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**IN THE HIGH COURT OF SOUTH AFRICA
(EASTERN CAPE DIVISION, GQEBERHA)**

CASE NO: 224/2024

In the matter between:

TAAHIRA CASTER

Plaintiff

and

ROAD ACCIDENT FUND

Defendant

JUDGMENT

MAKAULA J:

A. Introduction.

[1] This application is pursuant to an objection by the defendant in terms of section 24 (5) of the Road Accident Fund Act ¹, (the Act). The objection dated 17 September 2023, is that the plaintiff failed to meet the requirements for a substantially compliant and valid claim by failing to attach to his RAF 1 form a 'certified copy the Deceased or the injured Identity Document and Actuarial report'. The defendant filed a special plea contending that the claim prescribed on 13 November 2023, three years after the plaintiff failed to cure the defect in lodging its claim. The defendant denies that it did not comply with the provisions of section 24(5) of the Act on various grounds that shall be dealt with below.

B. The merits.

[2] The parties agreed on a stated case in terms of the Uniform Rules. The stated case reads.

- "1. The plaintiff was born on 17 July 1978.
2. Plaintiff was married to the late Anwar Caster ("the deceased") who died in a motor vehicle collision that occurred on 14 November 2020.
3. That the deceased had a legal duty to support plaintiff during his lifetime and did in fact so support him.
4. That the plaintiff has instituted an action against defendant wherein she claims for loss of maintenance and support on behalf of herself as well as her 2 minor children, M[...] and T[...].
5. That the plaintiffs submitted a RAF 1 form to defendant undercover of a letter sent by her attorney to Defendant dated 1st August 2023 and which was sent by registered mail to defendant on 4th August 2023. A copy of the letter and RAF 1 form and documents annexed thereto and documents are contained in a bundle of documents which will be handed up, by agreement.
6. That the documents referred to in the said letter were attached to the RAF1 form.
7. That Defendant sent an objection letter dated 17 September 2023.
8. That the Plaintiff issued summons which was served on Defendant on 8 February 2024.
9. That the Plaintiff alleged that she has complied with all the requirements of the Road Accident Fund Act 56 of 1996 ("the Act).

¹ 56 of 1996.

10. That the Defendant now contends that Plaintiffs claim against it has prescribed.
11. That the Defendant has conceded that the collision in which the deceased was involved was caused by the negligent driving of the insured driver.
12. At a copy of the initial RAF 1 form (the 2008 1 RAF form) is annexed to the bundle of documents to be handed up, by agreement”.

C. The issues.

[3] There are two issues to be decided, and they are both dependent on one legal principle, that is whether the plaintiff has substantially complied with the provisions of section 24 of the Act.

[4] Firstly, the plaintiff proved that the lodged documents contained the certified identity document of the deceased. That much could not be denied by the defendant. That puts the issue of the identity document to rest.

[5] The remaining issue is whether the plaintiff was non-compliant for want of failing to include an actuarial report.

D. Contention by the parties.

[6] The plaintiff contended that it was not a valid requirement that the natural report be furnished with the lodgement of the claim documents. It contended further that the Board Notice no 271 of 2022 (the Board Notice), which was adopted on the 6th of May 2022 and published in the Government Gazette no 46322 on 6th May 2022 has been declared invalid in *Legal Practitioners Indemnity Insurance Fund NPC and Others v Road Accident Fund and Others*² (*Legal Practitioners*).

[7] The plaintiff further held that the form RAF1 prescribed by the minister of transport and published in The Gazette on 6th May 2022 was reviewed, declared unlawful and set aside. Therefore, so the argument went, the 2008 form RAF 1 prescribed form contemplated in section 24(1)(a) of the Act would be deemed to be

² Legal Practitioners Indemnity Insurance Fund NPC and Others v Road Accident Fund and Others, Case No. 46038/2022 [2024] ZAGPPHC 294; 2024 (4) SA 595 (GP) delivered on 20 March 2024.

