/2018 increasing pension and the accident from work that are allocated by RSSB, article 2.

No case referred to.

Judgment

I. BRIEF BACKGROUND OF THE CASE

[1] On 23/11/2012, Twagiramungu Eric had a work accident and he fractured his left leg, his employer Trustco Rwanda Company notified RSSB in January 2012. On 31/05/2013, a doctor at King Faysal hospital who treated him indicated that he has a permanent disability of 45%, whereas, on 19/06/2013, the RSSB doctor indicated that he has a permanent disability of 10%. He requested the intervention of RSSB due to the disability he sustained due to work accidents, and it replied that since there are no documents to prove his disability, it cannot compensate him.

[2] Twagiramungu Eric sued RSSB to the Intermediate Court of Nyarugenge; requesting to compel it to give him what

he is entitled to because of the work accident, such as salary compensation and retirement benefit, then he requests to be awarded various damages.

[3] On 30/12/2014, the Intermediate Court of Nyarugenge rendered judgment N° RAD 0132/13/TGI/NYGE and found with merit in part the claim submitted by Twagiramungu Eric, thus, it ordered RSSB to give him:

2,336,140Frw for the medical fees; 438,000Frw for transport fees; 125,640Frw as salary compensation for 180 days he was not able to work, 20,947Frw per month for the disability; these had to be paid to him beginning from 31/5/2013, the time when the doctor of King Faysal confirmed the degree of permanent disability of Twaramungu Eric; the Court also ordered RSSB to reimburse Twagiramungu Eric 200,000Frw of the procedure fees.

[4] In determining the compensation for the permanent disability, the Court declared that the degree of disability which should be based is the one confirmed by the doctor of King Faysal hospital contained in the report of 31/05/2013, the Court indicated that Twagiramungu Eric has a disability of 45% as indicated by King Faysal because that is where he was treated, instead of basing on the report of 19/06/2013 done by the doctor of RSSB, whereby he demonstrated that he has the disability of 10%, the reason why it was not based on it is that the court doubts its sincerity because it was done by the defendant doctor.

[5] In determining the salary compensation, the Court based on the salary he was remunerated of 27,943Frw, and declared

that the daily average salary is $27,943 \times 3: 90 = 931\text{Frw}$, that sum was multiplied by 75% of the daily average salary.

[6] RSSB appealed to the High Court stating that the Intermediate Court confirmed the 45% of disability in disregard of the internal regulations and ordered it to pay the medical fees to Twagiramungu while it paid it to the hospital which treated him, allocated the transport fees unlawfully, erroneously computed salary compensation and it ordered him to pay damages while his opponent was the one who dragged it into unnecessary lawsuit. Twagiramungu filed also cross appeal.

[7] On 30/04/2015, the High Court rendered judgment n° RADA 0007/15/HC/KIG and held that the appeal of RSSB has merit on the issue concerning the medical fees of 2,336,140, transport fees of 438,000Frw which it was ordered to give to Twagiramungu, which was overruled, it further ruled that the cross-appeal of Twagiramungu Eric has merit on the issues concerning the procedure and counsel fees, it also ordered RSSB to give him 300,000Frw and 100,000Frw in addition to the one he was awarded previously. Furthermore, the Court the amount of 20,947Frw every month for the compensation due to a permanent disability should be paid starting from the day following the accident up to 22/03/13 instead of 31/5/2013, which means 119 days instead of 180.

[8] RSSB wrote to the office of Ombudsman requesting for a review of that judgment due to injustice, it states that in determining the permanent disability of TWAGIRAMUNGU, the High Court erred on laws to be applied on the issue of the disability resulting from a work-related accident, and also that, RSSB had started the procedure by writing to Minister of Health, requesting to form a committee of doctors to examine

TWAGIRAMUNGU as it is provided by article 6 of Ministerial Order N° 1931/bis/06 of 08/12/1974 establishing the procedure of notifying about the accident and illness caused by work.

[9] The Office of Ombudsman wrote to the President of the Supreme Court, stating that the judgment N° RADA 0007/15/HC/KIG was vitiated with injustice¹, and thus requested to be for being reviewed.

