

IN THE HIGH COURT FOR ZAMBIA
AT THE PRINCIPAL REGISTRY
HOLDEN AT LUSAKA
(Civil jurisdiction)

2017/HP/0420

BETWEEN:

ALFRED MUCHINDU

AND

ATTORNEY GENERAL

1ST DEFENDANT

Before the Hon. Mr. Justice M.D. Bowa on 4th of October 2024

For the Plaintiff: In person

For the Defendant: Miss A Petulo State Advocate Attorney Generals Chambers



PLAINTIFF

JUDGMENT

Cases referred to:

1. Duncan Sichula, Muza Transport Freight and Forwarding Limited vs Catherine Mulenga Chewa (married) woman SCZ judgment No 8 of 2000
2. Abraham Mohammed and Alantara Transport Ltd vs Safeli Chumbu 1993-1994) ZR 4 (SC)
3. Weller v Foot and Mouth Disease Research Institute 3 (1966) 1 Q13 569 QBD
4. Caparo Industries Plc vs Dickman 4 (1990) UKHL 2
5. Khalid Muhammed vs Attorney General and Avondale housing project 1982) Z.R 49(SC)
6. Wilson Masauso Zulu vs. Avondale Housing Project Ltd (1982) ZR 172 (SC)

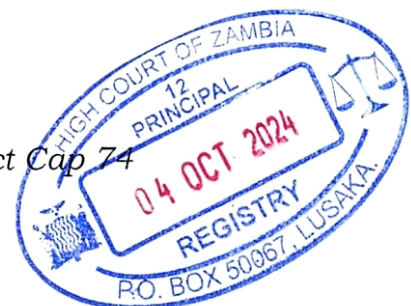
Legislation referred to:

1. The Law Reforms Miscellaneous Provisions Act Cap 74
2. The Zambia Police Act

Other Materials referred to:

1. Charlesworth and Percy on Negligence 9th edition

1. Background



1.1 The Plaintiff a police officer commenced this action by writ of summons and statement of claim dated 16th March 2017. By his statement of claim, the Plaintiff asserts that on or about the 15th August 2016, the persons previously appearing as 2nd 3rd 4th and 5th Defendants being fellow male police officers in the Zambia Police Service without reasonable or justifiable cause, accused him of taking part in protests that rocked Muzoka District in the Southern Province following the outcome of the 2016 Presidential elections. That he was specifically accused of ferrying rioters to the scene.

1.2 He averred that on the day in issue, the officers seized his identity card and car keys for the vehicle he was driving which he later collected. However that upon his return to his vehicle, he found it badly damaged and property had been stolen from it. The Plaintiff therefore commenced this action seeking the following reliefs.

(1) Damages for damaged and lost property.

(2) Payment of K90,000 being the total value of the damaged and lost property.

(3) Interest.

(4) Any further or other relief the court may deem fit.

(5) Costs.

1.3 The Attorney General filed a defence dated 10th May 2017 disputing all the claims. An application was later made to disjoin the 2nd-5th Defendants from the proceedings. The application was granted thus leaving the Attorney General as sole Defendant in terms of the dictates of the State Proceedings Act.

2. The trial

The Plaintiff's case

1.1 PW1 was Alfred Muchindu the Plaintiff in the matter. He testified that he is a police officer by profession. He was stationed in Maamba in the year 2016. On the 15th of August 2016 he informed his officer in charge that he was due to report for residential school at Rusangu University in Monze where he was pursuing his tertiary education. He was granted permission to start off around 14:00 hours.

1.2 While on the way to the University along the Livingstone Lusaka road and as he was approaching Muzoka area, the

Plaintiff noted there were some logs and stones blocking the road. Motorists approaching from the opposite direction heading south were warning him and others that there were some cadres who were disturbing traffic and that they had blocked the main road for vehicles heading to Lusaka. The Plaintiff noted that there were vehicles parked along the road side. Others made a diversion off the main road and were proceeding forward. The Plaintiff however decided to turn back to go to Batoka or Choma where he felt it was safer to be.

1.3 As he was turning, he observed a police vehicle approaching from the southern direction and in it were 2 plain clothed police officers. He recognized one of the officers to be detective sergeant Mulenga as they served in the same division though from different stations. He decided to follow and convoy with the Police vehicle and by so doing also make his way out.

