



Precision Air Flight PW-494

Bukoba, Tanzania

On 6 November 2022, an ATR 42-500 aircraft, operated by **Precision Air** performing flight PW-494 from Dar es Salaam to Bukoba, Tanzania, landed short of Bukoba's runway 31 by approximately 500m, ending up submerged in Lake Victoria. 19 passengers and crew onboard died and 24 suffered varying degrees of injuries.

Over the last 16 years, Stewarts' Aviation team has recovered more than **USD \$500 million** for bereaved families and injured survivors of aviation accidents worldwide. In that time, we have represented families following nearly every major African aviation accident, from the largest (Kenya Airways Flight KQ507, Cameroon, in 2007, Sudan Airways Flight 109, Sudan, in 2008, Afriqiyah Airways 8U771, Libya, in 2010, Ethiopian Airlines ET302, Ethiopia, 2019) to the smallest (Nyika Safari, Malawi, in 2007, Air Serv International, Democratic Republic of Congo, in 2008, Aero Service, Republic of Congo, in 2010). Most recently, our Aviation team worked with local Tanzanian law firm Jundu & Adadi Co. Advocates to represent families following the crash of **Coastal Aviation** in November 2017. We have partnered again with Jundu & Adadi Co Advocates to help families and passengers following the crash of Precision Air.

In **Coastal Aviation** we were able to achieve settlements for our client families on the basis of historical English legal principles for the calculation of compensation which had never previously been applied in Tanzania or East Africa, and in the process, achieved record breaking settlements for our clients under Tanzanian law. Part of our ability to achieve those settlements came from the fact that the Coastal Aviation aircraft was reinsured into Lloyds of London. In the same manner, Precision Air is also reinsured through Marsh (as brokers) into Lloyds of London.

We believe that we can similarly help families who have lost loved ones and injured passengers in this accident.

“Stewarts are widely regarded as the go-to firm for claimants in aviation litigation”. “Stewarts are leaders in the field, without question.”

Chambers & Partners 2022

This free confidential briefing has been produced solely for the benefit of injured passengers and families who have lost loved ones in the Precision Air accident to provide clarity about what may have happened and your legal rights.

If you would like further information or would like to discuss how we can help your family, please contact **Peter Neenan** at pneenan@stewartslaw.com / +44 7500 331 343 (call or whatsapp) or **Patrick Malewo** at patrick.malewo@jaadvocates.co.tz / +255 787 232 767.

A. Investigations

Tanzania's Aircraft Accident Investigation Branch will lead the investigation into the cause of the accident. They will be assisted by investigators from the French Bureau d'Enquêtes et d'Analyses (BEA) because the aircraft (ATR 42-500) is a French aircraft.

The investigation is intended to determine the cause of the accident, focusing on safety lessons that can be learned. As families and passengers, you have no rights to participate in the investigation itself, however in the previous Coastal Aviation accident, the investigators did provide a copy of the draft report for our comment prior to the conclusion of the investigation and our comments and queries were incorporated into the final investigation report.

You should expect that the report is unlikely to be released for two years, as was the case in the Coastal accident, however, in that case a draft report was provided approximately one year after the accident. The same may be true here. The investigators have released a preliminary report.

Alongside the official investigation, we perform our own internal investigation, working with leading captains and technical experts to establish the causes of the accident.

B. What we know

Preliminary information indicates that the weather in the vicinity of the runway was very poor with the aircraft

having already circled twice in heavy rain and turbulence. On the third circle, it is reported that the runway became visible and a landing attempted was made. It was during this landing attempt that the accident happened and the aircraft landed short of runway 31, impacting the water of Lake Victoria.

The pilot may have suffered a loss of situational awareness in the bad weather, and may have been trying to land the aircraft quickly out of concern for the developing weather system. However, the pilot was very experienced with over 23,500 hours experience including nearly 12,000 on type. In addition surviving passengers state that they could see the runway markings at the time of the accident, which would undermine any explanation of spatial disorientation or a loss of situational awareness.

Reports from surviving passengers also indicate that shortly before the accident the aircraft began to shake violently and banked to the left with nose down attitude. The wreckage supports this. The aircraft damage shows that the primarily point of impact with the water appears to be on the left wing, left propeller, and landing gear. The aircraft did not hit the water with level wings as would be expected if the pilot had purposefully ditched the aircraft in water, and there was no announcement from the pilot suggesting that was his intention. The aircraft was also rotated nearly 180 degrees suggesting an impact point with the left wing. It has been confirmed that the engines were delivering power at the time of the impact.

What is not yet clear, is whether any of the systems were malfunctioning which may have contributed to the accident or caused the sudden left bank and nose down attitude. The aircraft may have experienced severe turbulence or windshear causing the sudden attitude change, but equally that attitude change may have been caused by a system malfunction. Violent shaking of the aircraft could suggest an engine issue, but equally the flight control surfaces and controls will need to be investigated. This is likely to be a focus in the investigation report.

Peter Neenan: an “absolute expert in the field of aviation” and a “leading aviation lawyer”. “Peter is one of the most intelligent lawyers I’ve ever come across,” “no one has a better understanding of the relevant law than him”.

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C. Your Rights

I. Against Precision Air

In Tanzania, the law which governs domestic flights is the Civil Aviation (Carriage by Air) Regulations 2008 (the Carriage by Air Regulations).

