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High Court Pronounces Landmark Decision on Instagram Video

- Instagram users beware
- Personal data protection enhanced
- Consent on taking and publishing personal data clarified
- Breach of personality and privacy condemned
- Party held liable to pay damages for personal data mishandling

Background

On 30 July 2024, the High Court of Tanzania (Dar es Salaam Sub-Registry) delivered a judgment in Civil Appeal No. 978 of 2024. In the said judgment, the High Court held liable a party (the Appellant) to pay general damages for publishing a video clip of the Respondent on social media platform without the Respondent's consent as the Appellant's act was considered to be interference with personality and privacy without justification.

The Appellant is a company engaging in upholstery business. The Appellant and the Respondent entered into an agreement requiring the Appellant to mend the seat covers, dashboard, 5D carpets and cleaning of the Respondent's motor vehicle. Upon completion of the services as agreed, the Respondent went to take his motor vehicle where the Appellant recorded a video of the Respondent while doing so. The said video was posted online in the Appellant's Instagram page and the Appellant complained that it had interfered with his personality and privacy and preferred the case before the District Court of Kinondoni (Trial Court). The Appellant's defence was that the video was recorded by consent and it was not for commercial gain but to educate members of the public.

The Trial Court ruled in favour of the Respondent and awarded him general damages amounting to TZS 80M. Being aggrieved by the judgment of the Trial Court, the Appellant preferred an appeal to the High Court (the Court).

Judgment of the Court

In its judgment, the Court ruled that the Respondent consented for recording of the video, but there is no evidence that he consented for it to be posted on Instagram. Further, the Court concluded that the video clip which was posted by the Appellant cannot be distanced from advertisement of the Appellant's business because its content is about quality of the work done by the Appellant to the motor vehicle of the Respondent.

Regarding the amount of compensation awarded by the Trial Court, the Court stated that the testimony of the Appellant's family members did not establish any concrete injury suffered which attracts such huge amount of general damages and hence reduced the damages to TZS 10M.

Although the judgment does not make any reference to the provisions of the Personal Data Protection Act, 2023 (PDPA) as the PDPA was not in force, the judgment still remains to be a landmark decision in so far as personal data protection issues in Tanzania are concerned.

Finally, all those who post other persons videos on Instagram and other social media without specific consent, must beware of this judgment. To read the judgment click [here](#).

To read the judgment, [click here](#)

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