SANLAM INSURANCE COMPANY LTD v KWITONDA

[Rwanda URUKIKO RUKURU – RCA 00027/2023/HC/NYZ (Badara, P.J.) 08 Nyakanga 2024]

Amategeko agenga imanza z'imbonezamubano – Indishyi zikomoka ku mpanuka zikozwe n'ibinyabiziga - Uwahohotewe n'impanuka utwawe mu modoka - Umugenzi usanzwe utwawe mu modoka akayikomerekeramo mu mpanuka, utari mu bateganywa mu ngingo ya 4 y'Itegeko-teka N^o 32/75 ryo kuwa 7 kanama 1975 ryerekeye ubwishingire butegetswe ku buryozwe butewe n'ibigenzwa ku butaka bifite moteri, agenerwa indishyi nk'undi muntu wese wakomeretswa n'ikinyabiziga.

Amategeko agenga imanza z'imbonezamubano – Indishyi zikomoka ku mpanuka – Indishyi z'ibangamira ry'uburambe - Uwagize ubumuga buhoraho wari usanzwe akora agenerwa indishyi z'ibangamira ry'uburambe kuko ubwo bumuga bumugiraho ingaruka ku kazi nko kugabanyirizwa agaciro ku isoko ry'umurimo, imvune mu gukora umurimo yari asanganywe, no kubura amahirwe yo kuzamurwa mu ntera.

Incamake y'ikibazo: Uru rubanza rukomoka ku mpanuka yabaye ikozwe n'ikamyo ubwo yataga umuhanda ikagonga inkengero z'umuhanda maze hakomereka umushoferi wayo ndetse n'undi wari uri muri iyo modoka witwa Kwitonda wagize ubumuga bwa 25%. Kwitonda yegereye SANLAM INSURANCE COMPANY Ltd (Sanlam), umwishigizi w'iyo modoka, asaba indishyi mu bwumvikane ariko ntibyakunda bituma atanga ikirego mu Rukiko rwisumbuye rwa Muhanga asaba indishyi zinyuranye. Urukiko rwamugeneye indishyi ariko Sanlam ntiyanyurwa ijuririra icyo cyemezo mu Rukiko Rukuru ivuga ko mu itangwa ry'indishyi hatitawe ku bikubiye mu masezerano y'ubwishingizi bw'icyo kinyabiziga. Urukiko rwasuzumye ikibazo cyo kumenya niba Kwitonda yaragombaga guhabwa indishyi zikubiye mu masezerano y'ubwishingizi no kumenya niba yaragombaga guhabwa indishyi z'ibangamira ry'uburambe.

Sanlam isobanura ko amasezerano y'ubwishingizi bw'ikinyabiziga cyakomerekeje Kwitonda ateganya ko mu gihe habaye impanuka, abakomerekeyemo bagize ibikomere bya 100% bahabwa 3.000.000 Frw kandi Kwitonda we yagize 25% bityo akaba yaragombaga guhabwa indishyi zibariwe kuri 25% ntabarirwe nk'undi muntu wese utari umugenzi mu kinyabiziga. Akomeza avuga ko Kwitonda yari umukozi kuri icyo kinyabiziga kuko yari tandiboyi bikaba bishimangira ko atagomba gufatwa nk'undi muntu. Naho ku kijyanye n'indishyi z'ibangamira ry'uburambe ku kazi, Sanlam ivuga ko zitagomba gutangwa kuko uzisaba nta kazi kazwi yari afite ku buryo yagenerwa izo ndishyi.

Kwitonda we asobanura ko ibyo Sanlam ivuga ko hashingiwe ku masezerano y'ubwishingizi ukoze impanuka ahabwa 3.000.000 Frw gukuba ijanisha ry'ubumuga afite ko atari byo kuko muri ayo masezerano harimo ko rubanda wese wagongwa cyangwa agakomeretswa n'ikinyabiziga yishyurwa nta mupaka kandi Kwitonda nawe akaba ari muri abo bavugwa. Ikindi kandi ni uko Kwitonda yakoze impanuka ari mu cyiciro cy'abantu bakora, ubumuga yagize bukaba bumubaza amahirwe yo gukomeza gukora nka mbere bityo akaba kwiriye guhabwa indishyi mbangamiraburambe.