[10] Basing on the report of the Inspectorate-General of Courts, the President of the Supreme Court, in the order N° 028/2018 decided to review the judgment N° RADA 0007/15/HC/KIG, the hearing was scheduled on 24/07/2018, but on that day it was not heard because of amending laws.

[11] The hearing was scheduled on 10/10/2018, it was postponed because Twagiramungu couldn't plead because he was feeling weak, but he requested the Court to compel RSSB to give him medical fees and sign for him so that he goes for treatment since it doesn't give him sufficient money for treatment and it refused to sign for him while he has an appointment with the doctor of mental illness. He explained that

¹ The office of Ombudsman explains that the High Court relied on the degree of disability which RSSB does not agree and it did not apply the laws of resolving the disputes relate to the degree of disability caused by a work-related accident. It further states that in case the court found that TWAGIRAMUNGU Eric and RSSB failed to consent and that it was informed that RSSB wrote to the minister of health requesting to establish the committee of doctors as it is provided by article 6 of Ministerial Order N° 1931/bis/06 of 08/12/1974 establishing the procedure of informing accident and illness caused by work, it would use its power and speed up the establishment of that committee, but not rendering judgment based on a medical report which was not agreed on, while the law provides the means of resolving such disputes.

the doctors of King Faysal hospital who treated him, found that he has a mental problem and transferred him to CARAES Ndera, the hearing was adjourned sine die.

[12] This Court based on the decision of 01/10/2018 of the doctor's committee that Twagiramungu Eric should be tested to determine whether he suffered mental health disorders after getting treatment; based on the report of 23/02/2017 issued by the doctor of CARAES Ndera Hospital indicating that Twagiramungu Eric has a permanent disability of 80%; it ordered RSSB to facilitate Twagiramungu Eric to get mental health disorders treatment at CARAES Ndera Hospital, and the treatment for the body injuries caused by the accident at King Faysal Hospital, and also to get the medicine prescribed by the doctors from those hospitals.

[13] The court further ordered that after three months, Twagiramungu will be again examined by the doctors' committee cited above to determine his permanent disability (physical and mental disability), and also to indicate the time when the wounds consolidated. It ordered RSSB to comply with the court's decision regarding the money it was ordered to give Twagiramungu Eric, plus the arrears, while they wait for the doctors' recommendation.

[14] The hearing of the judgment was supposed to be on 23/04/2019 but on that date, the hearing was adjourned because Twagiramungu did not have a counsel because his former counsel, Murekatete B. Marguerite had a penalty she had not yet paid. The hearing was postponed to 28/05/2019, all parties were notified.

[15] Before the date of the hearing, Twagiramungu hired another advocate Me Karangwayire Epiphanie, however the decision of the court that Twagiramungu Eric should be re-examined by the committee of doctors to determine the percentage of his permanent disability (physical and mental disability) and to indicate the period in which the wounds were consolidated was not complied with.

[16] His Counsel Karangwayire Epiphanie produced to the court the documents that include the letter dated 16/04/2019 which RSSB wrote to Twagiramungu reminding him that he should go to King Faysal Hospital for examination for the doctor to determine the percentage the disability he has.

[17] The hearing resumed again on 28/05/2019, the court examined whether the order of the court of re-examining the disability of Twagiramungu Eric was executed, unfortunately, it wasn't, in that hearing, the court examined the request of Twagiramungu Eric that he can be given some financial assistance till the time of pronouncement of the judgment because his life is deteriorating, he developed other illness associated with not getting adequate treatment, not getting the prescribed medicine and also because of not getting enough diet and not affording a caretaker.

[18] In interlocutory judgment on the request of Twagiramungu Eric, the Court ordered MINISANTE to immediately establish a doctors committee, purposely to determine the percentage of the physical and mental disability of Twagiramungu Eric and also indicate the hospital in which he should be treated, and that the report must be submitted to the Supreme Court registry not later than 20/06/2019, it also ordered RSSB to immediately take him for treatment to the

King Faysal Hospital for the illness he was affected due to the accident he got and to CARAES Ndera hospital and anywhere doctors will recommend for treatment of the illness resulting from the accident, it ordered RSSB to pay for all the prescribed medicines in order to prevent all negative effects to his life, it ordered RSSB to immediately give him 2,000,000Frw for upkeep and transport to the hospital as they wait for the pronouncement of the judgment, it also ordered RSSB to follow up on the report of doctors' committee and submit it to the Court, Twagiramungu Eric also was ordered to avail himself to the doctors' committee whenever he is required to do so.

