

SAFLII Note: Certain personal/private details of parties or witnesses have been redacted from this document in compliance with the law and [SAFLII Policy](#)

**THE HIGH COURT OF SOUTH AFRICA
MPUMALANGA DIVISION, MBOMBELA MAIN SEAT**

CASE NO: 517 / 2019

REPORTABLE: NO

OF INTEREST TO OTHER JUDGES: YES

REVISED.

01 June 2022

In the matter between:

JACOBUS KARMEN NOORTMAN
AKA
KARMANN NOORTMAN

APPLICANT

and

ROAD ACCIDENT FUND

DEFENDANT

Delivered: This judgment was handed down electronically by circulation to the parties' representatives by email. The date and time for hand-down is deemed to be 10H00 on 01 June 2022.

JUDGMENT

RATSHIBVUMO J

[1] In this application, the Applicant seeks an order in the following terms: (1) That the Respondent rectify the claimant details captured in the RAF system to reflect the

correct identity number of the Applicant to read [...]. (2) That the Respondent rectify, alternatively replace link no 4456301 to reflect the claimant's correct details as Karmann Noortman Identity number [...].

[2] The application is unopposed as it seems to be the trend lately that matters against the RAF are largely unopposed. At first glance, this appears to be an innocent application to rectify some typos entered into the RAF digital system that are making it difficult for the claim to be processed. Upon perusal of the file, it turns out to have been a planned misrepresentation meant to defraud RAF which is not working out the way it was planned. The courts are now called upon to help in legitimising the misrepresentations made with a view to still have a claim against the RAF processed. It is for this reason that the names of the applicant reflected on the front page of this judgment are two being Jacobus Karmen Noortman and Karmann Noortman. This is not one and the same person. As illustrated below, these are brothers who were born on different dates, with different names and have different identity numbers. How the two brothers feature in one file held in this division and also by the Respondent is the subject of this application.

[3] The following is the brief history that led to the current application. As a commencement of a claim against the Respondent, the Applicant's attorneys completed the RAF 1 Form¹ and lodged it on 31 July 2018. Part 1 of the form that requires the details of the claimant was completed as follows: SURNAME: NOORTMAN. NAME: JACOBUS KARMEN. DATE OF BIRTH: [...]. ID NUMBER: [...].² This form must have been lodged together with a copy of the identity document reflecting these details as part 1 of the form requires "a certified legible copy of the identity document" to be attached to the claim form. Further details in the form reflect that the claimant was involved in an accident on 20 February 2017.³ The details of the other driver involved in an accident with the claimant were reflected as "unknown" and that the said driver was "deceased."

¹ See para 7.2 (p. 7) and 8.4 (p. 11) of the founding affidavit deposed to by William Petrus Mentjies, the Applicant's attorney.

² See p. 111 of the paginated bundle.

³ See part 5 of the form on p. 112 of the paginated bundle.

[4] According to the founding affidavit, it was after the Claims Handler of the Respondent put in the identity number in the RAF 1 Form that the system reflected the details that did not match the information in one of the expert reports.⁴ In this report, the claimant had indicated that he had not been in a motor vehicle accident in the past. The information at the Respondent disposal was that the bearer of the ID number as per RAF 1 Form had been in at least three motor vehicle accidents prior to the current one. The system also reflected that he lodged the claims with the Respondent in all of these accidents with one of them having been settled. One of those accidents had apparently taken place only about two months before the date of the accident reflected in the RAF 1 Form.⁵

[5] The discovery of conflict in the information was relayed to the claimant by the Respondent. This prompted the claimant to give new details different to those provided initially in the RAF 1 which he claims to be his and it is these details that the Respondent was asked to substitute as the correct details of the claimant. The particulars of claim were also amended to reflect the “correct” details of the plaintiff. When further correspondence from the Respondent to the Applicant’s attorneys continued to reflect the names that should have been amended as requested, this application was launched as reflected in paragraph 1 above.

[6] It turns out from the founding affidavit that the claimant’s details furnished in the RAF 1 Form (the first claimant) are those of a brother to the man whose “correct” details are sought to be reflected in the Respondent’s system as per paragraph 1 above (the second claimant). In the application, two copies of identity document were attached. One of these reflects ID number [...] as belonging to Noortman Johannes Gerhardus (the first claimant). The other one reflects ID number [...] as belonging to Noortman Karmann (the second claimant). It is clear that this claim was lodged under a different name or person (the first claimant) to that of the Applicant (the second claimant). I do not understand how such a misrepresentation can just be “amended” with a stroke of a pen as if it is nothing serious. It also brings a question on whether the Applicant has *locus standi* to amend the first claimant’s claim

⁴ See the Orthopaedic Surgeon’s report compiled by Dr, Mncina on p. 99 of the paginated bundle.

⁵ See the Respondent’s email dated 17 August 2020 on p. 27 of this application.

[7] Further details in the file are concerning. It is common cause that the first claimant was involved in a motor vehicle accident on 24 December 2016 of which he even lodged a claim with the Respondent. The first claimant is alleged to have died on 14 September 2020. It is a great concern to the court that the identity of the person examined by the different experts who compiled the reports remains unknown. The said experts compiled the reports indicating the details of a person they saw by writing his identity numbers and his dates of birth therein. The person examined by the Orthopaedic Surgeon for example, is the first claimant. If the details of the claimant are switched to those of the Applicant (the second claimant) as requested, what will happen to the reports in the file that do not belong to him?