Incamake y'icyemezo: 1. Umugenzi usanzwe utwawe mu modoka akayikomerekeramo mu mpanuka, utari mu bateganywa mu ngingo ya 4 y'Itegeko-teka No 32/75 ryo kuwa 7 kanama 1975

ryerekeye ubwishingire butegetswe ku buryozwe butewe n'ibigenzwa ku butaka bifite moteri, agenerwa indishyi nk'undi muntu wese wakomeretswa n'ikinyabiziga.

2. Uwagize ubumuga buhoraho wari usanzwe akora agenerwa indishyi z'ibangamira ry'uburambe kuko ubwo bumuga bumugiraho ingaruka ku kazi nko kugabanyirizwa agaciro ku isoko ry'umurimo, imvune mu gukora umurimo yari asanganywe, no kubura amahirwe yo kuzamurwa mu ntera.

Ubujurire bwatanzwe nta shingiro bufite.

Amategeko yashingiweho:
Itegeko-teka No 32/75 ryo kuwa 7 kanama 1975 ryerekeye ubwishingire butegetswe ku buryozwe butewe n'ibigenzwa ku butaka bifite moteri, ingingo ya 4.

Imanza zifashishijwe:
RS/INJUST/RC 00004/2023/SC, RADIANT INSURANCE COMPANY Ltd v Murekatete, rwaciwe n'Urukiko rw'Ikirenga ku wa 12'04/2024.
Urubanza

I. IMITERERE Y'URUBANZA

[1] Tariki ya 26/11/2021 saa 23h00, mu mudugudu wa Gitembo, mu kagali ka Muhororo, mu murenge wa Byimana, mu karere ka Ruhango habereye impanuka y'imodoka Truck shecman yaritwawe na Ndahimana Jean Pierre wavaga Byimana yerekeza Ruhango, yarenze umuhanda agonga ku nkengero y'umuhanda, hakomereka shoferi warutwaye ikinyabiziga kandi hakomereka umugenzi wari mu kinyabiziga witwa Kwitonda Laurent ndetse n'ikinyabiziga kirangirika.

[2] Kwitonda Laurent yasabye indishyi mu bwumvikane ntibyakunda bituma atanga ikirego mu rukiko rwisumbuye rwa Muhanga asaba guhabwa indishyi zitandukanye zikomoka kuri iyo mpanuka.

[3] Uhagarariye SANLAM AG Plc avuga ko hagenderwa ku masezerano y'ubwishingizi nyir'ikinyabiziga yagiranye na SANLAM AG Plc, amasezerano y'ubwishingizi ateganya ko abantu batwawe muri icyo kinyabiziga mu gihe cy'ibikomere bya 100% bazahabwa 3.000.000 Frw kuri buri wese, nyamara urega akaba yari afite ubumuga bungana na 15%, basanga indishyi zikwiriye kubarirwa ku bumuga yagize bugakubwa na 3.000.000 FRW.

[4] Mu rubanza RC 00139/2022/TGI/MHG rwaciwe ku wa 26/05/2023 n'urukiko rwisumbuye rwa Muhanga rwemeje ko SANLAM Assurances Générales Plc kwishyura Kwitonda Laurent indishyi zose hamwe zingana na Miliyoni imwe n'ibihumbi magana cyenda na makumyabiri na bitanu by'amafaranga y'u Rwanda (1.925.000 FRW). Rutegeka SANLAM Assurances Générales Plc kwishyura Kwitonda Laurent indishyi zingana n'ibihumbi magana atandatu y'igihembo cy'avocat (600.000 frw). Rutegeka SANLAM Assurances Générales Plc kwishyura Kwitonda Laurent indishyi z'amafaranga angana n'ibihumbi makumyabiri (20.000 frw) yatanzeho ingwate y'amagarama arega.

[5] Mu gufata icyo cyemezo, urukiko rwashingiye ku iteka rya Perezida No 31/01 ryo ku wa 25/08/2003 rishyiraho uburyo bwo kwishyura indishyi kububabare bw'umubiri buturutse kumpanuka zitewe n'ibinyabiziga no ku ngingo ya 3 y'itegeko-teka No 32/75 ryo ku wa 7/8/1975.

