محكمة قطر الدولية
ومركز تسوية المنازعات
QATAR INTERNATIONAL COURT
AND DISPUTE RESOLUTION CENTRE

In the name of His Highness Sheikh Tamim bin Hamad Al Thani,

Emir of the State of Qatar

Neutral Citation: [2023] QIC (F) 35

IN THE QATAR FINANCIAL CENTRE

CIVIL AND COMMERCIAL COURT

FIRST INSTANCE CIRCUIT

Date: 30 July 2023

CASE NO: CTFIC0007/2023

MOHAMMED AFZAL HUSSEIN

Claimant

V

GULF INSURANCE GROUP BSC

Defendant

JUDGMENT

Before:

Justice Dr Rashid Al-Anezi

Justice Fritz Brand

Justice Yongjian Zhang

Order

UPON consideration of the submissions on behalf of the Claimant and the Defendant on the preliminary issues resulting from the Defendant's objection to the jurisdiction of this Court, and on the defence of statutory limitation:

1. The Defendant's objection against the jurisdiction of this Court is dismissed and it is confirmed that this Court has jurisdiction to determine the Claimant's claim.

2. It is declared that the Claimant's claim was not time-barred by statutory limitation.

3. The Defendant is liable for the costs incurred by the Claimant in opposing these two defences, the reasonableness of such costs to be determined by the Registrar if not agreed upon between the parties.

4. The Defendant is afforded the opportunity to amplify its Statement of Defence on the merits, should it elect to do so, within 14 days from date of this order whereupon the Claimant shall have an opportunity to amplify a Reply within 14 days thereafter, should he elect to do so.

Judgment

1. The Claimant, Mr Mohammed Afzal Hussein, is a citizen of the State of Bangladesh. The Defendant, Gulf Insurance Group BSC, formerly known as AXA Insurance Gulf Company, is a branch of an insurance company registered in Bahrain, which is established and licenced in the Qatar Financial Centre ('**QFC**') to conduct insurance business.

2. This action has its origins in a motor vehicle accident which occurred on 8 May 2019 when a vehicle drove into a group of construction workers on their worksite at a bridge under construction in the Lusail area of Doha. Three of the workers lost their lives in the accident, while two of them were seriously injured. One of the workers who lost his life in the accident was Mr Mohammed Mandal, whose dependants instituted a claim for loss of support in this Court against the Defendant in a matter cited as Manwara Begum & others v Gulf Insurance Group BSC, Case No. CTFIC0007/2023 ('**The**

Begum Case'). The Claimant in this matter was one of the two persons injured in the accident.

3. The Defendant was the compulsory motor insurer of the vehicle involved in the accident in terms of an insurance policy. The policy was issued in compliance with legislation promulgated by the Minister of Interior in terms of Resolution No.1 under Executive Resolution No. 10 of 1979 to the owner of vehicle involved in the accident, a company established in the State of Qatar. As contemplated by the legislation, the policy affords the right to a third parties who are injured in an accident involving the insured vehicle to institute a claim directly against the insurer for the loss that they suffered as a result of the injuries sustained in the accident.

4. It is apparent that in terms of the policy, the Claimant in this case and the dependants in The Begum Case were entitled in principle to institute their claims for the loss that they suffered as a result of the accident against the Defendant directly. The Defendant is represented in this case by Mr Montaser Osman, who also represents it in The Begum Case. Likewise, the Claimant's legal representative in this case, Mr Mohsin Al-Haddad, also represents the Claimants in The Begum Case.

5. The first defence raised by the Defendant in both cases is that this Court has no jurisdiction to determine the disputes between the parties. In accordance with the directions issued by this Court on 1 June 2023, the issue arising from that defence was heard at the same time in both this case and The Begum Case at a virtual hearing on 16 July 2023. We propose to hand down our judgments with regard to this defence in both cases at the same time.

