

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

**Reportable/Not reportable**

Case number: 4628/2023

In the matter between

**LINDELANI JEJE**

**PLAINTIFF**

and

**ROAD ACCIDENT FUND**

**DEFENDANT**

**Coram:** Loubser J

**Heard:** 5 June 2024

**Delivered:** 27 August 2024

**Summary:** Substantially compliant claim against Road Accident Fund - meaning of

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**ORDER**

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1. The defendant's special plea is dismissed.
2. The costs of the preparation and appearance in respect of the special plea shall be costs in the cause.

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**JUDGMENT**

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**LOUBSER J**

[1] In this action against the Road Accident Fund, it is alleged in the summons that the plaintiff sustained serious injuries when he was hit by a motor vehicle on 20 May 2021 while walking on the side of the road. It is further alleged in the summons that the accident occurred at or near Bloemspruit in the area of Bloemfontein, and that it was caused by the sole negligence of the insured driver.

[2] The plaintiff suffered orthopaedic injuries to his back and head, as well as neurological injuries. As a result of these injuries, it is alleged that he is unable to walk or stand anymore, that he cannot carry heavy objects anymore, that he is having constant headaches, and that he has become forgetful.

[3] The defendant opposed the action and a plea incorporating a special plea was subsequently filed by the defendant. The parties then came to an agreement that the special plea should be adjudicated first. The Court then proceeded to hear submissions on the special plea only, and this is the Court's judgment on the said special plea.

[4] The defendant alleged in its special plea that the plaintiff has failed to lodge a substantially compliant claim in terms of section 24 of the Road Accident Fund Act.<sup>1</sup> In this respect, reference is made in the special plea to section 24(1)(a) of the Act, which provides that a claim for compensation and accompanying medical report under section 17(1) shall be set out in the prescribed form, which shall be completed in all its particulars. Section 24(4)(a) is also mentioned, which provides that "any form referred to in this section which is not completed in all its particulars shall not be acceptable as a claim under this Act".

[5] Lastly, section 24(4)(d) of the Act is referred to. This sub-section provides that precise details shall be given in respect of each item under the heading 'Compensation Claimed' and shall, where applicable, be accompanied by supporting vouchers. The defendant then pleaded that the damages claimed for general damages, loss of earnings and future medical expenses were not accompanied by the required supporting vouchers or documents, and that no employer's certificates and proof of earnings were attached.

[6] For these reasons, it was submitted on behalf of the defendant that the special plea should be upheld and that the plaintiff's claim be dismissed with costs.

[7] The salient background facts of the matter are the following: The plaintiff lodged his claim for compensation with the defendant on 16 March 2023 by means of the prescribed form RAF1. This claim was accompanied by a copy of the plaintiff's identification

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<sup>1</sup> Act 56 of 1996



document, a consent form, a special power of attorney, a section 19 affidavit, medical records, a hospital record and an accident report. It needs mentioning here that the section 19 affidavit is one in which particulars of the accident that gave rise to the claim concerned, are fully set out.

[8] Pursuant to the receipt of these documents, the defendant filed a letter of objection against the plaintiff's claim in terms of the provisions of section 24(5). This section provides that if the Fund does not, within 60 days from receipt of the claim, object to the validity thereof, the claim shall be deemed to be valid in law in all respects.

[9] In the letter of objection, it is pointed out, *inter alia* that the amounts claimed under the different headings are not indicated in the form, that the plaintiff's tax records or bank statements are not included, that all hospital and medical records are not submitted and that all itemised tax invoices from medical providers or hospitals relating to past medical expenses are absent, to name a few.

[10] Now our courts have already dealt with the issue of the Road Accident Fund claim form and its requisites before. An overview of the more recent decisions in this regard, shows that a number of basic principles are applicable when a court has to decide whether the claim form represents a compliant claim in terms of section 24 of the Act.

[11] One of the first observations gleaned from these decisions, is that the requirements relating to the submission of the claim form is peremptory, while the prescribed requirements concerning the completeness of the form are directory, meaning that substantial compliance with such requirements suffices. The test for substantial compliance is an objective one.<sup>2</sup>

[12] In *Road Accident Fund v Busuku*<sup>3</sup> it was stated that the Act constitutes social legislation and its primary concern is to give the greatest possible protection to persons who have suffered loss through negligence or through unlawful acts on the part of the driver or owner of a motor vehicle. For this reason, the provisions of the Act must be interpreted as extensively as possible in favour of third parties in order to afford them the widest possible protection.

[13] In the *Busuku*-judgment<sup>4</sup> the court further held that the RAF1 form does not call for detailed information. It is not intended, of itself, to enable the Fund to assess the quantum

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<sup>2</sup> *Pithey v Road Accident Fund* 2014 (4) SA 112 (SCA) at para 19

<sup>3</sup> 2023 (4) SA 507 (SCA) para [6]

<sup>4</sup> *Ibid* para 16

of the plaintiff's claim. It seeks to enable it to investigate the impact of the injuries sustained. In order to do so, the RAF1 form requires the disclosure of information to guide and facilitate the investigation. The court also stated the following: "In the context of the Act the purpose of the early submission of the claim form is to enable the Fund to investigate the merits of a plaintiff's claim in order to consider its approach to the pending litigation before costs are incurred."<sup>5</sup>

[14] In *Pretorius v Road Accident Fund*<sup>6</sup> the court held that a court of first instance is required to enquire whether, as a fact, the Road Accident Fund has been prejudiced by the omission of information in the RAF1 form, in the sense of being denied information it properly requires to assess whether it is at risk of liability.

[15] Having regard to these principles and to the documents placed before this court, I am of the view that the documentation accompanying the RAF1 form was adequate to fulfil the needs of an enquiry into the merits of the plaintiff's claim, so that it could consider its approach to the pending litigation before costs are incurred. The medical and hospital records, the section 19 affidavit and the accident report submitted together with the RAF1 form, constituted sufficient information for the assessment of the plaintiff's claim on the merits thereof.

[16] It follows that the special plea raised by the defendant, stands to be dismissed. As to costs, they ought to be costs in the cause of the trial when it is heard.

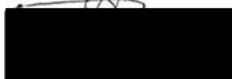
[17] The following order is made:

1. The defendant's special plea is dismissed.
2. The costs of the preparation and appearance in respect of the special plea shall be costs in the cause.

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<sup>5</sup> Para 15

<sup>6</sup> [2019] ZAGP JHC 293 at para [11]

  
  
P.J. LOUBSER, J

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| For the Plaintiff: | Adv. E. E. Barlow                   |
| Instructed by:     | Mavuya Attorneys Inc., Bloemfontein |
| For the Defendant: | Ms. M. Booysen                      |
| Instructed by:     | State Attorney, Bloemfontein        |