[19] On 08/7/2019, MINISANTE submitted to the Supreme Court the report of doctors' committee as it was ordered. That report indicates that Twagiramungu Eric has a physical disability of 20% and a mental disability of 80%.

[20] The judgment was resumed on 10/07/2019, RSSB represented by Counsel Nsabimana James together with Counsel Sekabuke Jean-Paul, Twagiramungu Eric assisted by Counsel Karangwayire Epiphanie, Counsel Murekatete Marguerite and Counsel Twagirumugabe Alexis. The hearing was closed; the parties were informed that the judgment will be pronounced on 30/07/2019.

II. ANALYSIS OF THE LEGAL ISSUES

1. To determine the compensation to be given to Twagiramungu Eric for the physical disability.

[21] Nsabimana James and Sekabuke Jean Paul, the counsel for RSSB argue that the first instance of injustice in this judgment is that the High Court of Kigali in computing the

money for physical disability of Twagiramungu, is based on the disability of 45% which was determined by an incompetent organ, but fortunately, it has been settled by the report of doctors' committee instated by MINISANTE, which indicates that he has a physical disability of 20%, thus, they request that this percentage should be the one based on in computing the compensation to be awarded to Twagiramungu.

[22] Counsel Nsabimana James and Sekabuke Jean Paul state that the High Court erroneously computed that compensation because the judge calculated it as salary compensation; whereby he took the daily salary of 931 (27,943 per month) x 30 days x 75% x 45% = 20,847 Frw, instead of calculating his daily salary of 931 x 30 x 85% x 20% = 4,748Frw, which he must be given every month. They state that based on article 2 of Presidential Order N° 069/01 of 13/04/2018 Presidential Order increasing pension and occupational hazards benefits granted by Rwanda Social Security Board, Twagiramungu Eric would be given 13,000 Frw each month.

[23] Karangwayire Epiphanie, Murekatete Marguerite and Twagirumugabe Alexis, the counsel for Twagiramungu state that they consent to the physical disability of 20 % of Twagiramungu indicated by the medical committee.

DETERMINATION OF THE COURT

[24] The Court finds that the High Court contradicted with the provision of law in awarding disability compensation to Twagiramungu because it based on the disability of 45% which was determined by the doctor who treated him instead of basing on that determined by the committee of doctors as provided by

article 6, paragraph 4 of Ministerial Order N° 1931/bis/06 of 08/12/1974 establishing the procedure of informing accident and illness caused by work that in case of the dispute about the date which patient is recovery; wounds are consolidated or the degree of his/her permanent disability, the concerned person submits the issue to the committee fighting the injustice, the latter works in hands with the committee of doctors that is established by the minister of health in resolving those disputes.

[25] Therefore, the Supreme Court finds that the compensation for disability was erroneously calculated because as indicated by the report of the committee of doctors which was established by the minister of health, Twagiramungu has a physical disability of 20% instead of 45%, thus his compensation for the physical disability should be computed based on the disability of 20%, and on the rate of 75% of his daily income as it is provided by article 23 of Organic Law of 22/08/1974 determining the pension of employees, as it was amended and completed to date which relates to an employee who has not yet completely recovered, which means that with a temporary disability, receives 75% of his daily income, he should receive $(931 \times 30 \times 75\% \times 20\%) = 4,189$ Frw every month. However, it finds that basing on article 2 of presidential order N° 069/01 of 13/04/2018 increasing pension and the accident from work that are allocated by RSSB provides that pension and the money of the accident resulted from work that is given to affiliate shall not be less to 13,000Frw per month. Thus, the Court finds that Twagiramungu should be given 13,000Frw per month, instead of 20,947Frw as it was decided in the judgment subjected to the review due to injustice.