[6] SANLAM AG PLc yajuririye urukiko rukuru, urugereko rwa Nyanza, urubanza ruhabwa N0 RCA 00027/2023/HC/NYZ, ruburanishwa mu ruhame ku wa 10/06/2024, SANLAM AG PLc iburanirwa na Me Nzabahimana Jean Claude naho Kwitonda Laurent aburanirwa na Me Gasita Mutorero Claude.

[7] Mu myanzuro y'ubujurire no mu miburanire, Uhagarariye SANLAM AG PLc avuga ko hagendewe ku masezerano y'ubwishingizi nyir'ikinyabiziga yagiranye na SANLAM AG PIC, amasezerano y'ubwishingizi ateganya ko abantu batwawe muri icyo kinyabiziga mu gihe cy'ibikomere bya 100% bazahabwa 3,000,000 Frw kuri buri wese, nyamara urega akaba yari afite ubumuga bungana na 15%, basanga indishyi zikwiriye kubarirwa ku bumuga yagize bugakubwa na 3,000,000 FRW, urukiko rwarabyirengagije maze rutanga indishyi rushingiye ku mategeko atareba uyu waregaga, urukiko rukaba rwarafashe uyu Laurent nkaho atari muri iyi modoka.

[8] Uhagarariye Kwitonda Laurent avuga ko impamvu y'ubujurire bwa SANLAM A.G PLC aho yumvikanisha ko Umuntu wese wari utwawe n'imodoka Truck Shecman RAE642Y agakora impanuka ngo ku bw'amasezerano y'ubwishingizi No 050/126/1/030328/2021 yishyurwa indishyi zihwanye n'ijanisha ry'ubumuga afite gukuba na 3.000.000 Frw. Ibyo uburanira SANLAM A.G PLC avuga nta shingiro na busa bifite kubera impamvu zikurikira : Ibi bisobanurwa n'uburanira SANLAM A.G bitandukanye cyane n'ibyanditswe ku masezerano No 050/126/1/030328/2021 kuko kuri ayo masezerano ku rupapuro rwayo rwa mbere mu mbonerahamwe igaragaza imbibi z'uburyozwe (Limits of liability), hagaragara ibireba rubanda rwakomeretswa n'iki kinyabiziga (Third party bodily injury) aho ayo masezerano avuga uwo ariwe wese (any one person) na buri buryo bwose impanuka yabamo (any one event/occurrence) ni ukuvuga yagongwa cyangwa ahetswe n'ikinyabiziga, yishyurwa nta mupaka (Unlimited), bivuze ko hagenderwa ku biteganywa n'iteka rya Perezida ry'uko indishyi zibarwa. Ayo masezerano y'ubwishingizi akomeza hepfo agaragaza noneho abafitanye isano n'uwishingiwe aribo bitwa occupants, ko bo mugihe apfuye hishyurwa 3.000.000Frw, naho mu gihe ari ubumuga buhoraho (Permanent Disability) yishyurwa 3.000.000Frw na 300.000Frw yo kwivuza, aha rero bikaba binagaragara ko ibivugwa na SANLAM A.G PIC by'uko bakuba n'ijanisha ry'ubumuga nabyo atari ukuri kuko muri ayo masezerano ntanaho byanditse, kwitwaza Permanent Disability bivuze ubumuga bwa 100%, ibyo si ukuri. Gusa uko byabarwa uko ariko kose ntibireba Kwitonda Laurent kuko nta sano afitanye n'uwishingiwe.

[9] Uhagarariye Kwitonda Laurent avuga ko ku bijyanye n'uko inyandikomvugo y'impanuka, umugenzacyaha yanditse ko Kwitonda Laurent yari Tandiboyi, ibyo si ikimenyetso cy'amasezerano y'umurimo kuko Umugenzacyaha yabyanditse gutyo kuko yibwiye ko umugenzi uri kumwe na chauffeur mu modoka itwara imizigo ari Tandiboyi, nyamara siko biri, ibi rero ni nabyo byafashweho umurongo n'inkiko, ko kubyandika gutyo atari ikimenyetso cy'umurimo, hari nk'icyemezo cyafashwe na Perezida w'Urukiko rw'ubujurire ku wa 31/08/2022 hasuzumwa akarengane mu rubanza RCA 00202/2020/HC/KIG rwaciwe ku wa 25/02/2021, hamwe n'urubanza RCA 00030/2021/HC/MUS rwaciwe n' Urukiko Rukuru urugereko rwa Musanze ku wa 1 8/10/2021.

