



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

Reportable / Not reportable

Case no: 5599/2023

In the matter between

ITUMELENG TERENCE MASILO

Plaintiff

And

ROAD ACCIDENT FUND

Defendant

Neutral citation: *Itumeleng Terence Masilo v Road Accident Fund (5599/2023)*

Coram: **L MPAMA, AJ**

Heard: **16 OCTOBER 2024**

Delivered: **22 NOVEMBER 2024**

ORDER

1. The three special pleas are dismissed.
 2. Costs shall be costs in the cause.
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JUDGMENT

Mpama AJ

[1] The plaintiff instituted an action for damages against the Road Accident Fund (the defendant/RAF) resulting from injuries sustained in a motor vehicle accident that occurred on 11 November 2021. It is alleged that the plaintiff was a pedestrian in Westdene, Bloemfontein, when he was hit by a motor vehicle. He sustained some bodily injuries and lodged his claim on 17 May 2023 against the defendant for compensation for past and future loss of earnings, general damages and past medical expenses.

[2] On 28 June 2023, the RAF forwarded a formal objection in writing to the plaintiff's claim. The defendant objected to the validity of the plaintiff's claim alleging it did not meet all the requirements for a valid claim in terms of rule 24(1) of the Road Accident Fund Act 56 of 1996 (the Act).

[3] The plaintiff did not cure the complaint in the objection letter, instead he continued with his claim and issued summons against the defendant. The defendant, in response to the summons pleaded and raised three special pleas (the third one raised in the amended plea). The first plea pertains to the alleged failure by the plaintiff to lodge a substantially compliant claim in terms of s 24 of the Act, read with Board Notice 271 of 2022. The second plea dealt with the fact that the summons was served before compliance with s24 of the Act by the plaintiff, the defendant's view being that the summons was issued and served prematurely. The last special plea was that of prescription. On the trial date, the parties agreed that the special pleas must be adjudicated first before the matter can be heard on merits.

[4] The nub of this matter revolves around whether the plaintiff complied with the legislative requirements of s 24 of the Act. The validity of the plaintiff's claim lies solely on whether the claim lodged with the defendant on 17 May 2023 was valid. If the court finds in favour of the plaintiff on this issue, the two other special pleas will fall away.

[5] The plaintiff first, with reference to authorities, stressed that what was required from the plaintiff was substantial compliance with s 24 of the Act and whether the plaintiff complied with the section. He referred the court to a plethora of cases, *inter alia* the decision in *Road Accident Fund v Busuku*,¹ where it was said:

'The RAF 1 form does not call for the detailed information. It is not intended, of itself, to enable the Fund to assess the quantum of the plaintiff's claim. It seeks to enable it to investigate the impact of the injuries sustained. In order to do so the RAF 1 form requires disclosure of information to guide and facilitate the investigations.'²

The plaintiff argued that there were numerous decisions from this court where these special pleas were dismissed. Reference was made to the following decisions: *Jeje v Road Accident Fund*;³ *Ranosi v Road Accident Fund*;⁴ and *Rasenyalo v Road Accident Fund*.⁵

[6] The defendant argued that the plaintiff's claim does not comply with the provisions of s 24 of the Act and must be dismissed. The defendant further contended that the plaintiff had not, despite the defendant's written objection, complied with these prescripts. With regard to the third special plea, it was argued that because the plaintiff failed to lodge a valid claim within two years, his claim has now prescribed. The Counsel for the defendant conceded, in my view rightfully so, that she was aware of this court's decisions dismissing these special pleas, however, said the instruction she held from the defendant was to pursue the special pleas.

[7] Section 24(1)(a) of the Act provides:

'A claim for compensation and the accompanying medical report under section 17(1) shall-

¹ *Road Accident Fund v Busuku* [2020] ZASCA 158; 2023 (4) SA 507 (SCA).

² *Ibid* para 16.

³ *Jeje v Road Accident Fund* [2024] ZAFSHC 265.

⁴ *Ranosi v Road Accident Fund* [2024] ZAFSHC 310.

⁵ *Rasenyalo v Road Accident Fund* [2023] ZAFSHC 150.

be set out on a prescribed form, which shall be completed in all its particulars.’

The RAF 1 form serves as a basis for the claims to be lodged with the defendant.

[8] The documents that need to accompany the RAF1 form are:

(i) The statutory medical report completed by the first treating doctor or by the superintendent of the hospital where the injured or deceased was treated.

(ii) Certified copy of claimant’s identity document /passport

(iii) Accident report and case docket

(iii) A s 19(f) affidavit disclosing how the accident occurred

(iv) Copies of medical records, X-rays and hospital notes

(v) Copy of pay slips

(vi) Copy of death certificate, post mortem report (in the event of death)

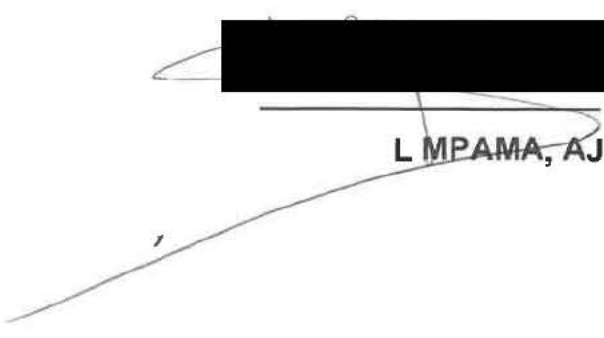
[9] A perusal of the plaintiff’s RAF 1 revealed that the plaintiff is identified as the injured person and the accident details have been substantially disclosed. The accident report, s 19(f) affidavit and the hospital records are also attached. However, what is lacking are the plaintiff’s employment details.

[10] The purpose of RAF1 is to assist the defendant to investigate the accident so as to reach a decision on whether the claim should be defended or not. My view is that the RAF1 form, together with the submitted hospital records and the accident report provided sufficient information to enable the defendant to investigate the claim. I am satisfied that there was substantial compliance with the provisions of s 24(1) of the Act and a valid claim was lodged by the plaintiff. In light of this finding, the two other special pleas stand to be dismissed.

ORDER

[11] In the result, the following order is made:

1. The three special pleas are dismissed.
2. Costs shall be costs in the cause.



L MPAMA, AJ

Appearances

On behalf of Plaintiff:	Adv. Barlow
Instructed by:	Messrs Mavuya Attorneys Bloemfontein
On behalf of Respondent:	Ms. J. Gouws
Instructed by:	Office of the State Attorney Bloemfontein