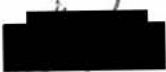




**IN THE HIGH COURT OF SOUTH AFRICA
(GAUTENG DIVISION, PRETORIA)**

Case No: **056972/2024**

(1) REPORTABLE: <i>No</i>	
(2) OF INTEREST TO OTHER JUDGES: <i>No</i>	
(3) REVISED: <i>/</i>	
 SIGNATURE	11 August 2025 DATE

In the matter between:

TSHIPU KLEINBOOI NGAKO

Applicant

and

BRYTE INSURANCE COMPANY LIMITED

First Respondent

MOBILITY INSURANCE UNDERWRITING MANAGERS

Second Respondent

This judgment is prepared and authored by the Judge whose name is reflected as such and is handed down electronically by circulation to the parties / their legal representatives by email and by uploading it to the electronic file of this matter on CaseLines. The date for handing down is deemed to be 11 August 2025.

LEAVE TO APPEAL

RETIEF J

INTRODUCTION

[1] The Applicant applies for leave to appeal “*to the court against the order granted on the 31 January 2025-*”. The order granted was a dismissal of the Applicant’s monetary insurance claim brought against the Respondents, on motion. The Applicant in his to appeal does not inform this Court to which Court leave is sought.

[2] Be that as it may, the reason for the dismissal order is apparent from the reasoned judgment and considering the reasons, the order competent. The Applicant only contends that he is appealing the order granted on the 31 January 2025.

[3] . Notwithstanding, this Court has regard to the content of the leave to appeal which deals with the judgment. In so doing, the Applicant does not clearly and concisely set out the Court’s misdirection’s of law or fact upon which the Applicant relies on. However in argument the Applicant’s Counsel crystallised the grounds for the Court and argued that the Applicant relied on two grounds namely that the Court considered the issues beyond the scope of the pleadings and should have confined its findings to the content of the rejection letter from the Respondent and, that the Court failed to place sufficient evidentiary weight to the tracker certificate.

[4] The first ground appears to suggest that the Court should not have taken cognizance of nor dealt with the terms of the agreement relied on by the Applicant which was concluded between the parties on the 6 November 2003, marked and attached as “K1” to the Applicant’s founding papers. This contention is raised in circumstances when the Applicant relied on the express tacit and implied terms of the agreement as the basis for his monetary claim. The terms of the agreement also created the rights and obligations between the parties, including triggering the

Respondent's rejection in writing. This argument, on the pleaded facts, cannot stand.

[5] Furthermore, the Court did give due weight to the tracking certificate but, together with the other documentary evidence found that it did not support the terms of the agreement as it pertained, *inter alia*, to the proof of an operational tracker unit on the date of loss.

[6] The Court having heard the argument by both Counsel in this matter, having revisited the reason judgment, and considered the content of the leave to appeal, the Court is of the opinion that the Applicant has not met the threshold of section 17(1)(a)(i) or (ii) of the Superior Courts Act, 10 of 2013 and in consequence, leave to appeal is dismissed with costs.

[7] The following order:

1. Leave to appeal is dismissed
2. The Applicant is ordered to pay the Respondent's cost of suit, Counsel's fees to be taxed on scale B.


L.A. RETIEF

Judge of the High Court
Gauteng Division

Appearances:

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Date of argument: 31 July 2024
Date of judgment: 11 August 2024