[10] Uhagarariye Kwitonda Laurent avuga ko banenga ko urukiko rutagennye indishyi zibangamira ry'uburambe ku kazi, kandi Kwitonda yahohotewe n'impanuka ari mu kiciro cy'abantu bakora ikindi kandi ntabwo abarirwa mu kiciro cy'abakene, afite umushahara nubwo ugenda uhindagurika. Mu ri make bakavuga ko urukiko Rukuru rukwiye gutegeka SANLAM kwishyura 540.000frw y'izo ndishyi z'ibangamira ry'uburambe ku kazi nk'uko ziteganywa n'ingingo ya 19 y'iteka rya Perezida ryo muri 2003, bavuze mu myanzuro ryerekeye iby'indishyi. Basaba kandi gutegeka SANLAM kwishura Kwitonda 250.000FRW y'igihembo cy'avoka mu rwego rw'ubujurire.

[11] Ibibazo bigiye gusuzumwa muri uru rubanza ni ibi bikurikira

- Kumenya niba Kwitonda Laurent yari guhabwa indishyi zikubiye mu masezerano yabaye hagati ya UMUCYO MAIZE LTD na SANLAM AG Plc kuko yari atwawe muri icyo kinyabiziga.
- Kumenya niba Kwitonda Laurent yaragombaga guhabwa indishyi z'ibangamiraburambe ku kazi.
- Kumenya niba hari izindi ndishyi zatangwa muri uru rubanza.

II. ISESENGURA RY'IBIBAZO BIGIZE URUBANZA

 Kumenya niba Kwitonda Laurent yari guhabwa indishyi zikubiye mu masezerano yabaye hagati ya UMUCYO MAIZE LTD na SANLAM AG Plc kuko yari atwawe muri icyo kinyabiziga.

[12] Uhagarariye SANLAM AG PLc avuga ko hagendewe ku masezerano y'ubwishingizi nyir'ikinyabiziga yagiranye na SANLAM AG PIC, amasezerano y'ubwishingizi ateganya ko abantu batwawe muri icyo kinyabiziga mu gihe cy'ibikomere bya 100% bazahabwa 3,000,000 Frw kuri buri wese, nyamara urega akaba yari afite ubumuga bungana na 15%, basanga indishyi zikwiriye kubarirwa ku bumuga yagize bugakubwa na 3,000,000 FRW, urukiko rwarabyirengagije maze rutanga indishyi rushingiye ku mategeko atareba uyu waregaga, urukiko rukaba rwarafashe uyu Laurent nkaho atari muri iyi modoka. Ibi rero byababangamiye ubutabera SANLAM AG PLC yasabaga kuko yabusabaga yisunze amasezerano ariko urukiko rwo ntirwayavugaho kandi ariyo yari ikimenyetso cyacyemura ikibazo rwari rwashyikirijwe. SANLAM ikaba isaba urukiko Rukuru urugereko rwa Nyanza gusubira kuri iki cyemezo maze rukazemeza ko indishyi zatanzwe zinyuranije n'amategeko ko zagombaga kubarwa hashingiwe ku masezerano y'ubwishingizi nyir'ikinyabiziga yarafitanya na SANLAM AG PLC.

[13] Uhagarariye Kwitonda Laurent avuga ko impamvu y'ubujurire bwa SANLAM A.G PLC aho yumvikanisha ko Umuntu wese wari utwawe n'imodoka Truck Shecman RAE642Y agakora impanuka ngo ku bw'amasezerano y'ubwishingizi No 050/126/1/030328/2021 yishyurwa indishyi zihwanye n'ijanisha ry'ubumuga afite gukuba na 3.000.000 Frw. Ibyo uburanira SANLAM A.G PLC avuga nta shingiro na busa bifite kubera impamvu zikurikira: Ibi bisobanurwa n'uburanira SANLAM A.G bitandukanye cyane n'ibyanditswe ku masezerano No 050/126/1/030328/2021 kuko kuri ayo masezerano ku rupapuro rwayo rwa mbere mu mbonerahamwe igaragaza imbibi z'uburyozwe (Limits of liability), hagaragara ibireba rubanda rwakomeretswa n'iki kinyabiziga (Third party bodily injury) aho ayo masezerano avuga uwo ariwe wese (any one person) na buri buryo bwose impanuka yabamo (any one event/occurrence) ni ukuvuga yagongwa cyangwa