6. In The Begum Case, we found that the objection raised against this Court's jurisdiction cannot be sustained. As appears from our judgment in that case, this finding is essentially based on our interpretation of article 9.1.4 of our Regulations and Procedural Rules. In our view, the exact same line of reasoning applies in this case. Since the two judgments are to be read together, we do not propose to repeat the formulation of our reasoning in The Begum Case. Suffice to say that this Court has jurisdiction in this case, as in The Begum Case in terms of article 9.1.4 on the following basis: (i) the insurance policy relied upon by the Claimant constitutes an agreement between the Defendant,

which is an entity established in the QFC, and the owner of the motor vehicle involved in the accident, which is an entity established in the State of Qatar, albeit outside the QFC; (ii) the present dispute between the litigating parties arises from that contract; (iii) on a proper interpretation of article 9.1.4, it does not require the contact to be between the litigating parties or that the party, other than the one established in the QFC, must reside in the State of Qatar; and (iv) that in consequence, the fact that the Claimant may not be resident in Qatar is of no consequence.

7. But in this case the Defendant raised the further defence based on the proposition that the Claimant's claim was time barred through statutory limitation before it was instituted. In support of this contention, the Defendant relied on article 113 of the Qatari Labour Law No. 14 of 2004, which provides that a claim for compensation resulting from an injury sustained in the labour context shall lapse one year after the date of the final medical report relating to that injury. On the application of this legislation, so the Defendant's argument went, the final medical report relating to the Claimant's injuries was dated 5 March 2020, which means that his claim was time barred long before it was instituted on 31 January 2023.

8. What seems to have triggered this defence was the fact that the Claimant in the original formulation of his claim cited his erstwhile employer, Nasser Al Ali Enterprises, as the First Defendant, and the present Defendant as the Second Defendant in a claim for the same loss that he suffered through his injuries. According to this original formulation, the claim against Nasser Al Ali Enterprises was based on article 19 of the Qatari Labour Law No. 14 of 2004 which imposes liability on an employer for injuries sustained by his employees in the performance of their work. The claim against the Defendant was based on an insurance policy issued by the Defendant to Nasser Al Ali Enterprises as employer for the benefit of his employees, insuring them against injuries sustained in performance of their work.

9. But even in his original claim form the Claimant also relied, albeit in a manner that was both oblique and obscure, on the policy issued by the Defendant in respect of the motor vehicle involved, under the traffic legislation of Qatar. Subsequent to the institution of the action the Claimant withdrew his claim against Ali Al Nasser Enterprises. Moreover, it is clear from his Reply that the real basis of his claim against the Defendant

does not rely on the labour legislation or the insurance policy of his employer, but on the compulsory insurance relating to the vehicle involved in the accident.

10. In this regard it seems to us that the Defendant's liability under the motor vehicle policy is supported by the judgment of the Criminal Court which held the Defendant liable, together with the convicted driver of the vehicle, for the blood money contemplated by Qatari criminal legislation. It is apparent from the judgment that the liability, which was subsequently settled by the Defendant without demur, could only be based on the motor vehicle policy and not the labour policy.

11. Hence, we conclude that the Claimant's claim is not based on labour legislation and that his claim is therefore not time barred by the statutory limitation imposed by that legislation. It follows that the defence relying on that statutory limitation must fail.

12. In addition, we find the Defendant liable for the costs incurred by the Claimant in opposing these defences to be determined by the Registrar if not agreed between the parties. The Defendant will be afforded a period of 14 days to amplify its Statement of Defence should it elect to do so. In that event, the Claimant will have 14 days to reply.

By the Court,

[signed]

Justice Fritz Brand

A signed copy of this Judgment has been filed with the Registry.

Representation

The Claimant was represented by Mr Mohsin Al-Haddad of Mohsin Al-Haddad Legal Consultants and Advocate of Excellence (Doha, Qatar).

The Defendant was represented by Mr Montaser Osman of the Al-Mahmoud Law Firm (Doha, Qatar).

DIGITALLY SIGNED AND VERIFIED
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