IN THE HIGH COURT OF SOUTH AFRICA
(WESTERN CAPE DIVISION, CAPE TOWN)

JUDGMENT

Not Reportable

Case no: 15266/2020

In the matter between:

NICOLENE VAN RHYN **PLAINTIFF**

And

ROAD ACCIDENT FUND **DEFENDANT**

Neutral citation: *Van Rhyn v Road Accident Fund* (Case no 15266/2020) [2025] ZAWCHC … (24 October 2025)

Coram: **NUKU J**

Heard: 20 August and 4 September 2025

Delivered: 24 October 2025

Summary: Delictual claim – the plaintiff, who was the driver of a motor vehicle that drove over the road and collided with a stationary boundary wall on the opposite side - claims to have been blinded by the bright lights of oncoming traffic but is unable to explain what happened after the vehicle that temporarily blinded her passed by. Plaintiff's claim dismissed with costs.

ORDER

The plaintiff’s claim is dismissed with costs on the party-and-party scale.

JUDGMENT

Nuku J:

[1] The plaintiff sustained certain bodily injuries on the night of Saturday, 27 January 2018, when a motor vehicle she was driving left the road and collided with a boundary wall of a home on the opposite side of the road (“the collision”).

[2] The collision occurred just moments after the plaintiff’s vehicle passed a vehicle traveling in the opposite direction with its bright lights on (“the insured vehicle”), which was driven by a person identified by one witness only as Tupac (“the insured driver”).

[3] The plaintiff filed a claim against the defendant under the provisions of the Road Accident Fund Act, 56 of 1996 (“the Act”), alleging that the damages she suffered as a result of injuries sustained in the collision were caused by the insured driver's negligence.

[4] Upon the defendant's failure to compensate her for the damages she claimed, she instituted the present action. By agreement between the parties, the trial proceeded only on a separated issue, namely, the determination of the defendant's liability, with the calculation of the plaintiff's claim reserved for later resolution.

[5] In her particulars of claim, the plaintiff pleaded that the collision was caused by the sole negligence of the insured driver, having been negligent in that:

(a) He drove at an excessive speed in the prevailing circumstances;

(b) He failed to keep a proper lookout;

(c) He failed to apply brakes of the insured vehicle timeously, adequately or at all;

(d) He failed to avoid the collision when by the exercise of reasonable care, he could and should have done so;

(e) He drove the insured vehicle with its head lights on bright, which blinded her; and

(f) He drove the insured vehicle whilst disregarding the safety of other road users and specifically her.

[6] The defendant claimed ignorance of the plaintiff's allegations. During the trial, the plaintiff testified and called one witness, Mr. Randall De Villiers ("Mr. De Villiers").

[7] The plaintiff's evidence was short and can be summarised as follows: at about 8:50 PM on the night in question, she was driving along Bo-Dal Josafat Street in Paarl. She was traveling at approximately 60 km/h on her way home from work. The road where the collision occurred was dark because there were no streetlights.

[8] As she rounded a bend in the road, she noticed the insured vehicle approaching from the opposite direction. It had its headlights on bright and was very close to her car. She flicked her vehicle's lights to signal the insured driver to dim his, but there was no response.

[9] The bright lights of the insured vehicle confused and shocked her. She could not remember anything after the insured vehicle passed her, as everything went blank and she couldn't see. She lost control of her vehicle, which veered off to the opposite side of the road and collided with the boundary wall.

[10] According to the plaintiff, everything happened within seconds, leaving her no time to apply the brakes of her vehicle. This refers to the moment she first saw the insured vehicle approaching until her vehicle collided with the boundary wall. She was assisted from the scene of the collision and taken to Paarl Hospital. The members of her family later arranged to fix the damage to the boundary wall caused by the collision.

[11] Mr. De Villiers did not see how the collision occurred. All he could state was that he saw the insured vehicle driving in the opposite direction of the plaintiff, and its headlights were very bright. A few moments after the insured vehicle had passed him, he heard a bang, and when he turned around, he saw that the plaintiff's vehicle had collided with a boundary wall.

[12] It was argued on behalf of the plaintiff that the insured driver's failure to dim the lights of the insured vehicle constitutes negligence because it is foreseeable that such conduct could lead to an accident. In support of this argument, reference was made to the decision of the Gauteng Division of the High Court in *Mokhudu*[1] which also dealt with a claim by a driver of a motor vehicle who had lost control of his vehicle after being dazzled by the bright lights of a motor vehicle travelling in the opposite direction.