2. Determining the salary compensation to be awarded to Twagiramungu Eric.

[26] Nsabimana James and Sekabuke Jean Paul, the counsel for RSSB state that the other ground of injustice is the salary compensation awarded to Twagiramungu, they explain that the Court awarded him the salary compensation while also his employer continued to pay him since the day the accident occurred 23/11/2012. They state that he was paid the salary of four (4) months that is of; 11/2012, 12/2012, 01/2013 and that of 2/2013; therefore, they find that he should have been awarded beginning from the day his employer stopped paying him, that he should get a salary of 21 days instead of 119 days, the fact that the Court awarded him a salary for such days, demonstrates the injustice in that judgment which should be reviewed.

[27] Karangwayire Epiphanie, Murekatete Marguerite and Twagirumugabe Alexis, the counsel for Twagiramungu adduce that the Court did not err in their calculation in the judgment applied for review due to injustice.

DETERMINATION OF THE COURT

[28] The Supreme Court finds that Twagiramungu should have been given a salary compensation of 83,062 Frw for 119 days as it was determined by High Court because RSSB did not produce evidence demonstrating that from the day the accident happened, he continued to be paid during the 119 days instead of 21 days, basing on article 12 of the Law N° 22/2018 of 29/4/2018 relating to the civil, commercial, labour and administrative procedure which provided that the claimant must prove a claim, failing which the respondent wins the case [...], therefore, RSSB did not suffer injustice in modalities of calculating salary compensation..

3. Determining whether the mental disability of 80% which Twagiramungu Eric is due to work accident which occurred on 23/12/2012, to be awarded compensation for mental illness.

[29] Karangwayire Epiphanie, Murekatete Marguerite and Twagirumugabe Alexis, the counsel for Twagiramungu Eric state that the mental disability of 80% he has is a result of not getting enough means of treatment from RSSB, they explain that the report of the doctor of King Faysal indicates that the mental disability he has is related to the work accident because he fell from the house he was building and hit the head on the glass (at work), but he was treated only the leg although the report demonstrated that he got a mental illness and a broken tooth. They explained that due to delay in getting the required treatment deteriorated the disability to 80% which was indicated by the committee of doctors, therefore, they find that RSSB should be held liable for that negligence, pursuant to article 258, 259 and 260 of the decree-law of 30 July 1888 relating to Contracts or conventional obligations, it must give him various damages claimed in this case especially that he got the accident when he is still young, but now he can not do anything for him.

[30] Adv. Nsabimana James and Adv. Sekabuke Jean Paul, the counsel for RSSB argue that the committee of doctors demonstrate that Twagiramungu has a disability of mental illness of 80%, but his counsel does not prove that the disability was caused by the accident which occurred on 23/11/2012, rather they argue that it was caused by RSSB which did not give him good treatment. They rather explain that there is a report of 19/03/2019 drafted by the doctor of CARAES Ndera which

indicates that Twagiramungu Erich was suffering from ``*traumatisme cranien*`, thus, they find that his mental illness should not be associated with RSSB, that they acknowledge that he had an accident which only injured his leg, because the accident which Twagiramungu had, did not occur on a storage house, thus, it is impossible how he falls and hit the head on the ground. They request to assess his medical file at King Faysal hospital to verify if he got treatment for the mental illness.

DETERMINATION OF THE COURT

[31] The case file demonstrates that the letter of 21/09/2015 which RSSB wrote to King Faysal Hospital, authorized Twagiramungu to be treated in that Hospital, it indicates that it covers the treatment of the leg injuries only.

[32] The case file demonstrates that in the consultation document of Twagiramungu Eric on 01/10/2016, the doctor in the KFH (Neurosurgery Departement), Dr. Nkusi E. demonstrated that Twagiramungu Eric, 25 years old: sustained a traumatic brain injury in 2012 and left leg injury.

[33] The case file further indicates that the document of the medical prescription of dentists from KFH gave to Twagiramungu demonstrates that he lost two units of teeth which affect the masticatory function. We recommend to replace the missing 2 units of flexible partial denture.... for 190,000 RWF). He informed this to RSSB.

