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

Case No: 9862/18

(1) REPORTABLE: NO

(2) OF INTEREST TO OTHER JUDGES: NO

(3) REVISED.

DATE: 30/6/2025

SIGNATURE

In the matter between:

ZACHARIA AARON MATSHABA

Plaintiff

and

ROAD ACCIDENT FUND

Defendant

JUDGMENT

PIENAAR AJ

Introduction

[1] This matter was before me on the default judgment roll on 1st April 2025. The Plaintiff, Zacharia Aaron Matshaba, instituted civil action against the Road Accident Fund which is predicated on the Road Accident Fund Act 56 of 1996 (RAF Act).

[2] The Defendant's defence has been struck out by the Honourable Justice Khumalo on 5th of September 2023.

[3] The plaintiff pleads that the motor collision occurred at approximately 20:30 on 8th January 2015 at or near Sunrise Park, along a road in Extension 9, Boitekong, North West Province, accident occurred involving motor vehicle with registration numbers and letters D[...] which was driven by Deuw T S and the Plaintiff was a pedestrian at the time of the accident.

[4] It is later pleaded in addition that the motor vehicle accident occurred on 8th of February 2015 in stead of 8th of January 2015.

[5] The injuries plead as being sustained were a fracture of the patella of the right knee; bruises, abrasions and lacerations; emotional shock and trauma.

[6] It was pleaded in relation to the past and future loss of earnings capacity an amount of R3 968 540,00.

[7] The matter proceeded by way of a Rule 38(2) application, during which the Plaintiff testified to confirm the correct date of the accident.

[8] Plaintiff's counsel, Adv. Bowles, brought to the Court's attention that the date of the accident recorded in the Collision Report is incorrect. Counsel submitted that the correct date of the accident is 8 February 2015, not 8 January 2015 as stated in the report. The Court expressed dissatisfaction with the inaccuracy in the document.

It was noted that the police officer who completed the Collision Report should have testified to confirm that the incorrect date was a clerical error. In the absence of such

testimony, Plaintiff's counsel submitted that the claimant is able to testify and confirm the correct date of the accident.

[9] The plaintiff testified that he was involved in a motor vehicle accident on 8 February 2015. He also confirmed that he was admitted to Medi Care Hospital in Rustenburg and re-admitted on 13 February 2015.

[10] Plaintiff's counsel refers the court to the witness's affidavit uploaded onto CaseLines. According to the witness, Rainy Rapula, also confirms that the accident occurred on 08 February 2015.

The accident report discovered and relied on by the plaintiff:

[11] The Plaintiff discovered the accident report and hospital records.

[12] The accident register number is given as 17/03/2015 followed by the number 01 of 01. According to the Accident Report (AR), the date of the accident is confirmed as 08 January 2015.

[13] The part of the form where Particulars of Driver A are required are filled out on the basis that the ID number is written as 02 [.....] and further numbers which are legible. The name is stated as Deuw Thabo Steven, the address is given as 13465/8 Sunriseview Extension 15, Impala and the contact number is also mentioned.

[14] The Collision Report also included a sketch plan.

[15] A brief description of the accident was provided in the field in which it was required and reads verbatim as follows: "Driver A was reversing when he accidentally bumped a pedestrian and he broke his right leg"

[16] The Plaintiff's surname and initials are also recorded in the Collision Report under the section for particulars of killed or injured passengers and pedestrians.

Statement by the Plaintiff:

[17] The Plaintiff's first affidavit, located at Section 16 of the Trial Bundle (Merits), Item 3, was not properly commissioned under oath. It does not reflect the date or place where it was deposed before a Commissioner of Oaths. As a result, the Court cannot accept the affidavit as valid evidence.

[18] There is a second affidavit, duly commissioned in Rustenburg on 13 February 2023 before a Commissioner of Oaths, in which the Plaintiff confirms that the correct date of the collision is 8 February 2015.

[19] A third affidavit, commissioned in Pretoria on 5 October 2023 before a Commissioner of Oaths, provides an explanation from the Plaintiff regarding the circumstances of the accident.

Legal principles and analysis

Merits

[20] In *Monteoli v Woolworths (Pty) Ltd* [1] the court stated that:

"It is absolutely trite that the onus of proving negligence on a balance of probabilities rests with the plaintiff"

[21] This Court must determine whether the plaintiff has discharged the onus of proving his case and if so, whether the evidential burden shifted to the defendant. The plaintiff relied on a single witness testimony to support his case. The Court is required to

exercise judicial discretion when evaluating single witness testimony. It is trite that such testimony should be clear and satisfactory in all material respects. [2]

[22] No evidence was led regarding contents of the accident report. In the absence of testimony by the police officer who compiled the accident report, I cannot find its contents reliable considering evidence presented which disputed its contents.

[23] It would not be in the interest of justice to grant an order of absolution and neither would it be in the interests of justice to grant default judgement on the merits.

[24] Considering the above, I find that the plaintiff has failed to adduce evidence to show that the accident occurred on 8 February 2015. The accident, as stated in the Collision Report, took place on 8 January 2015.

Quantum

[25] In view of my finding on the merits it is unnecessary to traverse evidence which was presented in support of the claim against the defendant in respect of the quantum.

Conclusion

[26] On a balance of probabilities, and given that the evidence is uncontested, I cannot find that this constitutes an absolution. Accordingly, the matter is removed from the roll.

Order

[27] I make the following order:

1. The matter is removed from the default judgment roll;

2. There is no order as to costs.

**PIENAAR M
ACTING JUDGE OF THE HIGH COURT
PRETORIA**

This judgment was handed down electronically by circulation to the parties/their legal representatives by email and by uploading to the electronic file on Case Lines. The date for hand-down is deemed to be 1 July 2025.

Heard on 1 April 2025

Delivered 1 July 2025

APPEARANCES

Applicant's Counsel Adv R G Bowles

Applicant's Attorneys Tiaan Smuts Attorneys

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Respondent's Counsel No appearance

Link no: 4196477

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1. 2000 (4) SA 735 (W) at paras 25; 27 and 29.
 2. See *S v Artman and Another* 1968 (3) SA 339 (AD) and *R v Mokoena* 1956 (3) SA 81 AD.