[13] The Court was further referred to the decision of the Supreme Court of Appeal in *Posthumus,*[2] which involved a claim by a passenger who had been conveyed in a motor vehicle whose driver was dazzled by bright lights, causing the vehicle to veer to the verge of the road and eventually overturn.

[14] The argument on behalf of the plaintiff was further strengthened by references to two additional decisions from the Gauteng Division of the High Court, Pretoria, in *Sekgoro*[3] and *Feleni*[4], which also involved claims related to drivers who had been dazzled by bright oncoming traffic lights.

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[1] *Mokhudu v The Road Accident Fund* (70443/2013) [2015] ZAGPPHC 1034 (18 September 2015).
[2] *Posthumus N.O. and Another v Road Accident Fund* (20024/2014) [2015] ZASCA 40 (25 March 2015).
[3] *Sekgoro v RAF* (79588/15) [2017] ZAGPPHC 1254 (12 October 2017).
[4] *Feleni v Road Accident Fund*(52202/2010) [2015] ZAGPPHC 789 (11 September 2015).

[15] With reference to all the authorities cited above, it was argued that the insured driver’s failure to dim the lights of the insured vehicle was the sole cause of the collision and that the defendant should be held liable for all the damages that the plaintiff can prove.

[16] It was argued on behalf of the defendant that the plaintiff has failed to demonstrate, on a balance of probabilities, that her driving her vehicle into the boundary wall was causally connected to the effect of the blinding lights of the insured vehicle. It was further submitted, with reference to the decision of the Gauteng Division of the High Court in *Madlala*[5], that the insured driver would not have foreseen that his failure to dim the lights of the insured vehicle could result in the plaintiff driving over the road to collide with a boundary wall far removed from the road.

[17] Whether the plaintiff has proved her claim must be determined based on the evidence presented before the Court. Mr. De Villiers's evidence was of no help, as he testified that he did not witness the collision.

[18] The plaintiff's evidence, on the other hand, does not clarify how her vehicle left the road and collided with a stationary object, the boundary wall. All she could say is that the bright lights confused and shocked her to the point that everything went blank.

[19] It is clear from the evidence that the collision with the boundary wall occurred after the insured vehicle had passed the plaintiff’s vehicle. The reason

[5] *Madlala v Road Accident Fund (65311/17) [2025] ZAGPPHC 148 (14 February 2025).*

why the plaintiff's vehicle continued driving after the brief effect of the blinding lights has not been explained.

[20] While I am prepared to accept that it was negligent of the insured driver to keep his lights bright in the face of oncoming traffic, that cannot explain a collision with an object that is far removed from the road. All the authorities that the plaintiff relies on involved a collision with objects in the immediate vicinity of the road.[6]

[21] The plaintiff's case is compounded by the fact that the collision happened near her home, and it is reasonable to assume that she is pretty familiar with the area. Her testimony was that she had just come out of the bend when she first saw the insured vehicle, so it is not as if she was still approaching or navigating the curve when she was affected by the insured vehicle's lights.

[22] According to the plaintiff's evidence, it was the shock and confusion that directly caused her to drive off the road. The shock and confusion caused by being dazzled by oncoming bright traffic lights is inconsistent with typical human experience.

[23] Self-evidently, the plaintiff's evidence has significant gaps: it only covers the period when she was still affected by the bright lights, with everything going blank afterward. The boundary wall that the plaintiff's vehicle collided with was not immediately next to the road.

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[6] *Posthumus*, *Sekgoro* and *Feleni*.

[24] The plaintiff's failure to explain how her motor vehicle collided with the wall is, in my opinion, fatal to her case. After all, the Court is required to make its determination based on the evidence presented. In the absence of such evidence, the Court is not required to speculate as to what could have caused the plaintiff's motor vehicle to drive over the road and collide with a stationary boundary wall. The plaintiff's claim, therefore, cannot succeed.

[25] The defendant has been successful, and the costs should follow the result. Costs will therefore be awarded on a party-and-party scale.

Order

[26] As a result, the following order shall issue:

(a) The plaintiff's claim is dismissed with costs on the party-and-party scale

LG NUKU

JUDGE OF THE HIGH COURT

Appearances

For plaintiff: A du Toit

Instructed by: DSC Attorneys Inc, Cape Town

For defendant: S Mare

Instructed by: State Attorney, Cape Town.