

IN THE HIGH COURT OF SOUTH AFRICA

GAUTENG LOCAL DIVISION, JOHANNESBURG

CASE NO: 29814/2021

DATE: 2025-03-07

DELETE WHICHEVER IS NOT APPLICABLE

(1) REPORTABLE: NO.

(2) OF INTEREST TO OTHER JUDGES: NO.

(3) REVISED.

DATE 7/3/2025

SIGNATURE [REDACTED]

10 In the matter between

NNA, IKE

Plaintiff

and

ROAD ACCIDENT FUND

Defendant

J U D G M E N T

WEIDEMAN, AJ:

20 This judgment is in respect of Case number 29814/2021, the
matter of Nna Ike versus the Road Accident Fund (RAF).

The accident from which this claim arose occurred on 28
July 2020. The plaintiff was driving a motor vehicle which
collided with an unknown motor vehicle.

When the matter was called, counsel for the plaintiff indicated that there will be an application for the separation of liability and quantum in terms of Rule 33(4). The court specifically asked counsel for confirmation whether the intention is to proceed on negligence or liability. Counsel reconfirmed that the plaintiff wished to proceed in respect of liability.

- 10 I engaged counsel on the difference between liability and negligence, on the basis that liability includes *locus standi*, statutory compliance, prescription (if pleaded) as well as negligence.

Put differently, the plaintiff must satisfy the court and address the court in respect of all allegations in his particulars of claim other than those directly dealing with the injuries and quantum.

- 20 The matter started with an enquiry into the identity and *locus standi* of the plaintiff. When I read the papers there was no passport, identity document or asylum seeker permit on CaseLines. Subsequently, on 3 March 2025, a current valid temporary asylum permit had been uploaded and counsel drew my attention to this document on CaseLines

07-03-2025

024-1.

The circumstances of how the accident occurred are not easily ascertainable from the documentation and counsel indicated that the plaintiff would testify to clarify how the accident occurred. An interpreter was arranged to assist the plaintiff with his testimony which was in IBO, his preferred language.

10 The documents put to the plaintiff were:

1. The purported Section 19(f)(i) affidavit - CaseLines 023-6;
2. The affidavit made by the plaintiff to the South African Police Services - CaseLines 023-14;
3. The Officer's Accident Report Form (OAR) and sketch plan - CaseLines 023-9 to 023-13.

In closing argument counsel also referred to the particulars of claim and the allegations contained in paragraph 5
20 thereof.

In his evidence-in-chief the plaintiff repudiated the purported Section 19(f)(i) affidavit. His testimony was that it did not contain his signature. He furthermore denied the description of the circumstances as set out in the affidavit

submitted to the South African Police Services. He testified that he did not clearly understand what was written and that what is contained in the affidavit to the Police misrepresented what he had said and what actually happened.

He was shown the OAR and he confirmed that he had no knowledge as to who completed it and when. *Ex facie* the document itself, it appears to have been done
10 contemporaneously with the accident as the actual position of the plaintiff's vehicle is shown on it. The plaintiff had at that stage already been removed from the scene by ambulance.

Paragraph 5 of the particulars of claim contained one major discrepancy when compared with all the other documents speaking to negligence. The averment in the particulars of claim is that the unknown vehicle is the one that lost control whereas all the other documents aver that it was the
20 plaintiff that lost control of the vehicle that he was driving.

CaseLines 022-213 contains the lodgement letter. Item 3 listed in the lodgement letter is the claimant's Section 19(f)(i) affidavit which he had since repudiated. The OAR was item 4.

The RAF1 claim form, CaseLines 022-222 seems to contain the same signature as that which is affixed to the purported section 19(f)(i) affidavit and which the plaintiff had repudiated. What is certain is that the signature on the RAF1 differs markedly from that which is affixed to the SAPS affidavit appearing at CaseLines 023-14 and which the plaintiff has confirmed is his signature.

- 10 The version presented by the plaintiff in court seems plausible, a vehicle travelling in the fast lane realising at the last minute that he had reached his offramp and cutting across the path of travel of the vehicle in the slow lane to enable it to take the offramp. This version can however not be reconciled with the prior written versions.

In conclusion:

- 20 1. I cannot find that the plaintiff had complied with the peremptory requirements of the RAF Act, there being no Section 19(f)(i) affidavit. There is also a question mark over who signed the RAF1 claim form.
2. The plaintiff has not made out a *prima facie* case in substantiation of negligence, the version contained in the affidavit to the South African Police, his oral

testimony in court and the averments in the
particulars of claim are not reconcilable.

As a result, I dismiss the claim.

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WEIDEMAN, AJ

10 JUDGE OF THE HIGH COURT

DATE: ...7/3/2025...