IN THE HIGH COURT OF TANZANIA

ATDAR ES SALAAM

CIVIL CASE NO 11 OF 2007

ATHUMANI HERIEL.....PLAINTIFF

VERSUS

THE DIRECTOR, BATOUL INVESTIMENTS INDUSTRIES LTD..... DEFENDANT

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REPLY TO THE WRITTEN STATEMENT OF DEFENCE

The hereinabove mentioned plaintiff has read the written statement of defence hence reply it as follows:-

1. That the notice of preliminary objection is baseless and hopeless however it will be challenged during the hearing of the case as per court directives.

2. That the contents of paragraph 1 are noted.

3. That the contents of paragraph 2 of the written statement of defence are partly noted and to the extent that the matter was reported to the labour officer as an employment case and denied to the extent that the money which was offered to the plaintiff was not as a result of the agreement between the plaintiff and the defendant they only proposed to pay the plaintiff and the said money was not taken by the plaintiff due to the fact that they did not consider the incapacitation which the plaintiff has suffered permanently. However the defendant provide that the plaintiff suffers only ten percent permanent incapacity but the defendant should know that the

plaintiff's hand was chopped and can not perform his work as he was doing it before the accident.

4. That the contents of paragraph 3 of the written statement of defence are partly noted and the plaintiff states that the issue that he was employed as a food handler is not true and the issue of food handler is within the defendant's knowledge and add further that the defendant is the one who knows the whole system of his company but what the plaintiff knows is that he was employed by the defendant as machine operator in the whole process of producing the biscuits in the defendant's company.

5. That the contents of paragraph 4 of the written statement of defence are strongly denied and the plaintiff states further that it is not true that he was a food handler and if the defendant claims so but the plaintiff provide that he was employed by defendant without being well equipped with the working skills i.e. (protective gears) something which resulted to the accident suffered by him. However the plaintiffs strongly emphasize to the contents of paragraph 5 and 6 of the plaint.

6. That the contents of paragraph 5 of the written statement of defence are vehemently denied and the plaintiff states further that he did not contribute to the accident since the defendant was the one who ignored to handle the protective gears to the plaintiff.

Particulars of contributory negligence

7. (a) That the contents of paragraph 5(a), (b) are strongly denied and the plaintiff provide further that he was employed as a food operator and it is not true that he was not supposed to operate machines without the skills, the defendant was the one who did not provide protective gears to his employees and there are no any kind of those gears in the defendant's company.

(b) That the contents of paragraph 5(c) and 5(d) are vigorously denied.

(c) That the contents of paragraph 5(e) and 5(f) are vehemently denied.

8. That the contents of paragraph 6 are partly admitted to the extent he was hospitalized at the TMJ Hospital and denied to the fact that the plaintiff was not temporarily suffered rather than suffering the permanent incapacity.

9. That the contents of paragraph 7 of the written statement of defence are strongly disputed and the plaintiff shall during the hearing providing evidence of his arm which was amputated.

10. That the contents of paragraph 8 are disputed.

11. That the contents of paragraph 9 of the written statement of defence are partly noted and the plaintiff states further that his incapacitation was a result of the negligence by the defendant.

12. That the contents of paragraph 10,11and 12 of the written statement of defence are denied and the plaintiff strongly emphasize to the contents of paragraph 10, 11 and 12 of the plaint.

13. That the contents of paragraph 13 are noted.

WHEREFORE the plaintiff prays for judgement and decree to be entered as prayed in the plaint.

Dated in Dar es Salaam this……day of ……2007

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PLAINTIFF

VERIFICATION

That what is stated in paragraph 1 to 13 is true to the best of my own knowledge

Verified at Dar es Salaam this……day of……2007

……
PLAINTIFF

Presented for filling this…….. Day of ……2007

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REGISTRY OFFICER

DRAWN GRATIS BY
LEGAL AND HUMAN RIGHTS CENTRE,
MAGOMENI LEGAL AID UNIT
PLOT NO.77,
PO BOX 75254
DAR ES SALAAAM

COPY TO BE SERVED UPON
THE DEFENDANT

FILED BY
THE PLAINTIFF.