CORAM: HER WORSHIP NANA ABENA ASOH OWUSU-OMENYO (MS.), MAGISTRATE, DISTRICT COURT '1', KANESHIE, SITTING AT THE FORMER STOOL LANDS BOUNDARIES SETTLEMENT COMMISSION OFFICES NEAR WORKERS' COLLEGE, ACCRA ON 20TH NOVEMBER 2023

SUIT NO: A2/260/23

PLAINTIFF

}

LAWRENCE MBONYE BAFFOUR **ACCRA**

VRS

ARTHUR JOHN & ORS

DEFENDANTS

ACCRA

JUDGMENT

}

The Plaintiff claims against the defendants, an order directed at the defendant to pay for the repairs of plaintiff's vehicle and cost.

The Plaintiff avers that he is an uber driver. The 1st Defendant is a tow truck driver whilst the second is a police man who works with the Ghana police service. That on or about 23rd February 2023, his car defaulted a fault on a section of the road from Burma camp towards the 37 military hospital. That the plaintiff informed a policeman to assist him who in turn contacted a tow truck. That upon the arrival of the tow truck the 1st defendant who was driving the tow truck, towed his promise. He further states that the 2nd defendant a police officer and the CID in charge of the case wrote in his statement that plaintiff drove carelessly.

Plaintiff states that the defendants have failed to comply with the directive of PIPS to repair his car. He says he has lost sales and income of between one hundred and fifty Ghana Cedis and Three Hundred Ghana cedis, for the 21-day period he was at home and

he calculated that as Four Thousand Two hundred Ghana Cedis (4,200). This is calculated at an average of Two Hundred Ghana Cedis (GH¢200) per day.

He finally says the total cost of the repairs is Five Thousand Six Hundred and Seven Ghana Cedis (GH¢5426).

The plaintiff attached an affidavit in support to his claim and applied to have the matter placed on the undefended list pursuant to order 8 of the District Court Civil Procedure Rules 2009, C.I 59. He attached various exhibits to his affidavit in support. He attached "Exhibit A" series and which was the accident report, "Exhibit B" his petition to PIPS and he also attached receipts of the items bought for the repairs of the car and finally picture of his daily sales from the Uber App.

Order 8 of CI 59 is the law governing suits placed on the undefended list. The order basically states that a Plaintiff may place a suit on the undefended list where the Plaintiff believes that the Defendant has no defense to the claim. Justice S.A Brobbey in his book Trial Courts and Tribunals of Ghana, at page 285 states that the condition precedent for placing a suit on the undefended list is that the writ should be one for the recovery of a debt or a liquidated demand of money. In the case of FOFIE V. POMAA [1974] 2 GLR 6, the court stated that a liquidated demand is in the nature of a debt. i.e. a specific sum of money due and payable under or by virtue of a contract. Further, Justice S.A Brobbey in his book Trial Courts and Tribunals of Ghana, at page 285, states "the amount in question must either be already ascertained or capable of being ascertained as a matter of arithmetic". This matter was clearly one rightly placed on the undefended list.

A perusal of the exhibits annexed to the affidavit in support clearly shows that the plaintiff's vehicle was involved in an accident. "Exhibit B", the petition to PIPS is also a repetition of the claim of the Plaintiff herein. Unfortunately although the Plaintiff claims the decision of PIPS was for the defendants to bear the cost of the repairs, he did not exhibit any such report.

Be that as it may, I do not doubt the validity of the Plaintiff's claim.

I deem it important to note that the defendants although served variously with all the court processes failed to appear in court. On the authority of the case of *KLAH v*. *PHOENIX INSURANCE CO. LTD [2012] 2 SCGLR* and order 8 of the C.I 59, I hereby enter judgment in favour of the Plaintiff against the defendant for the following reliefs:

- 1. Recovery of the amount of Nine Thousand Four Hundred and Twenty-Six (GH¢9,426).
- 2. Cost of One Thousand Ghana Cedis (GH¢1,000) for plaintiff.

NANA A.A. OWUSU-OMENYO (MS.),
(MAGISTRATE)