1.4 He followed the Police Landcruiser up to Muzoka township where the officers started dispersing call boys suspected to be ones that had put stones and logs on the road. He

testified that people started running in different directions at the sight and presence of the police. One of the officers that was in the Police vehicle approached the Plaintiff and confronted him from the point he had parked his car a few meters away from the Landcruiser. He demanded to know who the Plaintiff was. The Plaintiff was in plain clothes at the time. He testified that it was detective sergeant Mulenga that approached him. The Plaintiff introduced himself by his name, rank and station and explained that he was enroute to Rusangu University in Monze.

1.5 Officer Mulenga demanded for proof that the Plaintiff was indeed a police officer. The Plaintiff obliged and presented his identity card. The other officer also joined in the questioning and went straight for the car keys that were in the Plaintiff's car ignition. The officers then rushed to get onto the Landcruiser they had arrived in. The Plaintiff followed the officers to see the DCIO who was seated in the vehicle and explained the situation.

1.6 The DCIO did not accept the Plaintiff's explanation and said he had been informed by the other officers that his car had

been used to ferry cadres along the Livingstone Lusaka road to the scene of the riot. The Plaintiff requested the DCIO to confirm his position with the officer in charge Maamba Police. The DCIO would have none of that and instead ordered the driver to drive off.

- 1.7 The Plaintiff was gripped with fear with the prospect of being left at the scene believing he could be killed if people recognized him to be a police officer. He therefore got onto the Landcruiser on his own accord and accompanied the officers. The Landcruiser then head out towards Monze.
- 1.8 When they reached Pemba, the officers found the road blocked. Theybegan to clear the road. Being an officer himself, the Plaintiff also participated in doing the clearing. The DCIO then decided to give him back his car keys and identity card. He further ordered that the Plaintiff should remain in Pemba. Information he then received from motorists driving by was that the situation in Muzoka was calm and vehicles were passing through uninhibited.
- 1.9 He found his way back to Muzoka where he had been forced to leave his car and found a number of otherofficers

present who escorted him to his vehicle. He was greeted by the shocking sight of an extensively damaged vehicle. Upon closer examination, he established that the vehicle had also been ransacked. All the property he left in the car was stolen. He was advised to leave the vehicle at the scene as the situation was calm. He hitch -hiked a ride back to Maamba.

1.10 The following morning he called the DCIO and explained what had happened. The DCIO showed no sympathy but referred to the Plaintiff as an idiot instead. According to the DCIO, the vehicle was damaged because the Plaintiff had been ferrying cadres. Concerned he would be late for his school, the Plaintiff decided it best to head out for his residential school. He later reported the matter to the Division and Commissioner of Police Southern Division being the overall in charge of the Province.

1.11 He was summoned together with the officers alleged to be involved in this matter and each gave their positions on what transpired and the roles that they played. He was assured he would be told the outcome of his complaint.

With no action or feedback forthcoming, the Plaintiff decided to commence an action before the courts for redress.

1.12 He proceeded to identify his Identity card which he professed the Detective sergeant broke at the time it was presented to him. He testified further that the vehicle in issue was a Toyota Avensis reg number ALF 3798, maroon in colour and valued at K57,200. The vehicle was still at the scene of crime as at date of testimony.

1.13 According to the witness the damage to the vehicle when he examined it included shattered front and rear windscreens; the head lumps and corner lamps were broken, the internal music system that included the radio and air conditioning were removed. He added that a photograph of the vehicle in that state was at page 9 and 10 of the Plaintiff's bundle of documents.

1.14 It was the Plaintiff's further testimony that the valuables that he had in the vehicle included 5 pairs of jeans trousers, 2 pairs of bedsheets, one duvet bedcover, a laptop, a power bank and assorted groceries. He further had a blackberry

mobile phone and a pressing iron. Also in the vehicle was cash amounting to K10,000. whilst the groceries stolen were worth K1200. He did not know the value of the clothing.

1.15 It was his further testimony that the damage to the vehicle is depicted on pages 10, 11, 12 and 13. That page 12 shows that people took advantage and stole the tyres after the incident. He added that atPage 13 is a picture of the position the car stereo was taken from. He prayed for the grant of the reliefs set out in the originating process and for the value of items lost in the vehicle.

1.16 When cross examined, the Plaintiff confirmed he did say the road was blocked and he was warned by other motorists not to proceed any further. He testified that he proceeded to Muzoka during the riots and was in civilian clothing at the time. He agreed that at page 4 of the Plaintiff's bundle of documents is a report from one Constable Phiri. The portion of the report he was asked to read out states that the officer saw a maroon vehicle ferrying people to the scene of the riot.

