



**IN THE HIGH COURT OF SOUTH AFRICA,
FREE STATE DIVISION, BLOEMFONTEIN**

Reportable:	YES/NO
Of Interest to other Judges:	YES/NO
Circulate to Magistrates:	YES/NO

Case number:487/2021

In the matter between:

MATEYISE: ZIKIWE obo YAKHANANI

Applicant

And

ROAD ACCIDENT FUND

Respondent

HEARD ON:

This application was determined on the basis of written arguments instead of an oral hearing.

JUDGMENT BY:

DANISO, J

DELIVERED ON:

23 OCTOBER 2023

- [1] This is an unopposed application for leave to appeal to the Supreme Court of Appeal directed at my judgment and order handed down on 15 June 2023 dismissing the applicant's claim for loss of earning capacity.

- [2] The application is by consent of the applicant determined on the basis of written heads of argument and it is predicated on the grounds that the Supreme Court of Appeal "could reasonably come to a different conclusion."
- [3] The application does not comply with Rule 49(1)(b) in that it was lodged on 07 July 2023, beyond the fifteen days contemplated in Rule 49(1)(b) and no condonation has been sought for the applicant's non-compliance with the court rules. That aside, leave to appeal can only be granted only if I am certain that the appeal would not "could" have a reasonable prospect of success. There must be a measure of certainty that another court would render a different judgment than the one impugned. (See section 17 (1) (a) (i) of the Superior Court Act 10 of 2013). It does not end there, in the notice of motion leave to appeal is sought to the Supreme Court of Appeal whereas no question of law of importance or conflicting issues of law have been raised in both the notice of application and the heads of argument which could require the attention of the Supreme Court of Appeal.
- [4] The grounds of the appeal as embodied in the notice and the written heads of argument are essentially based on the premise that this court erred in dismissing the applicant's claim this court disregarded the applicant's evidence proffered to substantiate the claim and accepted the defendant's controverting evidence. I have dispassionately considered the grounds of appeal including the heads of argument and I am of the view that I have adequately dealt with all these aspects in my judgment for that reason, I am not persuaded that the issues raised by the applicant in this application would have reasonable prospects of success. There are also no compelling reasons why the appeal should be heard.
- [5] In the result, I make the following order:
1. The application for leave to appeal is dismissed.

The Honourable
2023-10-23
N.S. Daniso

NS DANISO, J

Counsel on behalf of Applicant:

Instructed by:

M.C. Baloyi

S.B. SESHIBE ATTORNEYS

BLOEMFONTEIN

Counsel on behalf Respondent:

Instructed by:

Ms. J. Gouws

THE STATE ATTORNEY

BLOEMFONTEIN