

**IN THE MAGISTRATES' COURT OF RIVERS STATE**  
**IN THE PORT HARCOURT MAGISTERIAL DISTRICT**  
**HOLDEN AT PORTHARCOURT BEFORE HIS WORSHIP. G.C.AMADI ESQ.**  
**SITTING AT SMALL CLAIMS COURT AT CHIEF MAGISTRATE COURT 8, ON THE 16TH**  
**OF FEBRUARY, 2024**

**SUIT NO. PMC /SCC/180/2023**

1. JAMES ISHAKU
2. ISHAYA AHMADU
3. ISAAC BLESSING
4. HARUNA EMMANUEL
5. OKAFOR C. CELINE
6. MARIA EZEMEDO
7. SHOLA AKAJI

} CLAIMANTS

AND

RIVERS JOY TRAVEL AND TOURS LIMITED

} DEFENDANT

**JUDGMENT**

This is the final judgment in this suit wherein the claim before the court, dated and filed on the 28<sup>th</sup> day of September, 2023 is for:

1. An order of this Court compelling the defendant to pay the Claimant, the sum of N115,500 broken down for N16,500 as transportation fare paid by the 7 Claimants at N16,600 per passenger
2. Hotels Bills expended by the 7 Claimants at N15,000 per passenger to the sum of N105,000.00
3. N500,000 (Five Hundred Thousand Naira) as legal fees paid by the Claimants to their solicitor
4. One Million Naira as general damages

In proof of their case, the Claimants called one witness and the defendant called no witness.

On the 4<sup>th</sup> November, 2023, an application to enter plea of not liable for the Claimants was granted and the matter was set down for hearing.

On the 18th of January, 2024, the Claimants testified as CW1 and stated that he has the consent of the other Claimants to depose to the witnesses' deposition on oath. That the Claimants are the customers of the defendant and the defendant is a transport Company that runs a logistics services with branches in most part of Nigeria .That the Claimants boarded the sienna car with plate number ABJ B599 XB from Maraba, Abuja to Port Harcourt on 27/11/2022 at the fare of N16,500 (Sixteen Thousand Five Hundred Naira) only per person. That the journey commenced to Port Harcourt and the car started

malfunctioning but the driver kept on managing it till the moment, the Claimants got to Otokpo in Benue State where the Car completely spoilt and attempt to fix the car through self help proved abortive. That the driver abandoned the vehicle and the passengers in the middle of nowhere without communication to the claimants and without any alternative arrangement from the defendant. That the attitude of the driver caused hurt to the Claimants by disrupting their business schedules and engagements planned in Port Harcourt.

That after waiting for hours without any sign of the driver, that the Claimants were forced to look for accommodation at Otokpo to pass the night as it was already late to get another vehicle to Port Harcourt considering the current insecurities in the country. In view of these that when the Claimants arrived Port Harcourt, they made several demands for the refund of their transport fares and other sundry expenses from the defendant, but the defendant deliberately refused. That the defendant breached the contract of service entered with the Claimants by refusing to take the Claimants to their destination being Port Harcourt, Rivers State.

That the Claimants also engaged the services of a lawyer, who wrote to the defendant and they still failed to comply to their demands.

The CW1 identifies the payment receipt for Apa Gate Hotels Limited for the 1<sup>st</sup> Claimant, the 2<sup>nd</sup>, the 3<sup>rd</sup>, the 4<sup>th</sup>, the 5<sup>th</sup> and the 6<sup>th</sup> Claimants and also identifies Cash receipts from the Liberation Chambers, letter of authority, demand letter and the defendants passengers manifest as Exhibits A, B, C, D & E

During the cross-examination of CW1, on the same date, he stated that it is not true that as soon as the journey commenced, the car started malfunctioning. That it is not true that it is the carelessness of the driver that caused the malfunction. That he called the two numbers on the manifest, the 1<sup>st</sup> number rang and the director said that he is at home, that we should call the 2<sup>nd</sup> number. That the 2<sup>nd</sup> Number said not reachable. That the matter was not reported to any nearby terminal because there was no nearby terminal. That his signature is not on Exhibits A1-A7. That he did not also sign Exhibit C.

At the end of the evidence of CW1, the Claimants informed the Court that this is their case. On the 25th of January, 2024, the defendant Counsel informs the Court that he is relying on the case of the Claimant and the matter was adjourned for final address and later for judgment.

That said, I will proceed to consider the case of the parties in the light of the relevant laws. I have noted the essence of the claim have also taken cognizance of the evidence before the court. I have couched a lone issue for determination and that is:

### **Whether The Claimant Has Discharged The Burden Of Proving His Claim Before The Court.**

The law is now trite that he who asserts must prove. The Claimants via CW1 have testified that they boarded the sienna car with plate number ABJ B599 XB from Maraba, Abuja to Port Harcourt on 27/11/2022 at the fare of N16,500 (Sixteen Thousand Five Hundred

Naira) only per person. That the journey commenced to Port Harcourt and the car started malfunctioning but the driver kept on managing it till the moment, the Claimants got to Otokpo in Benue State where the Car completely spoilt and attempt to fix the car through self-help proved abortive. That the driver abandoned the vehicle and the passengers in the middle of nowhere without communication to the claimants and without any alternative arrangement from the defendant.