1.17 That paragraph 5 of the report further states the Plaintiff got onto the Landcruiser and left his car at the scene. He testified that he found the car damaged on his return but did not see who damaged it or collected his property. He agreed that he had not adduced any evidence to show who damaged the property. He further agreed that he did testify that he did not know the value of his clothing. He agreed that he did not have a document in his bundle to show how he arrived at the value of K90,000.00. He did not try to start the car when he went back to Muzoka.

1.18 In re-examination, the witness testified that he decided to follow the Police Landcruiser when he saw it pass. That it was at that stage that he encountered his fellow officers. According to the Plaintiff, he arrived at the K90,000 claimed by adding the value of the motor vehicle at K57,000, the cash for tuition which was K10,000, the groceries at K12,000. He forgot the value of the laptop but the grand total was K90,000 as far as he was concerned.

1.19 The Defendant's case

1.20 DW1 was Mulenga Marcel an Inspector in Zambia Police Service. He testified that he was at some point based in Choma Division Headquarters and held the rank of Sergeant at the time. He recalled that on 15th August 2016 he was on duty. On that date, results for the Presidential elections were being expected. At about 15 hours, the results were announced and the former head of State Mr. Edgar Chagwa Lungu was declared winner of the Presidential elections.

1.21 At that time Mr. Tembo who happened to be the officer in charge of the entire province as Divisional Criminal Investigations Officer, called him and informed him people were looting in Choma Town. DW1 and the DCIO went into town with a police vehicle a Mark 2 to maintain law and order as people were looting. In due course, DW1 received a call from Mr. Zulu a former police officer who informed him that Muzoka rioters had blocked the road and were burning a tyre. Further that there were no police officers to control the situation.

1.22 DW1 then informed his DCIO Mr. Tembo about this development. A decision was made to travel to Muzoka. He explained that reinforcements were received from Zambia National Serviceto deal with the situation in Coma. Calm had therefore been restored andthe officers decided toset out for Muzoka. They passed through Choma police station withdrew 2 AK47 refile flies and started off.

1.23 Along the way, they found several vehicles parked on the side of the road about 4km before Muzoka. Among them was a police vehicle. It was clear to them that this was in fear of the riots. They approached the police vehicle. The officer driving it informed them that he was with 2 other plain clothed officers. TheDCIO then decided to leave the Mark 2 and to use the branded police Landcruiser instead for their operation.

1.24 About 300 meters before the rioting scene , they found a maroon vehicle that was parked in the middle of the road surrounded by some boys. They assumed that the owner of the vehicle was under attack. The DCIO asked the officers to fire warning shots in the air with the view of dispersing

the group that had gathered. The shots were fired and about 2 people run off. Themaroon vehicle paved the way for the Landcruiser to pass.

1.25 As they approached the car, DW1 observed that the driver was signaling the boys that had run off to enter his vehicle. The boys obeyed the instruction. The conclusion reached by the officers was therefore that there was peace between the driver and the people that had surrounded the vehicle despite what they had assumed earlier.

1.26 Other vehicles started to follow the police vehicle into Muzoka. When they arrived, DW1 and his fellow officers confirmed there had been a riot as tyres and logs were set ablaze after blocking the road. Officers Chibala and Phiri joined in helping remove the blockage from the road. The officers were also helped by motorists that were in cars following behind. Thereafter, vehicles started passing whilst the police continued to contain the rioters who were sporadically throwing stones. Calm was restored and vehicles were passing freely.

1.27 At some point the officers observed a maroon vehicle approaching towards the scene. There was a sharp curve before arriving in Muzoka from the south heading to Lusaka. The driver applied breaks that produced a screeching sound that drew the officers attention. DW1 noticed that the front passenger door and rear doors were open. As the vehicle was almost stopping, 4 people emerged from the car with sticks and run off in different directions. They left the driver in the car on his own. This was about 30 meters from the position the Landcruiser was parked.

1.28 Officer Chimbala walked towards the vehicle and DW1 followed him for back up. They confronted the driver to question why he was carrying rioters. The driver introduced himself to be a police officer and presented his identity card. Officer Chimbala expressed his displeasure about the fact that a police officer could be involved in such conduct. DW1 proceeded to remove the keys from the vehicle which was still running. People standing nearby that heard this conversation joined in to condemn the officer.

