



**THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, JOHANNESBURG**

CASE NO. 139638/24

DELETE WHICHEVER IS NOT APPLICABLE

- (1) REPORTABLE: ~~YES~~/NO
- (2) OF INTEREST TO OTHERS JUDGES: ~~YES~~/NO
- (3) REVISED

05/01/2026

In the matter between:

SITHOLE XOLANI SIYABONGA

Plaintiff

and

ROAD ACCIDENT FUND

Defendant

JUDGMENT

BHOOLA AJ,

Introduction

[1] This is an application for default judgment where the plaintiff, Mr Xolani Siyabonga Sithole, institutes action against the Road Accident Fund ("the RAF") seeking damages arising from a motor vehicle collision that allegedly occurred on 25

June 2023 at the intersection of Masanga and Masakhane Street, Mavimbela Section, Kathelong, Gauteng.

[2] The matter served before me on the RDJ trial roll. The plaintiff's claim rests both on liability and quantum. The plaintiff bears the onus of proving the negligence of the insured driver on a balance of probabilities.

Factual background

[3] On perusal of the lodgement documents, the following is noted:

3.1 Regarding the RAF1 form there appears to be a contradiction with the application launched at court in the following respects:

3.1.1 the pleadings reflect that the plaintiff was unemployed at the time of the collision, yet the RAF1 form at paragraphs 13 and 14 reflect that the plaintiff was self-employed at the time of the accident engaged in "painting and gardening" and that "proof of income will be forwarded when same becomes available."

3.1.2 Paragraph 22 reflects that the name of the practice facility was Bertha Gxowa Hospital where he was admitted on 25 June 2023 and discharged on 26 June 2023 and Natalspruit Hospital where he was admitted on 26 June 2023 and discharged on 4 August 2023, yet paragraph 4 of the section 19(f) affidavit and the pleadings indicate he was transferred to Telle Mogoerane Hospital.

3.2 Regarding the accident report (AR):

3.2.1 The AR was signed approximately two months after the collision occurred and no explanation advanced for this delay.

3.2.2 Vital information appears to be missing on the AR form such as the OB number

3.2.3 Since a case docket was open as reflected under CAS 113/08/2023 no contents of the docket was tendered.

3.3 Regarding the hospital records:

3.3.1 some of the records are illegible and in certain instances the ink is invisible.

3.3.2 The hospital records are not presented in chronological order and are difficult to navigate. While the existence of contemporaneous records strengthens causation, the disordered presentation renders the evidentiary package confusing. The plaintiff bears the duty to ensure that medical records are properly indexed and paginated.¹

3.4 Regarding the pleadings:

3.4.1 paragraph 9 of the plaintiff's particulars of is not consistent with the evidence extrapolated from the expert reports.

[4] No supplementary affidavit or other evidence was placed before this court to explain these deficiencies and inconsistencies.

Issues for determination

[5] The issues for determination are:

¹ Mokwena v RAF [2019] ZAGPHC 112

5.1 Whether the plaintiff has discharged the onus of proving negligence and causation in respect of the motor vehicle collision.

5.2 Whether the medical records, despite their defects and disordered presentation, sufficiently establish a causal nexus between the collision and the sequelae of the plaintiff's injuries.

5.3 Averments are made of a concussive brain injury, yet this cannot be reconciled with the medical records before the court.

5.4 Whether the defects in the pleadings, hospital records, and accident report materially prejudice the plaintiff's ability to prove his claim, or whether the court can nevertheless proceed to determine quantum on the available evidence.

Legal Principles

[6] It is trite that default judgment is not automatic. The court must be satisfied that the claim is properly pleaded, procedurally compliant, and supported by admissible evidence.²

[7] Relief cannot be granted where statutory prerequisites are not met. A defective section 19(f) affidavit renders the claim invalidly lodged. In such circumstances, the court cannot determine with clarity that there is a causal connection between the accident and the injuries sustained, particularly where medical records are incoherent.