[34] It further indicates that the report of Dr Sebera Fidel in French demonstrates Twagiramungu Eric Caraes Hospital received Twagiramungu on 10/14/2016 with a transfer from

CHK with a clinical picture dominated by wandering, aggressiveness, hallucinatory behavior, incoherent language, instability, insomnia associated with headache. This clinical picture occurred following a work accident that resulted in a head trauma. This accident occurred in 2012 (cote 85). *L'Hôpital Caraes a reçu Twagiramungu le 14/10/2016 avec un transfert de CHK avec un tableau Clinique dominé par errance, l'agressivité, comportement hallucinatoire, langage incohérent, instabilité biscomotrice, insomnia associé à des céphalées. Ce tableau clinique est survenu à la suite d'un accident de travail ayant occasionné un traumatisme crânien. Cet accident est survenu en 2012*

[35] The Supreme Court finds that when Twagiramungu committed the accident, RSSB only covered the injuries on the leg only as it is indicated by the document of 21/09/2015 which it gave King Faysal Hospital. However, the Court finds that as it is indicated by the reports from various doctors who consulted Twagiramungu, in their explanation, all demonstrate that the accident also injured the brain, however, RSSB did not treat him the mental illness he suffered although it was demonstrated by the doctors who treated him. Therefore, the Court finds that RSSB cannot deny that the mental illness was caused by the accident which occurred on 23/11/2012, but rather he had it before as it wants to convince this court or it is another accident he committed as it alleges.

[36] Basing on motivation above, the court finds the fact that RSSB did not take Twagiramungu for treatment of that mental disability which was caused by the accident of 23/11/2012 while it is its obligation as it did on leg disability, basing on article 22 of the decree-law of 22/08/1974 governing Social Security as it

is amended and completed to date provides for medical treatment of an employee who committed a work accident, because this provision of law does not state that RSSB insures only physical disability, therefore, it should be held liable for the price of treatment for 80% of mental disability as it is indicated by the committee of doctors in its report of 08/7/2019.

[37] Regarding the amount of money for mental disability treatment, the court finds that as the money for physical disability was calculated, it is the same procedure for the money of mental disability, therefore, RSSB should give to Twagiramungu every month the money which is calculated as follows: $931 \times 30 \times 75\% \times 80\% = 16,758$ Frw per month, thus, all including that of physical disability are totaling to $16,758$ Frw + $13,000$ Frw = $29,758$ Frw per month, which RSSB should give him.

4. Whether the cross appeal filed by Twagiramungu Eric has merit.

[38] Twagiramungu and his counsel request in cross-appeal to RSSB that the court could order that Twagiramungu to be treated abroad because RSSB delayed to take him for treatment, and out his life in danger and led his disability to increase up to the head, they also request to be treated the masticatory function which was damaged in the accident and replace his two units of teeth he lost that time.

[39] They also state that if to send him abroad fails, they request the court to make a decision of separating him from RSSB because it had already tortured him and awards him 60,000,000 Frw for medical treatment and 50,000,000 of living.

[40] They further request that RSSB give him moral damages and 60,000,000Frw of the counsel fees and procedure fees.

[41] Nsabimana James and Sekabuke Jean Paul, the counsel for RSSB state that they did not refuse to take him abroad for treatment because he is not the first one it takes abroad for treatment, but this must be ordered by the doctors, however for Twagiramungu Eric, it was not ordered, rather he is the one who annoys RSSB by refusing to do what it requests him.

[42] Counsel Nsabimana James and Sekabuke Jean Paul state that the money cannot be awarded because it is not provided by the law, thus his request cannot be put into consideration by the court.

DETERMINATION OF THE COURT

[43] Regarding be taken abroad for treatment which Twagiramugu requests, the Supreme Court finds that it does not have a basis to order it, because there is no decision of doctor which indicates that he must be treated abroad and be confirmed by the committee of doctors, according to the procedure used when the internal medical treatment does not have the capacity.

[44] Concerning the request of Twagiramungu that the court should separate him from RSSB, and awarding him the money for medical treatment and living, the court finds that it cannot order it because that procedure of awarding money to insuree and take care of himself, it is not provided in the law establishing the special procedure of determining what will be given to the victim of an accident and the illness from work. Rather, the Court finds that RSSB should continue to take him

for the treatment of all illnesses caused by the accident of 23/11/2012 which include leg, themasticatory, replacement of teeth, mental disability and to be paid for all medication he was prescribed for by the doctor.