1.29 He then noted that the Landcruiser started moving away towards Monze direction. DW1 run towards the vehicle believing the movement of the car was an order by the superior to leave because of the apparent volatile situation and stone throwing at the time. As it turned out, it was just a direction to move to a different position.

1.30 Whilst on the Landcruiser, he noted that the driver of the maroon car had also jumped onto the police vehicle. When he was asked who he was by the DCIO he said he was following his car keys and identity card that were in DW1's possession. The position as observed by the officers was explained to the DCIO and the Plaintiff was asked why he was ferrying rioters.

1.31 The Plaintiff's response was he had hidden his identity in fear of being attacked so he pretended to be part of the rioters to protect himself. Mr. Tembo reprimanded him and instructed DW1 to hand over the identity card and keys to him. The Plaintiff refused to disembark from the vehicle stating that people had now known his identity and would kill him if he went back.

1.32 It was DW1's further evidence that the rioters found their way back on the road believing they had an upper hand on the police. The police regrouped and went back to the scene to disperse them. Afterward, they left for Monze and the Plaintiff was still in the Landcruiser. They had to keep stopping along the way to remove tyres that had been placed on the road. DW1 noticed that the whole time the Plaintiff remained in the Landcruiser. He did not take part in the clearing of the road. At a point where they found other officers and stopped, the Plaintiff disembarked from the Land cruiser. He did not follow when the rest of the team proceeded to Monze.

1.33 About 2-3 months later, the Commissioner for Zambia Police for Southern Province Mr. Phiri, called DW1 to his office. He went there and found the Plaintiff in Mr. Phiri's Office whom he assumed had gone there to complain. The Plaintiff was asked if he could identify DW1 and he said he could. He was also asked why he had taken his complaint more than 3 months after the alleged incident.

1.34 On his part DW1 maintained that his only role in this matter was to remove the keys from the Plaintiff's car. He never noticed any valuable items in the car at the time and the vehicle was intact when they left the scene. He later came to know the Plaintiff and driver of the maroon car to be Sergeant Muchindu from Maamba police station.

1.35 When cross examined it was his evidence that he did not go away from the scene with the keys. That the keys were handed back to the Plaintiff right at the scene. He personally handed over the keys to him whilst his colleague gave him back his identity card. None of the officers disputed he was an officer after they saw his identity card. It was his conduct that they questioned which both felt was not in line with that expected of a police officer.

1.36 He maintained that the DCIO reprimanded the Plaintiff for his conduct and that he was cautioned not to repeat what he had done. Further, that some residents expressed disappointment that he as police officer was taking part in ferrying of rioters. Questioned further he testified that the police did not apprehend any of the rioters that were in the

maroon vehicle. That they jumped off the vehicle whilst it was in motion and run away.

1.37 He insisted that the Plaintiff was not part of their operation and sat in the Landcruiser whilst they were carrying on this work. He maintained that he saw the Plaintiff beckoning the people that had surrounded his car to get into his car.

1.38 In re-examination the witness reiterated that the keys were given back to the Plaintiff to protect his car. Further that he opted not to do so.

2. Submissions

The Plaintiff's arguments

2.1 In his final submissions filed into court on 27th May 2022, the Plaintiff contends that his vehicle was left unsecured by the Defendant officers at the scene of the riot which resulted in it being vandalized. He dismissed as an afterthought the Defendant's assertion that he was taking part in the ferrying of rioters. That if that were true, he would have been subjected to disciplinary action and/or arrested. That none of that happened in this case.

2.2 It was his contention that although the damage to his goods was not caused by the Defendant, the injury could have been avoided but for the acts of the Defendant's officers and must thus be held liable. Reliance was placed on the case of **Duncan Sichula, Muza Transport Freight and Forwarding Limited vs Catherine Mulenga Chewe (married) woman**¹ wherein the Supreme Court held that:

"A man made situation cannot be an act of God. There was no direct, violent, sudden and irresistible act of nature which could not by any reasonable care have been foreseen or resisted."

2.3 It was therefore the Plaintiff's submission that the Defendant must pay the full value of the goods that were lost and destroyed. Reliance in this regard, was placed on the case of **Abraham Mohammed and Alantara Transport Ltd vs Safeli Chumbu**² wherein it was held.

"The general rule as to the normal measure of damages for tort is the value of the chattel at the time of the loss."