To prove this assertion, the Claimants called the CW1, who tendered the accommodation receipts evidencing bills and the receipts from the legal firm they engaged for legal services and letter of authority and defendant's passengers' manifest as **Exhibits A-E**.

I have taken a close look at the loan agreement, Exhibit A-E and without any equivocations, the exhibits clearly buttresses the already stated case of the Claimants as to expenses incurred in hotel bills and legal fees and the fact that the CW1 has authority to represent the rest and also the important fact that they boarded the defendant's vehicle as clearly shown in Exhibit E.

It is also important to note at this point that none of the facts stated by the Claimant's witness above was controverted in evidence or denied by the defendant and so will be deemed by this court as admitted. The law is that facts admitted need not be proved by evidence. Please refer to the case of Ayoke V. Bello (1992)10 NWLR (Pt 218) pg 380 Ratio 2; O.A.A Cooperative Society Vs. NACP Ltd (1999) 2NWLR (Pt 590) Pg 234, Ratio 4 to the effect that what is not denied is deemed admitted and what is admitted need not be proved.

On these undisputed and clear evidence before the court, the court will hold that the claimant has, on the preponderance of evidence discharged the burden of proving their claim before the Court for the sum of N115,500 broken down for N16,500 as transportation fare paid by the 7 Claimants at N16,600 per passenger; Hotels Bills expended by the 7 Claimants at N15,000 per passenger to the sum of N105,000.00 and N500,000 (Five Hundred Thousand Naira) as legal fees paid by the Claimants to their solicitor.

On the Claim for general damages: The correct assessment for general damages remains an award that compensates the injured party and restores it to the position it would have been had the breach or injury not occurred. As a result, the assessment of damages is based purely on damages flowing naturally from the breach. Stephen Okongwu V NNPC (1989) 4 NWLR (Pt 115) 296 @ 306h-307a; GFK Investment Ltd V Nigeria Telecommunications Plc (2009) 15 NWLR (Pt 1164) 344; @ 384D-E.

The award is quantified by what in the opinion of a reasonable person is considered adequate loss or inconvenience which flows naturally, as generally presumed by law, from the act or conduct of the Defendant. It does not depend upon calculation made and figure arrived at from specific items. See Odulaja v Haddad (1973) 11 SC 357; (1973) 11 S.C.

(Reprint) 216; Lar v Stirling Astaldi Limited (1977) 11-12 SC 53; (1977) 11-12 SC (Reprint) 106 and Osuji v Isiocha (1989) 6 S.C. (Part II) 158; (1989) 3 NWLR (Part 111) 623

From Exhibit A- E before the Court, it can be seen that the defendant suffered physical, financial and emotional inconveniences by the act of being abandoned in the middle of nowhere by the defendant. According to the evidence of the CW1, they suffered business losses in the form of cancelled business schedules and meetings. It is obvious that the Claimants have suffered some emotional and financial harm occasioned by the acts of the defendant.

**IT IS THUS ADJUDGED** that the Defendant to pay the Claimants the sum of N115,500 broken down for N16,500 as transportation fare paid by the 7 Claimants at N16,600 per passenger

**IT IS FURTHER ADJUDGED** that the defendant do pay to the Claimants, Hotels Bills expended by the 7 Claimants at N15,000 per passenger to the sum of N105,000.00

**IT IS ALSO ADJUDGED** that the defendant do pay to the Claimants, N500, 000 (Five Hundred Thousand Naira) as legal fees paid by the Claimant to their solicitor.

**IT IS ALSO ADJUDGED** that the defendant do pay to the Claimants, Seven Hundred Thousand Naira (N700, 000) as general damages.

**AND IT IS ORDERED** that the defendant do pay to the Registrar of this court, the total sum of **N1,420,500 (One Million, Four Hundred and Twenty Thousand, Five Hundred Naira)** only representing the aggregate sum of the following: refund of the transport fare of N115,500 (One Hundred And Fifteen Thousand, Five Hundred Naira (For the 7 Claimants); the refund of hotel bills of 105,000 (One Hundred And Five Thousand Naira) for the 7 Claimants; the refund of legal fees to the sum of N500,000 (Five Hundred Thousand Naira) and the award for general damages to the sum of N700,000 (Seven Hundred Thousand Naira) only.

**TAKE NOTICE** –That if payment is not made as above ordered, a warrant or warrants may issue requiring an officer of the court to levy the sum above mentioned, to the Claimants together with further costs.

GIFT C. AMADI, ESQ.  
CHIEF MAGISTRATE  
G.D.I.  
SIGN: ..... DATE: .....

**G. CHINYERE AMADI, ESQ.**  
**CHIEF MAGISTRATE G.D.I**

THE JUDICIARY  
\* W.C.BISKE, G. CHINYERE, ESQ.  
SIGN: .....  
DATE: 25/2/2014  
\* SMALL CLAIMS COURT \*