

# **UNDT/2014/133, Wamalala**

## UNAT Held or UNDT Pronouncements

**Jurisdiction of the Tribunal:** The Tribunal held that in matters relating to Appendix D of the Staff Rules it has jurisdiction to determine: (i) whether the ABCC correctly followed the procedure applicable to medical claims; (ii) whether it properly directed its mind to the relevant issues; and (iii) whether the evidence on which it based its determination was adequate or flawed. The Tribunal held that it has no jurisdiction to make any such assessment and to substitute its own evaluation for the one reached by an expert body like the ABCC. **Request for reconsideration:** The Tribunal found that article 17(a) of Appendix D does not require a staff member seeking reconsideration of his claim to request that a medical board be convened. The Tribunal held that it is clear from the wording of articles 17(a) and 17(b) that once a request for reconsideration is received by the Administration, a medical board should be convened to reconsider the claim of a staff member. **The duty of the ABCC:** The Tribunal concluded that the ABCC is obliged to act on reasonable grounds and that this concept includes acting with procedural fairness. Acting fairly and with procedural propriety means providing the staff member with relevant documents like medical reports that the ABCC has relied on or would rely on for the purposes of its determination. It is also the duty of the ABCC to inform the staff member of the case he/she has to meet so that the staff member has an opportunity to provide his/her side of the case.

## Decision Contested or Judgment/Order Appealed

The Applicant contested the decision by the Advisory Board on Compensation Claims (ABCC) to award him \$49,114.03 for permanent loss of function of his right leg as a result of injuries sustained in a road accident. The Tribunal concluded that the ABCC did not follow the proper procedure during its deliberations on the Applicant's claim.

## Legal Principle(s)

N/A

## Outcome

Judgment entered for Applicant in full or in part

## Outcome Extra Text

Only financial compensation awarded.

## Full judgment

[Full judgment](#)

## Applicants/Appellants

Wamalala

## Entity

MONUSCO

## Case Number(s)

UNDT/NBI/2011/49

## Tribunal

UNDT

## Registry

Nairobi

## Date of Judgement

12 Nov 2014

## Duty Judge

Judge Boolell

## Language of Judgment

English

## Issuance Type

Judgment

## Categories/Subcategories

Benefits and entitlements

Compensation for injury, illness or death attributable to service (Appendix D to Staff Rules)

Jurisdiction / receivability (UNDT or first instance)

Subject matter (ratione materiae)

## Applicable Law

Staff Rules

- Rule 11
- Rule 17

UNDT Statute

- Article 10.4

## Related Judgments and Orders

UNDT/2012/004

UNDT/2012/135

2013-UNAT-342

2012-UNAT-276