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**IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA**

Case no: 054215/2022

(1) REPORTABLE: NO

(2) OF INTEREST TO OTHER JUDGES: NO

(3) REVISED.

DATE **5/06/ 2025**

SIGNATURE

In the matter between:

THEMBINKOSI ERIC MAFU

Plaintiff

and

ROAD ACCIDENT FUND

Defendant

JUDGMENT

PIENAAR AJ

Introduction

1. In this matter the plaintiff issued summons against the defendant in respect of a motor vehicle accident that occurred on 26 November 2021. The plaintiff was the driver of motor vehicle with registration number C[...].

2. The combined summons against the defendant was served by sheriff on the 1st February 2023, at the defendant principal place of business. The Plaintiff served the notice of set down on the defendant on 11 September 2024.

3. The matter was before me on the default judgment roll for 10 April 2025. Plaintiff Counsel, Mrs Jansen submitted that the defendant had entered an appearance to defend and filed their plea; however, these documents had not been uploaded onto CaseLines at the commencement of the court proceedings.

3. Ms. Rangata for the Defendant, conceded that the pleadings had not been uploaded to the electronic court filing system (Caselines), explaining that another State Attorney had handled the matter.

4. **Rule 1** states:

*“**deliver** means to serve copies on all parties and file the original with the registrar”*

5. The Court ruled that the matter could proceed, as there was no notice of intention to defend or pleadings properly before the Court.

6. I have noted that the defendant uploaded the notice of intention to defend and the pleadings thereafter.

7. Plaintiff’s counsel submitted that, in terms of Rule 33(4), the issues of merits and quantum should be separated. The Plaintiff would proceed only on the issue of merits. The court granted the separation, ordering that the matter proceed on the merits alone, and directed that the Plaintiff must testify.

Merits

8. It is trite that the onus rests on the Plaintiff to prove the Defendant's negligence which caused the damages suffered on a balance of probabilities.

9. The merits evidence before me, is the Accident Report (AR) Form, the claimant's section 19(f) affidavit confirming the accident, and the supplementary affidavit of the Plaintiff, and the ID copy of the claimant.

10. The plaintiff testified under oath that he was the driver of a motor vehicle on 6 November 2021 and was involved in a motor vehicle collision. He approached an intersection that was controlled by stop signs. He had stopped at the intersection and when it was his turn to pass, he proceeded to pass through the intersection. There was another vehicle coming from his right hand side that failed to stop at the stop sign and collided with his vehicle.

11. The plaintiff's evidence can be briefly summarised as follows: On 16 November 2021, he was driving a motor vehicle with registration number C[...]. Upon reaching a four-way stop intersection, he brought the vehicle to a stop and checked for oncoming traffic. He observed a vehicle approaching but decided to proceed through the intersection. A collision then occurred between his vehicle and the approaching car.

12. The court asked the plaintiff why he did not wait for the other vehicle to come to a complete stop before proceeding. He responded that he was under the impression that the other vehicle would stop.

13. The plaintiff contends that another vehicle approached from his right-hand side, failed to stop at the stop sign, and collided with his vehicle on the driver's side.

14. I next turn to the Accident Report which forms a crucial part of the claim instituted by the plaintiff against the defendant. According to driver of motor vehicle "A" which is the

Insured Driver, he alleged that Vehicle “B” didn’t stopped at the stop street at the intersection and so being collided with Driver “B”.

Evaluation

15. It is trite that the onus rests on the Plaintiff to prove the Defendant’s negligence which caused the damages suffered on a balance of probabilities.

16. There is only one version about how the accident occurred before court, and it is that of the plaintiff.

17. Consequently, the court finds that the plaintiff has succeeded in proving that the insured driver was the sole cause of this accident.

Order

In the result the following order is made:

18. The defendant is ordered to pay 100% of the plaintiff’s proven or agreed damages;

19. The determination of the quantum is *postponed sine die*;

20. *Draft order ‘X’ is made an order of court.*

PIENAAR M
ACTING JUDGE OF THE HIGH COURT
GAUTENG DIVISION, PRETORIA

Date of hearing : 10 April 2025

Date of Judgment: 5 June 2025

APPEARANCES

Counsel for the Applicant : Adv A Jansen

Attorney for the Plaintiff : Van Niekerk Attorneys

Attorney for Respondent : Ms Rangata - State Attorney
Only during the early stages of the trial