This is a domestic version of a well-known international treaty called the Montreal Convention. Under the Carriage by Air Regulations, Precision Air must pay your claims up to the Tanzanian shillings equivalent of USD \$120,000 (c. TZS 280 million) without you needing to prove that they did anything wrong.

Above USD \$120,000, Precision Air can only refuse to pay your claims if they can show that the accident was not caused by them in any way or was solely caused by another person or company. In our opinion, Precision Air would not succeed in this argument and would not be able to limit the amount that they have to pay to USD \$120,000 as there appears to be significant pilot error.

This means that we believe we would be able to establish that the liability of Precision Air is unlimited to you.

There is an important point here that has been miscommunicated in the press following this accident. While Precision Air must pay your claims, you are not automatically entitled to the Tanzanian shillings equivalent of USD \$120,000. You still have to prove your losses in accordance with Tanzanian law. This means that if your losses amount to USD \$2,000,000 (TZS 46 billion) then that is how much you would be compensated, but if your losses amount to USD \$50,000 (TZS 116 million) then that is how much you would be compensated, regardless of Precision Air being unable to avoid liability below USD \$120,000.

In the 2017 Coastal Aviation accident in Tanzania, we were instructed by families of passengers who had died and were able to build claims for losses based on English law principles which had never been applied in Tanzania, but

were (in theory) good law. This is because Tanzanian law is founded on old English law principles. In the process we were able to negotiate compensation for our clients which was record breaking under Tanzanian law.

We were assisted by the fact that Coastal Aviation was reinsured into Lloyds of London and the reinsurers hired London lawyers alongside their Tanzanian lawyers. We were able to have two different lines of communication both between our Tanzanian lawyers and between the London lawyers in order to reach the best settlements for our clients.

In the same manner, Precision Air is insured in Tanzania by Tanzindia Assurance Company and reinsured into Lloyds of London through their broker, Marsh., The aircraft has USD \$170 million of insurance covering passenger claims.

II. Against others

You have a guaranteed claim against Precision Air. However, in the event that there is evidence of any type of mechanical malfunction that caused or contributed to the accident, you may have rights outside of Tanzania.

The primary defendants would be:

- ATR, as manufacturer of the aircraft, based in France;
- Pratt & Whitney, as manufacturer of the engines, based in Canada
- Collins Aerospace / Safran Electronics, as manufacturers of flap and flight control actuators, based in France

If the evidence reveals any claim against any of the above parties then we would be able to pursue those claims for you worldwide.

In that event we can put in place a separate retainer covering that work. That retainer does not increase in cost if we need to work with additional lawyers in other countries.

Sarah Stewart: “the leading plaintiff aviation solicitor in the UK”, “an exceptionally talented aviation lawyer with broad expertise, covering domestic and international matters [who] has a flair for achieving fantastic results for her clients”

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Profiles



Peter Neenan
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Peter is known for working on the department's most high profile cases. He is a dual qualified English solicitor and Illinois attorney described as "a dream attorney for any client to have" and "an aviation law supremo" with "unrivalled technical expertise in aviation accidents".

Peter is a Partner in the Aviation Department at Stewarts, specialising in multi-jurisdictional and technically complex aviation matters. Peter acted for families of passengers who died in the 2017 Coastal Aviation accident in Tanzania; leading the litigation for families in Tanzania and the US.

Prior to his career in law Peter read Theoretical Physics to Masters level. He leads the department's independent technical aviation investigations.

For further information on the Stewarts Aviation team, see: <https://www.stewartslaw.com/expertise/aviation>



Sarah Stewart
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Described as "exceptional", "excellent", "brilliant" and "at the top of her game", Sarah is commended for her "attention to detail and great commitment to the clients". Sarah is "an irresistible force – a dominant force now in the air crash field."

Sarah is a Partner in the Aviation Department at Stewarts and since 2006 has specialised in aviation related disputes resulting in death or injury worldwide.



Judge Fakihi Abdallah Jundu
Partner and Founder
Jundu & Adadi Co. Advocates
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Founding partner of Jundu & Adadi Co. Advocates, Judge Jundu is a current sitting judge for the East African Court of Justice. Prior to serving as a Judge of the East African Court of Justice, Judge Jundu served as a Judge of the High Court of Tanzania and later as the Principal Judge of the High Court of Tanzania.

Judge Jundu was appointed to the bench after a successful career practicing as a private advocate. Alongside his commitments as a sitting judge for the East African Court of Justice, Judge Jundu founded Jundu & Adadi Co. Advocates where he serves as Managing Partner. He is also Chartered Arbitrator with the International Institute of Arbitrators in London.



Patrick Malewo
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Patrick has over 15 years experience acting in Tanzanian litigation across a broad range of areas including insurance, compensation, banking, finance and loan recovery. Patrick was instrumental in achieving record breaking results for families of passengers of the 2017 Coastal Aviation accident in Tanzania.

Patrick has been a partner in Jundu & Adadi for the last 5 years. For 8 years prior to joining Jundu & Adadi, Patrick held positions as Head of Legal for the Commercial Bank of Africa Tanzania Ltd (CBAT) and the Bank of Africa Tanzania Ltd (BOA). He received his education in Dar es Salaam (LLB) and the Eastern & Southern African Management Institute (Masters).

For further information on the Jundu & Adadi team, see: <https://www.jaadvocates.co.tz>

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