2.4 Further reference was made to section 2 of the Judgment Act Cap 81 of the Laws of Zambia which provides that:

“Every judgment, order or decree of the High Court or of a Subordinate Court whereby any sum of money or any costs, charges or expenses is, or are to be payable to any person shall carry interest as may be determined by the court which rate shall not exceed the current lending rate as determined by the bank of Zambia from time of entering up such judgment, order or decree until the same shall be satisfied, and such interest may be levied under a Writ of Execution on such judgment, Order or decrees.”

- 2.5 It was submitted that the Plaintiff had proved his case on a balance of probabilities and therefore entitled to the grant of his claims as pleaded with costs.

Defendant's submissions

- 2.6 In submissions filed in response by the Attorney General dated 09th June 2022, the Defendant submitted that a breach of duty occurs when a person's conduct fails to meet an applicable standard of care. The Defendant cites **Charlesworth and Percy on Negligence 9th edition at page 16** wherein the authors write on standard of care that:

“The failure to exercise the standard of care that a reasonably prudent person would have exercised in the similar situation or any conduct that falls below the legal standard established to protect others from unreasonable risk of harm except for conduct that is intentionally or willfully disregards of others rights.”

- 2.7 Reliance was placed on **Weller v Foot and Mouth Disease Research Institute**³ that espoused the common law principle that a duty of care arises from a risk of direct injury to person or property and is owed only to those persons for property may foreseeably be injured by a failure to take care.
- 2.8 Further that in **Caparo Industries Plc vs Dickman**⁴, it was held that besides foreseeability of damage and proximity, it must also be fair, just and reasonable to impose a duty of care in a particular situation.
- 2.9 It was submitted that the offices in this case did what they could to protect the property of the Plaintiff and his person at first instance when upon arrival at Muzoka, they assumed he was under attack with the steps they took.

Secondly that upon identifying himself as a police officer, they handed over the car keys to him.

2.10 That the officers diligently discharged their duties by ensuring people's lives and property were safeguarded and only the Plaintiff's property was damaged as he on his own accord, did not get the car after the keys were handed over to him. In that sense that he contributed to his loss.

2.11 Reference was made to section 5 of the Zambia Police Act which provides that

“The force shall be employed in and throughout Zambia for the prevention and detection of crime and for the apprehension of offenders against peace”

2.12 Further that section 14 (2) of the Zambia Police Act Provides that:

“Every police officer shall be deemed to be on duty at all times and must at any time be detailed for duty in part of Zambia.”

2.13 Lastly that section 26 (1) (c) of the Act places as obligation on Police Officers to prevent any riotous behavior. The section provides.

“26 (1) Any police who

(c) Being present at on assemblage tending to riot does not use his utmost endeavors to disperse that assemblage is guilty of an offence...”

2.14 It was argued that the Plaintiff exhibited mischievous conduct by concealing his identity until queried by his colleagues. Further, that the evidence showed that he did nothing to report the riot that occurred at Muzoka or attempt to remedy the situation as per obligation placed on officers by law.

2.15 It was argued that the Plaintiff contributed to his loss by not leaving Muzoka when all other road users were flagged off to safety after some measure of peace and calm was restored. The Defendant therefore prayed that the Plaintiff's claims should be dismissed with costs.

3. Verdict.

3.1 I have carefully considered the evidence before me and the parties respective positions. The issue for my determination is whether the Defendant is liable for the acts attributed to its agents being police officers that allegedly caused the

damage of the Plaintiffs vehicle and loss of personal property.

3.2 The Plaintiff's position is that the officers by seizing his car keys left the vehicle exposed to the rioters that vandalized and ransacked the car at the position he had left it. The State's position on the other hand is that the officers gave him back the car keys right at the scene of the riots after he identified himself to be a police officer. That the Plaintiff rather than secure his vehicle opted to board the police vehicle that was patrolling the highway checking on rioters and left his vehicle exposed to possible looting. That he therefore contributed to the damage occasioned to the car.

3.3 A resolution of the matter therefore boils down to which version of events I accept and why. In so doing, I am of course mindful that the burden of proving a civil suit on a balance of probabilities rests on the Plaintiff. **Khalid Muhammed vs Attorney General⁵** and **Wilson Zulu vs Avondale Housing project Ltd⁶** are the go to authorities for this proposition.

