

IN THE INDEPENDENT LEGAL SERVICES COMMISSION
AT SUVA

ILSC CASE NO. 007 OF 2023

BETWEEN : **SUMARI WATI**
APPLICANT

: **ANILESH PRASAD**
2ND APPLICANT

: **RONEEL RITESH PRASAD**
3RD APPLICANT

AND : **SURESH CHANDRA**
RESPONDENT

THE CHIEF REGISTRAR
AMICUS CURIAE

Counsel : **Mr V Maharaj for the Applicants**
No Appearance for the Respondent
Ms R Wati for the Chief Registrar

Date of Hearing : 7 July 2025

Date of Decision : 2 October 2025

DECISION

[1] Sumari Wati (the Applicant) and others are claiming reimbursement from the Fidelity Fund under section 23 of the Trust Accounts Act 1996.

Legal Grounds

- [2] Section 23 of the Trust Accounts Act 1996 only allows for reimbursement if the Commission is satisfied that a loss occurred "through the stealing or fraudulent misappropriation by a legal practitioner in private practice...or by any clerk or servant of such legal practitioner" of money entrusted in the course of legal practice. The Commission has absolute discretion and may refuse a claim if it is premature or inadequately substantiated.
- [3] The law requires clear proof that the loss arose from theft or fraudulent misappropriation by the practitioner or their staff.
- [4] The Commission is empowered to deny claims that lack adequate supporting evidence or where records are insufficient to establish the loss within the statutory criteria.

Assessment of Evidence

- [5] While the Applicant shows \$20,000 was paid into MC Lawyers' trust account and claims this amount remains frozen, the Reply Affidavit exposes substantial evidentiary obstacles.
- [6] The audits conducted on MC Lawyers' trust account, cited extensively by the LPU, reveal missing records, numerous inaccuracies, and inconsistent reporting between audit years, casting doubt on the reliability and accuracy of any single claimant's figures.
- [7] The LPU notes that no audit to date can be relied upon to ascertain with certainty the amount owed to each claimant, including Sumari Wati.

- [8] There is no direct evidence that the loss to Sumari Wati was a result of stealing or fraudulent misappropriation as required by section 23 as the available facts show mismanagement, negligence, and possible breach of professional duties, but not actual theft or fraudulent intent.
- [9] The Commission is justified in requiring further investigation before disbursing funds, given that the available trust and fidelity funds are insufficient to satisfy all pending claims, making proportional distribution the only equitable approach.
- [10] Furthermore, exhausting all avenues of recovery directly from the practitioner is expected before the Fidelity Fund serves as a "last resort". Immediate disbursement from the Fund sets a risky precedent and could undermine the Fund's integrity and future sustainability.

Conclusion

- [11] Given the above legal and evidentiary grounds, Sumari Wati's claim is not sufficiently substantiated by the law or facts to warrant reimbursement from the Fidelity Fund at this stage, and must be rejected by the Commission in its absolute discretion.



Solicitors:

M A Khan Esquire for the Applicant
Legal Practitioners Unit for the Chief Registrar