ahetswe n'ikinyabiziga, yishyurwa nta mupaka (Unlimited), bivuze ko hagenderwa ku biteganywa n'iteka rya Perezida ry'uko indishyi zibarwa. Ayo masezerano y'ubwishingizi akomeza hepfo agaragaza noneho abafitanye isano n'uwishingiwe aribo bitwa occupants, ko bo mugihe apfuye hishyurwa 3.000.000Frw, naho mu gihe ari ubumuga buhoraho (Permanent Disability) yishyurwa 3.000.000Frw na 300.000Frw yo kwivuza, aha rero bikaba binagaragara ko ibivugwa na SANLAM A.G PIC by'uko bakuba n'ijanisha ry'ubumuga nabyo atari ukuri kuko muri ayo masezerano ntanaho byanditse, kwitwaza Permanent Disability bivuze ubumuga bwa 100%, ibyo si ukuri. Gusa uko byabarwa uko ariko kose ntibireba Kwitonda Laurent kuko nta sano afitanye n'uwishingiwe.

[14] Uhagarariye Kwitonda Laurent avuga ko ku bijyanye n'uko inyandikomvugo y'impanuka, umugenzacyaha yanditse ko Kwitonda Laurent yari Tandiboyi, ibyo si ikimenyetso cy'amasezerano y'umurimo kuko Umugenzacyaha yabyanditse gutyo kuko yibwiye ko umugenzi uri kumwe na chauffeur mu modoka itwara imizigo ari Tandiboyi, nyamara siko biri, ibi rero ni nabyo byafashweho umurongo n'inkiko, ko kubyandika gutyo atari ikimenyetso cy'umurimo, hari nk'icyemezo cyafashwe na Perezida w'Urukiko rw'ubujurire ku wa 31/08/2022 hasuzumwa akarengane mu rubanza RCA 00202/2020/HC/KIG rwaciwe ku wa 25/02/2021, hamwe n'urubanza RCA 00030/2021/HC/MUS rwaciwe n' Urukiko Rukuru urugereko rwa Musanze ku wa 1 8/10/2021.

UKO URUKIKO RUBIBONA

[15] Impaka ziri muri uru rubanza zishingiye kumenya niba Kwitonda Laurent yari guhabwa indishyi zikubiye mu masezerano yabaye hagati ya UMUCYO MAIZE LTD na SANLAM AG Plc kuko yari atwawe muri icyo kinyabiziga.

[16] Kuri iki kibazo, ingingo ya 4 y'Itegeko-teka No 32/75 ryo kuwa 7 kanama 1975 ryerekeye ubwishingire butegetswe ku buryozwe butewe n'ibigenzwa ku butaka bifite moteri ivuga ko bashobora kuvanwa mu bwishingire:

1) Umushoferi w'ikigenzwa ku butaka cyateye ibyago, kimwe uwishingiwe n'abandi bose bishingiwe ku buryo baryozwa.

2) Uwashakanye n'abantu bavugwa mu nteruro ibanza, kimwe n'abo bafitanye isano n'abo bashyingiranye, bapfa kuba batuye mu rugo rwabo kandi batunzwe nabo.

3) Abantu barindwa n'amategeko ari ukwayo, mu byerekeye indishyi zitewe n'ibyago by'akazi, keretse iyo abo bantu bahisemo, gukurikirana indishyi ku wishingiwe.

[17] Urukiko rurasanga iyi ingingo isobanura abantu bashobora kuvanwa mu bwishingire ni ukuvuga ko abavugwa muri iyi ngingo nta kintu babaza umwishingizi mu gihe habaye impanuka y'ikinyabiziga kereka iyo yabafatiye ubwishingizi bwihariye.

[18] Urukiko rurasanga muri uru rubanza, tariki ya 26/11/2021 hari impanaka y'imodoka yabaye yari ifite ubwishingizi muri SANLAM AG Plc ikomerekeramo Kwitonda Laurent wari umugenzi muri iyo modoka agira ubumuga buhoraho bungana na 25 %.

