

**IN THE LABOUR COURT OF LESOTHO**

**HELD AT MASERU**

**LC/97/2014**

**IN THE MATTER BETWEEN**

**NTOA GERARD CHABELI**

**APPLICANT**

**AND**

**SECURITY LESOTHO**

**RESPONDENT**

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**JUDGMENT**

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*Claim for payment under the Workmen's Compensation Act of 1977. Matter being heard unopposed. Applicant succeeding to satisfy the requirements for his claim. Court awarding the claimed amount. No order as to costs being made.*

**BACKGROUND OF THIS DISPUTE**

1. This is a claim for payment of monies under the *Workmen's Compensation Act of 1977*. It was heard in default of the Respondent. The matter was initiated on the 17<sup>th</sup> October 2014 and served upon Respondent in the 20<sup>th</sup> October 2014. Accordingly to Applicant, notwithstanding service of process, Respondent failed to react, by filing an answer in terms of

Rule 5 of the *Rules of Court*, leading to the initiation of an application for judgment by default.

2. Notwithstanding service of process in same, Respondent failed to both react and attend the proceedings. We therefore granted the request by Applicant to be heard and granted judgment in default. In making this conclusion, We were guided by Rule 7 of the *Rules of this Court* that, *“whenever a respondent fails to file an answer to an originating application, the Court may, upon application in writing by the applicant, being satisfied as to receipt of the originating application by the respondent, enter judgment for the applicant, or make such order or determination as it considers just.”*
3. Having heard the oral evidence of Applicant, and having considered the documentary evidence of Applicant, Our judgment follows.

### **EVIDENCE AND FACTS**

4. Applicant’s case is that on or around the 20<sup>th</sup> May 2011, while on duty, he was shot on the belly. He gave evidence of a medical report marked MM1. Thereafter a notice of injury was submitted to the Labour Department on his behalf by Respondent, for computation of compensation due to Applicant. A document marked MM2 was tendered in support.

5. Following the computations, Applicant testified that Respondent was served with same accompanied by a claim and for payment. He added that despite demand, Respondent has failed, neglected and/or refused to pay. It was stated that the computed compensation amount is M30,637-35, as shown on MM2. It was prayed that Respondent be ordered to pay same.

### **ANALYSIS**

6. In terms of section 5 (1) of the *Workmen's compensation Act (supra)*,

*"If in any employment, personal injury by accident arising out of and in the course of employment, is caused to a workman, his employer shall be liable to pay compensation in accordance with the provisions of this Act."*

7. Applicant has satisfied Us through his unchallenged evidence that he sustained injury while on duty. He has tendered evidence that clearly shows the computations of his compensation in terms of the Act. In law, evidence that has not been challenged is taken to have been admitted as a true and correct reflection of events (see *Lenka Mapiloko v Pioneer Seed (RSA) and others LAC/A/08/08*). We are therefore satisfied through the unchallenged evidence of Applicant that he is deserving of the compensation amount claimed.

**AWARD**

We therefore make an award as follows:

- 1) Respondent is ordered to pay M30,637-35 to Applicant as compensation under the *Workmen's Compensation Act of 1977*.
- 2) Payment to be made within 30 days of this award.
- 3) No order as to costs.

**THUS DONE AND DATED AT MASERU ON THIS 31<sup>st</sup> DAY OF AUGUST 2015.**

**T C RAMOSEME  
DEPUTY PRESIDENT (a.i.)  
LABOUR COURT OF LESOTHO**

**MRS. THAKALEKOALA**

**I CONCUR**

**MRS. RAMASHAMOLE**

**I CONCUR**

**FOR APPLICANT:**

**ADV. PHANGOA**

**FOR RESPONDENT:**

**NO**

**ATTENDANCE**