² Moolman v Estate Moolman 1927 CPA 27, RAF v Duma 2013(6) SA 9 (SCA)

[8] Damages cannot be considered in the absence of proof of liability and causation.³ The plaintiff bears the onus of establishing both on a balance of probabilities.

[9] Where pleadings are contradictory or uncertain, the court is not empowered to grant judgment on speculative or unclear claims. The plaintiff bears the duty to ensure that the papers are coherent and that the relief sought is properly formulated.

Evaluation

[10] In the present case, the plaintiff's lodgement documents, and the pleadings are fatally defective and contradictory. The section 19(f) affidavit refers to treatment in a different hospital in comparison to what is alleged in the RAF1 form and the particulars of claim. The plaintiff appears to have been admitted to two hospitals on the same day, with no explanation as to what transpired. Furthermore, the hospital records, though contemporaneous are not properly presented in a chronological order.

[11] The hospital records are disordered, incomplete, and in certain instances illegible. This undermines the evidentiary material and renders the causal nexus between the accident and the sequelae of injuries uncertain.

[12] The AR was completed two months after the collision, with no explanation advanced for the delay. Furthermore, vital information is missing in the form as alluded to above.

³ Minister of Safety and Security v Van Duivenboden [2002(6) SA 43] (SCA)

[13] Paragraph 9.3 of the pleadings is contradictory when compared against the evidence before this court.

[14] I am accordingly of the view that this matter is not ripe for hearing.

Conclusion

[15] Having regard to the statutory framework, the evidentiary defects, and the principles governing default judgment, I am not satisfied that the plaintiff has discharged the onus of proving liability and causation on a balance of probabilities. The contradictions between the RAF1 form, the section 19(f) affidavit, and the particulars of claim, coupled with the disordered and incomplete medical records, undermine the causal nexus between the accident and the injuries alleged. The absence of a contemporaneous accident report further weakens the evidentiary foundation. In these circumstances, the court cannot proceed to determine quantum, as damages cannot be assessed in the absence of proof of liability and causation. The matter must therefore be held over until the defects are cured and the evidentiary record properly regularised.

Order

[16] In the result, I make the following order:

16.1. The court is unable to determine liability on the evidence presently before it.

16.2 The plaintiff is granted leave to file an affidavit explaining the discrepancies regarding the hospitals attended to by the plaintiff in the RAF1 form, the particulars of claim and the section 19(f) affidavit.

16.3 The plaintiff is granted leave to amend any pleadings as may be necessary.

16.4 The plaintiff is directed to properly index and present the medical records in a chronological order before the matter is placed for hearing on the default judgment trial roll, accompanied with an affidavit explaining the chronology of the medical treatment.

16.5 The plaintiff is granted leave to afford an explanation as to why the AR form was delayed and incomplete.

16.6 The plaintiff is granted leave to amend any of the pleadings should it deem it necessary.

16.7. The plaintiff is directed to file heads of arguments addressing the basis of the merits and quantum after attending to the directions of the court.

16.8. The plaintiff is granted leave to re-enrol the matter for consideration default judgment once the directions of the court has been attended to.

16.9. The costs are costs in the cause.

[REDACTED]

CB. BHOOLA
JUDGE OF THE HIGH COURT
GAUTENG LOCAL DIVISION, JOHANNESBURG

Delivered: This judgment was prepared and authored by the Judge whose name is reflected on 05 January 2026 and is handed down electronically by circulation to the

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parties/their legal representatives by e mail and by uploading it to the electronic file of this matter on CaseLines. The date for hand-down is deemed to be 05 January 2026.

APPEARANCES

Date of hearing: 21 October 2025

Date of judgment: 05 January 2026

For the plaintiff: Adv. N Davidson

(Tel: 082 412 7338 / E-mail: moepat@web.co.za)

Instructed by: MED Attorneys

Jessica Apfel (Tel: 061 564 9653 jessicaa@medlaw.co.za)

For the Defendant: State Attorney

Elias Mataleni Mdlovu (email eliasmatalenim@raf.co.za)