[45] Whereas, on what concerns with the various damages requested by Twagiramungu in cross-appeal, they must be examined together with damages requested by both parties in this case.

5. Damages requested by RSSB

[46] Adv. Nsabimana James and Adv. Sekabuke Jean Paul request damages worth 100,000 Frw for being dragged into unnecessary lawsuits

[47] The counsel for Twagiramungu Eric state that RSSB cannot be awarded damages it requests because it is the one who dragged him into lawsuits due to the refusal of giving him what law provides after having a work-related accident while his employer saved for him.

DETERMINATION OF THE COURT

[48] Supreme court finds that the damages requested by RSSB of being dragged into lawsuits, should not be awarded them on this instance since it lost in part.

6. Damages requested by Twagiramungu Eric

[49] Twagiramungu Eric and his counsel request RSSB the following damages:

Damages worth 60,000,000 Frw because RSSB neglected him and led him to not be treated well, the physical and mental disability continue to increase;

1,000,000 of transport fees for following up his case
1,000,000Frw of counsel fees.

[50] Nsabimana James and Me Sekabuke Jean Paul, the counsel for RSSB state that the various damages which Twagiramungu requests, should not be awarded to him because it is not RSSB who dragged him into lawsuits.

DETERMINATION OF THE COURT

[51] Supreme court finds that the damages requested by Twagiramungu Eric which are based to the negligence RSSB have merit on what concerns with his medical treatment, delaying before giving the right of being treated and to buy medications and it is obvious that RSSB neglected him and it did not give him the proper treatment of themasticatory, bought for him another tooth, this led to the increase of his disability and suffered the other illness, it should give the damages for it according to the article 259 of decree-law of 30 July 1888 relating to Contracts or conventional obligations which provides that "any act of a man which causes damage to another obliges the person by whose fault it happened to repair it". The court finds that Twagiramungu Eric requests excessive damages, in its discretion, it awards to him 12,000,000Frw which will be reduced in 2,000,000Frw of living and medical treatment expenses, transport fees which were ordered by this court in interlocutory judgment, and the rest is 10,000,000Frw he must be awarded.

[52] The court further finds that Twagiramungu hired counsel in this case, he paid money for following up this case including transport, etc., for this reason, RSSB should give him 1,500,000 Frw of the counsel fees and 300,000Frw of the procedure fees.

[53] Concerning the money of replacing the tooth, the Supreme Court finds that Twagiramungu should not be awarded that money he requests, but as it was ordered by this court in interlocutory judgment N° RS/INJUST/RAD 00004/2018/SC rendered on 25/06/2019, RSSB should continue to take him for treatment of all illness caused by the accident of 23/11/2012, including to treat him for themasticatory and buy for him teeth, at the King Faysal hospital, CARAES Indera and everywhere can be ordered by the doctors of those hospitals.

DECISION OF THE COURT

[54] Finds with merit in part the application filed by RSSB requesting to review due to injustice the judgment N° RADA 0007/15/HC/KIG rendered by the High Court of Kigali on 30/04/2015.

[55] Finds with merit in part the cross appeal filed by Twagiramungu Eric

[56] Overturns in part the rulings of the judgment N° RADA 0007/15/HC/KIG rendered by the High Court of Kigali on 30/04//2015.

[57] Rules that Twagiramungu Eric has a physical disability of 20%, mental disability of 80% as it was decided by the committee of doctors in the report of 08/07/2019

[58] Rules that the mental disability which Twagiramungu Eric has, is caused by the work accident which took place on 23/11/2012;

[59] Orders RSSB to give 29,758 Frw to Twagiramungu Eric the money of disability each month

[60] Orders RSSB to continues taking him for treatment all illness resulted from the work accident of 23/11/2012 which includes leg, themasticatory, replacement of teeth, mental disability and to be bought for all medication he was prescribed for by the doctor because of that disability.

[61] Orders RSSB to give to Twagiramungu Eric the damages worth 12,000,000 Frw which will be reduced in 2,000,000Frw which were ordered by this court in the interlocutory judgment rendered on 28/05/2019, and give him 300,000Frw of the procedure fees and 1,500,000Frw of the counsel fees; all together are totaling to 11,800,000Frw.