3.4 After evaluating the evidence and having had the opportunity to examine the demeanor of the witnesses before me, I have no hesitation in dispelling the Plaintiff's version of events that unfolded on the date in issue. He portrays a picture of having been driving to Monze for residential school and in the process encountering a riot in Muzoka area. A police vehicle drove passed where he had stopped and he decided to convoy with this vehicle with a view of making his way out of the rioting area.

3.5 He was confronted by the police at the point they car stopped and identified himself to the officers by name, rank and station. He professes the car keys were taken out of the ignition by one of the officers who then went on to board the police vehicle. He followed the officer to ask for his keys and Identity card. He opted to jump onto the police vehicle rather than remain with his vehicle as he was afraid the locals would now be able to identify him as a police officer and harm him. He later returned to find a damaged and ransacked vehicle which he attributed to the officers confiscation of his keys. That was his account of the events.

- 3.6 However, the unshaken evidence given by DW1 which I found more credible was that he and 2 other officers travelled from Choma to deal with reported riots in Muzoka area following the announcement of the Presidential election results. As they approached Muzoka area, the officers noticed the Plaintiffs vehicle which he described by colour, in the middle of the road surrounded by young men whom they presumed were attacking him. Warning shots to disperse them were fired.
- 3.7 However they then saw the driver later confirmed to be the Plaintiff beckoning the young men to get onto his vehicle. DW1 and the other officers concluded the young men were with the Plaintiff and all was well between them. The officers moved on ahead. At the position they eventually stopped, they saw the same maroon car approaching at a fast speed with open doors and filled with young men. The car came to a screeching stop near the police vehicle.
- 3.8 The next thing Dw1 observed was the young lads running away at the sight of the police vehicle. The Plaintiff was approached and asked why he was ferrying what the police

concluded were part of the rioting group. It was at that point that the Plaintiff identified himself to be a police officer.

3.9 I accept that following this introduction, the police expressed disappointment that the Plaintiff being an officer could behave in this way. I accept that he was reprimanded by the senior officer who was in the police vehicle and given back his car keys.

3.10 I do not accept his decision to then opt to board the police vehicle rather than to secure his car was actuated by fear that he might be lynched by the rioters who would then know he was an officer. Why would he harbour this fear if he wasn't a part of the group is the question I ask. I would rather find as I am prepared to, that he was consumed with the guilt because of the situation he had found himself in. I accept that the Plaintiff was spotted ferrying the rioters group and that he, out of his own free will got onto onto the police vehicle and left the car which he could have secured having been given the car keys at the scene of crime.

3.11 I accept that upon his return to the scene, he found the vehicle had been damaged and ransacked. Curiously, he asserts that he opted to leave the car at the scene and as at date of testimony the vehicle was still at the same spot. The State as I stated earlier, argued that there was contributory negligence established from the facts .

3.12 **Section 10 of the Law Reforms Miscellaneous Provisions Act Cap 74** which aptly reflects the position of the common law provides that:

“10. (1) Where any person suffers damage as the result partly of his own fault and partly of the fault of any other person or persons, a claim in respect of that damage shall not be defeated by reason of the fault of the person suffering the damage, but the damages recoverable in respect thereof shall be reduced to such extent as the court thinks just and equitable having regard to the claimant's share in the responsibility for the damage”

3.13 A read of the provision in its proper context would suggest that a Defendant relying on this defence would not be saying he is totally absolved from liability. Rather, the Defendant would in essence be saying that his liability

should be limited to the extent of the Claimants own share of responsibility for of the damage claimed. I am however for reasons stated above, not prepared to find that the State was liable at all for the damage to the vehicle.

3.14 The Plaintiff was given the keys but opted to leave the car to the mercy of the rioters. He was not forced to board the police vehicle. His intention was never to help out to quell the riots. DW1 stated that the Plaintiff did not take part at all in clearing of the burning tyres or logs that they found along the Highway and just sat in the car until he disembarked in Pemba.

3.15 The Plaintiff rides on the fact that he was neither reprimanded nor disciplined as he should have if it were true that he took part in the riots or aiding the perpetrators. No evidence was led to show any disciplinary process was initiated or even contemplated. For present purposes I am satisfied that he was seen ferrying rioters. Why he would choose to do that in spite being a police officer is best known to himself. He is without question the sole author of the resultant damage to his vehicle and loss of property

incurred. I would dismiss the entire claim for want of merit
with costs to the Defendant to be taxed in default of
agreement.

Leave to appeal is granted.

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Dated at Lusaka this.....day of *October*.....2024



HON. JUSTICE M.D BOWA