[19] Urukiko rurasanga uburanira SANLAM AG Plc avuga ko Kwitonda Laurent yari umukozi w'iyo modoka (tandiboyi) ariko nta bimenyetso abitangira bigaragaza ko yari umukozi w'iyo modoka kuko nta masezerano y'akazi bagaragaza cyangwa aho umwishingizi amutangira ubwishingizi muri RSSB. Ikindi Kwitonda Laurent ntabwo arebwa n'amasezerano yakozwe hagati ya UMUCYO MAIZE LTD na SANLAM AG Plc kuko abari mu mudoka (occupants) baba bavugwa ni abantu basobanuwe mu ngingo ya 4 y'Itegeko-teka No 32/75 ryo kuwa 7 kanama 1975 ryavuzwe haruguru, nyamara Kwitonda Laurent bigaragara ko yari umugenzi muri iyo modoka.

[20] Urukiko rurasanga Kwitonda Laurent ari mu bantu bagomba guhabwa indishyi hashingiwe ku ngingo ya 3 y'Itegeko-teka No 32/75 ryo kuwa 7 kanama 1975 ryerekeye ubwishingire butegetswe ku buryozwe butewe n'ibigenzwa ku butaka bifite moteri ivuga ko Ubwishingire bugomba kwishingira ibyago biba ku bantu no ku bintu bitewe n'ibikorwa bibereye mu Rwanda. Bugomba kwishingira ibyago biba ku bantu bahetswe, ku mpamvu izo arizo zose n'ikigenzwa ku butaka cyateye ibyo byago, ibintu bihetswe n'icyo kintu bishobora kuvanwa mu bwishingire.

[21] Urukiko rurasanga Kwitonda Laurent yari guhabwa indishyi zitandukanye zirimo indishyi zibangamirabukungu zingana na 3000 x 30 x12 x25%x5 = 1.350.000, indishyi z'akababaro: 3000x30 x12 x 40% = 432.000 FRW, ibangamira ry'uburanga: 3000 x30 x 12 x 10% = 108.000 FRW.

- **Kumenya niba Kwitonda Laurent yaragombaga guhabwa indishyi z'ibangamiraburambe ku kazi.**

[22] Uhagarariye Kwitonda Laurent avuga ko banenga ko urukiko rutagennye indishyi zibangamira ry'uburambe ku kazi, kandi Kwitonda yahohotewe n'impanuka ari mu kiciro cy'abantu bakora ikindi kandi ntabwo abarirwa mu kiciro cy'abakene, afite umushahara nubwo ugenda uhindagurika. Mu ri make bakavuga ko urukiko Rukuru rukwiye gutegeka SANLAM kwishyura 540.000frw y'izo ndishyi z'ibangamira ry'uburambe ku kazi nk'uko ziteganywa n'ingingo ya 19 y'iteka rya Perezida ryo muri 2003, bavuze mu myanzuro ryerekeye iby'indishyi.

[23] Uhagarariye SANLAM avuga nubwo urega akomeje gusaba indishyi z'ibangamira ry'uburambe ku kazi nta bimenyetso yigeze abigaragariza kuko izo ndishyi zihabwa umuntu ufite akazi kazwi cg carriere akaza kuyitakaza kubera impanuka bikaba byarashyizweho umucyo n'urubanza RC/INJUST/RC 00010/2021/CS rwaciwe ku wa 02/12/2022, haburanaga Prime Insurance na Uwimanimpaye, usaba izo ndishyi agomba kugaragaza akazi kazwi cyangwa carriere izwi, ko n'umuntu uvuga ko yari Nyakabyizi agomba kubitangira ibimenyetso by'icyo yari abereye nyakabyizi, bityo Kwitonda adakwiye guhabwa izi ndishyi.

UKO URUKIKO RUBIBONA

[24] Impaka ziri muri uru rubanza zishingiye kumenya niba Kwitonda Laurent yaragombaga guhabwa indishyi z'ibangamiraburambe ku kazi.