[8] The Applicant's attorney trivializes the discrepancies by offering an explanation that I find to be highly improbable. As to why the details of the first claimant such as his identity number were written in the Life Med Ambulance Services (apparently also submitted with the lodgement documents to the Respondent), he blames this on the paramedics who attended to the Applicant at the scene of the accident who also knew him personally. They are said to have completed the form using the details from the identity card that they found in the motor vehicle driven by the Applicant.⁶

[9] This version however fails to answer why the paramedics choose to insert only the identity numbers and not the names as per the same identity card they had in their hands. The names reflected as those of the Applicant are not identical to those reflected in the identity card with the identity number they wrote. This is very unlikely especially in the totality of the evidence in which the Applicant always presented himself as the first claimant. It is not clear as to where the Applicant's attorneys got this version from as no confirmatory affidavit by the person who completed this form was attached to the application.

[10] He further explains that the Orthopaedic Surgeon, Dr. Mncina, wrote the wrong names and identity numbers in the report because he used the lodgements papers to complete it.⁷ It is not clear where he acquired this information as there is no affidavit by Dr. Mncina confirming this. It would be very irresponsible and abdication of duties for

⁶ See para 8.3 of the founding affidavit on p. 10.

⁷ See para 8.6 of the founding affidavit on p. 11.

Dr. Mncina to do this. Contrary to this submission, Dr. Mncina in his report recorded the documents that were made available to him when completing it as including a copy of ID.⁸ This entails that whoever was seen by this doctor (between the two brothers), he was in possession of an identity document of the first claimant.

[11] The court's reservations should be seen in light of the following other aspects. The Applicant, claims to have been admitted at Rob Ferreira Hospital after the accident. Rob Ferreira however later told him that they could not find a record or file in his names.⁹ He attested to this in his affidavit dated 26 July 2018. It is as such not surprising that no hospital records were attached to the pleadings. However, the Occupational Therapist, Ms. EN Ngoben, who examined the Applicant on 15 August 2017 (11 months earlier) recorded that amongst the documents availed to her when assessing the claimant, were the hospital records from Rob Ferreira Hospital.¹⁰ One cannot tell where these came from or whose details are in these records between the two brothers as they have not been attached to the pleadings. In fact, 11 months after they were made available to the Occupational Therapist, the first claimant deposed to an affidavit (albeit signed by the Applicant) in which he stated that the file with the hospital records could not be located.

[12] Moreover, according to RAF 1 Form, and in this application, the Applicant was said to have been employed as a tow truck driver at the time of the accident. It is very worrying that from the report compiled by the Industrial Psychologist, the Applicant claimed to have been an Electrician who earned R20 000.00 per fortnight at the same time. The Industrial Psychologist was however able to pick up the discrepancies as she had the applicant's salary proof that reflected his salary to have been around R14 000 per month, way below half of what he claimed to earn. The Applicant also informed the Industrial Psychologist that he started working as a Police Constable in 1982. In 1982 the Applicant was only 17, four years short of being an adult according to the law of the time.

⁸ See p. 101 of the paginated bundle.

⁹ See Applicant's affidavit on p. 135.

¹⁰ See para 1.3 of the Occupational Therapist report on p. 77 of the paginated bundle.

[13] The court also noted that at the time summons was issued, the details of the other motor vehicle were written as BT 85 MS GP. No indication was made as to where this information came from as in RAF 1 Form, these details were recorded as unknown.

[14] The court also has reservations on whether the attorneys on record have a valid mandate to act on behalf of the Applicant as the power of attorney they have was issued in the identity of the first claimant and not the Applicant.¹¹ The more one reads this file, the more one is confronted with questions for which there are no answers. With further investigations, a lot could be unmasked.

[15] With the limited information made available in this application, it is clear that misrepresentations were made to the Respondent which can cause it prejudice or potential prejudice. Whether the experts were made to be part of the misrepresentations unconsciously so may require further investigations. As it stands, it is unknown as to who of the two brothers was seen by the Orthopaedic Surgeon and the other experts, in particular, those with whom consultation took place before the death of the first claimant. For example, the patient whose X-rays were taken by Drs. Van Rensburg & Partners on 16 March 2017, gave his date of birth as 21 April 1967. This is the date of birth of the first claimant who has since died who was in an accident himself in December 2016.

[16] This appears to have been a fully planned fraud which needs to be investigated further by the police. The Director of Public Prosecutions should direct these investigations and take the decisions he deems necessary in line with the National Prosecution Authority Act, No. 32 of 1998. The conduct by the Applicant's attorneys needs to be investigated by the Legal Practice Council.

[17] In light of the above, the following order is made:

[17.1] The application is dismissed.

¹¹ See the Special power of attorney signed by Jacobus Karmann Noortman with ID no. 670421 5078 081 on p. 24 of the paginated bundle.

[17.2] The Registrar should make this judgment together with the file to the following institutions for investigations envisaged in paragraph 16 of this judgment:

[17.2.1] The Legal Practice Council – Mpumalanga.

[17.2.2] The Director of Public Prosecutions – Mpumalanga.

[17.2.3] The Station Commissioner – Nelspruit Police Station.

[17.2.4] The Chief Executive Officer – Road Accident Fund.

TV RATSHIBVUMO
JUDGE OF THE HIGH COURT

FOR THE PLAINTIFF : MR. MEINTJIES
INSTRUCTED BY : MEINTJIES & KHOZA ATTORNEYS
NELSPRUIT

FOR THE DEFENDANT : NO APPEARANCE

DATE HEARD : 27 MAY 2022

JUDGMENT DELIVERED : 01 JUNE 2022