RAF 1 third party claim form and in it there is no mention of an Actuarial report. The plaintiff argued that there has been substantial compliance with the provisions of section 24 of the Act.

[8] The defendant submitted that the plaintiff failed to comply with the provisions of section 24 of the Act, which require that a claim for compensation and accompanying medical report under section 17(1)(a) be set out in the prescribed form, which shall be completed in all its particulars. The defendant argued that the plaintiff failed to lodge a claim that is substantially compliant and therefore it is invalid. The defendant contended that the plaintiff ought to have cured the objection before 13th November 2023 which was when prescription set in.

E. Analysis.

[9] The issue of non-compliance with section 24 of the Act, the Board Notice and the compliance with the RAF form 1 have been decided, both in this court and in other Divisions.³

[10] It is apposite that I should deal with the relevant portion of the letter relied upon by the defendant and it reads; '1. To administer claims effectively and efficiently the Road Accident Act (RAF), pursuant to section 4(1)(a) of the Road Accident Fund Act, 1996 (the Act) published the stipulated Terms And Conditions upon which claims for compensation shall be administered (the Terms and Conditions), in Board Notice 271 of 2022 which was published in The Government Gazette no 46322 on 6 may 2022. The Terms and Conditions, read with section 24 of the Act stipulate that what documents must be must accompany the claim documentation when submitting a claim for compensation.' As aforesaid, the claim based on this Board Notice was repudiated on the basis that it is non-compliant because of failure to enclose a certified copy of the deceased identity document and the Actuarial report. The issue of the identity document has been dealt with, and I found there was compliance thereof.

[11] I have had regard to the Gauteng judgment in Legal Practitioners Indemnity Insurance Fund and Others relied upon by the defendant. The full court after reviewing the relevant sections of the Act and finding that the Minister of Transport's action constituted an administrative decision correctly found that the publication in

³ Legal Practitioners, *ibid*; Tsham v RAF Case No. 622/2023 [2024] ZAECQBHC 76 delivered on 10th December 2024.

Government Gazette of the RAF form 1, fell to be reviewed and set aside. I agree with the reasoning and finding setting aside the decision and declaring it unlawful.

[12] In respect of the Board Notice issued by the defendant, the court in *Legal Practitioners* found as follows; ‘44. Whatever the scope of the power to administer a claim, it does not extend to the making of regulations to prescribe what the form must contain to lodge a claim. Yet that is what the Board Notice does. It is an unlawful encroachment upon the powers of the Minister conferred by section 24 of the RAF Act. Hence the Board Notice is unlawful.’ I agree with the reasoning behind this conclusion and echo this decision. Similar sentiments and approval of this judgment were expressed by the judgment of this court in *Tsham v RAF* referred to above.

[13] In *RAF v Busuku*⁴ the court said, ‘The RAF 1 form does not call for 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 the disclosure of information to guide and facilitate the investigation’. Having had regard to the omission of the Actuarial report by the plaintiff under the circumstances, I cannot non- suited the plaintiff. The plaintiff has through the other documentation or information attached substantially complied with the provisions of section 24 of the Act. The Actuarial calculation is only relevant to the quantum. It has nothing to do with the investigation of the claim. The plaintiff has therefore substantially complied with the requirements of the Act.

1. Consequently, I make the following order:

- (a) The special plea is dismissed with costs and such costs to include costs of counsel on Scale B.

M MAKAULA
JUDGE OF THE HIGH COURT

Appearances

⁴[2020] ZASCA 158; 2023 (4) SA 507 (SCA) at para. 16.

For the Applicant	:	Adv Schubart SC
Instructed by	:	GOLBERG & DE VILLIERS INC.
For the Respondent	:	Ms Swartz
Instructed by:	:	STATE ATTORNEY
Date heard	:	08 October 2025
Judgment delivered	:	30 October 2025