[25] Kuri iki kibazo, umurongo ugomba kugenderwaho ni uwatanzwe mu rubanza RS/INJUST/RC 00004/2023/SC rwaciwe n'urukiko rw'Ikirenga. Muri urwo rubanza Urukiko rwasobanuye ibijyanye n'indishyi z'ibangamira ry'uburambe mu kazi aho rwavuze ko:

"Hakurikijwe ibi abahanga basobanura, usanga indishyi z'ibangamira ry'uburambe mu kazi ziri mu byiciro bibiri bikurikira kandi zigatangwa mu bihe bikurikira:

a) Gutakaza amahirwe y'akazi ku munyeshuri wo mu mashuri yisumbuye, ay'imyuga, aya kaminuza cyangwa andi angana na yo;

b) Ingaruka z'impanuka ku mwuga ku muntu usanzwe uwufite (incidence professionnelle), harimo:

i. kugabanyirizwa agaciro ku isoko ry'umurimo;

ii. imvune (pénibilité) mu gukora umurimo yari asanganywe;

iii. kubura amahirwe yo kuzamurwa mu ntera.

Ku bijyanye na Murekatete Denyse, biragaragara ko yagize ubumuga buhoraho bwa 43% nk'uko bwemejwe n'abaganga kandi RADIANT INSURANCECOMPANY Ltd ikaba itabihakana. Ntagushidikanya ko ubwo bumuga bufite ingaruka zituma atakomeza gukora akazi ke mu buryo bumworoheye nk'uko yagakoraga mbere atarakora impanuka, akaba yaragombaga kubiherwa indishyi."

[26] Urukiko rurasanga muri uru rubanza Kwitonda Laurent nawe yaragombaga guhabwa indishyi z'ibangamiraburambe mu kazi kubera ko yagize ubumuga bwa 25% bityo iyi mpanuka yagize ingaruka zituma atakomeza gukora akazi ke mu buryo bumworoheye nk'uko yagakoraga mbere atarakora impanuka, akaba yaragombaga kubiherwa indishyi zingana na 3000 x30 x 6 = 540.000 FRW.

- **Kumenya niba hari izindi ndishyi zatangwa muri uru rubanza.**

[27] Uhagarariye Kwitonda Laurent avuga ko basaba gutegeka SANLAM kwishura 250.000FRW y'igihembo cy'avoka mu rwego rw'ubujurire.

[28] Uhagarariye SANLAM avuga ku ku bujurire bwuririye ku bundi, hatangwa 3.000.000 FRW gukuba ijanisha ry'ubumuga yagize zikabarirwa hamwe n'izindi kuko amasezerano bagiranye nuwo bishingiye ariho agarukira gusa, hanyuma izindi zirengaho urega asaba akaba yazisaba uwo bishingiye.

[29] Ingingo ya 26 y'Amabwiriza N° 01/2014 agena ibihembo mbonera by'abavoka ivuga ko iyo habaye ubujurire, avoka w'urega n'uw'uregwa bashobora gusaba kimwe cya kabiri cy'igihembo cyumvikanyweho ku rwego rwa mbere.

[30] Urukiko rurasanga Kwitonda Laurent yahabwa na SANLAM AG Plc igihembo cy'avoka kingana n'ibihumbi magana abiri na mirongo itanu (250. 000 FRW) kubera gushorwa mu manza na SANLAM AG Plc nta mpamvu.

[31] Urukiko rurasanga amafaranga SANLAM AG Plc igomba kwishyura Kwitonda Laurent ateye ku buryo bukurikira: indishyi y'ibangamirabukungu 1.350.000 FRW, indishyi z'akababaro 432.000 FRW, indishyi z'ibangamira ry'uburanga 108.000 FRW, indishyi y'ibangamira ry'uburambe mu kazi 540,000 FRW, amafaranga y'ibyakoreshejwe 305.100 FRW, n'igihembo cy'avoka mu rukiko rukuru no mu rwisumbuye kingana 850.000 FRW, ingwate y'amagarama 20 000 FRW yose hamwe 3.605.100 FRW.

III. ICYEMEZO CY'URUKIKO

[32] Rwemeje ko ubujurire bwatanzwe na SANLAM AG Plc nta shingiro bufite;

[33] Rwemeje ko imikirize y'urubanza RC 00139/2022/TGI/MHG rwaciwe n'urukiko rwisumbuye rwa Muhanga ihindutse ku ndishyi zimwe;

[34] Rutegetse SANLAM AG Plc guha Kwitonda Laurent indishyi zose hamwe zingana na 3.605.100 FRW;

[35] Rutegetse ko ingwate y'amagarama yatanzwe na SANLAM AG Plc ihwanye n'ibyakozwe muri uru rubanza.