



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

**CASE NO. 018554/2025**

|                                    |                                                                                   |
|------------------------------------|-----------------------------------------------------------------------------------|
| DELETE WHICHEVER IS NOT APPLICABLE |                                                                                   |
| (1)                                | REPORTABLE: <del>YES</del> /NO                                                    |
| (2)                                | OF INTEREST TO OTHERS JUDGES: <del>YES</del> /NO                                  |
| (3)                                | REVISED                                                                           |
| 05/01/2026                         |  |
| .....                              |                                                                                   |

In the matter between:

**MTHOKOZISI KHUMALO**

**Plaintiff**

**and**

**ROAD ACCIDENT FUND**

**Defendant**

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**JUDGMENT**

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**BHOOLA AJ,**

*Introduction*

[1] The plaintiff, Mr Mthokozisi Khumalo, institutes action against the Road Accident Fund (" the RAF") seeking damages arising from a motor vehicle collision which occurred on 19 February 2023 at about 16h00 near Sheffield Street, Lenasia

South, Johannesburg, Gauteng Province. The plaintiff was a pedestrian and was an alleged hit and run collision.

[2] The matter serves before me on the RDJ trial roll. The plaintiffs claim rests both on liability and quantum. The issue of general damages was postponed *sine die*. The plaintiff bears the onus of proving the negligence of the insured driver on a balance of probabilities.

### *Factual background*

[3] The plaintiff relied on the section 19(f) of the RAF Act<sup>1</sup> and the accident report (AR) in support of its case on liability. Upon examination of the accident report (AR), it is noted that several entries are incomplete. In particular:

3.1 the CAS, OB, serial and capturing numbers are blank

3.2 the AR number is 04/04/2024 yet the collision occurred on 19 February 2023.

3.3 no injuries are reflected in the AR.

3.4 the witnesses' section in the AR is blank yet there are two witness statements

3.5 the inspecting officer's information in the AR is blank.

3.6 the accident occurred on 19/02/2023 and the AR was completed on 3 April 2024.

3.7 the police completed the AR on 3 April 2023

the AR, contains three different writing styles

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<sup>1</sup> Act 56 of 1996, as amended

[4] Regarding the witness statements:

4.1 the AR records the incident as occurring on the 19/02/2023, whereas the witnesses state it occurred on 13 February 2023. Clarification is sought as to this discrepancy.

4.2 Clarification is sought on the registration number of the insured vehicle reflected on the witness statements.

[5] Regarding medical records:

5.1 the records are uncertified and not in chronological order.

[6] No supplementary affidavit or other evidence was placed before this court to explain these deficiencies or to provide independent corroboration of the plaintiff's version of the collision.

#### *Issue for determination*

[7] The issue for determination whether the plaintiff has discharged the onus of proving negligence and causation in respect of the motor vehicle collision of 19 February 2023.

#### *Legal Principles*

[8] 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.<sup>2</sup>

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

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

### *Evaluation*

[10] In the present matter, upon examination of the evidence, the papers filed contain material discrepancies and defects, including the deficiencies in the AR as alluded to above, inconsistent dates, late completion of AR without explanation, witness statements obtained more than twenty (20) months after the alleged accident, reflecting a different accident date than the AR, and medical records that are unstamped, illegible, not certified and not arranged in chronological order.

[11] These deficiencies are material as they represent gaps in the evidential record. The absence of a Cas and especially the OB number and incomplete documentation reduce the court's ability to verify independently the circumstances of the collision, including the reporting and recording of the hit and run. In the absence of supplementary evidence or an affidavit explaining these gaps, the court is unable to determine liability on a balance of probabilities without engaging in conjecture or speculation.

[12] These defects prevent the Court from being satisfied that a *prima facie* case has been established. Default judgment is not automatic; the Court must be satisfied that the factual substratum of the claim is properly established before liability and quantum can be assessed.

### *Conclusion*

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

[13] In the circumstances, the court is unable to determine liability on the evidence presented before it. The appropriate course is therefore to afford the plaintiff an opportunity to supplement the evidential record, after which the matter may be re-enrolled,

[14] Dismissal or striking the matter off the roll would foreclose the claimant's right to cure defects and re-enrol the matter, potentially causing prejudice. Postponing the matter *sine die* preserves the claimant's opportunity to rectify the papers, while ensuring that the Court does not consider merits prematurely. The claimant is accordingly granted leave to supplement and evidential record, after which the matter may be re-enrolled.

#### *Order*

[15] As a result, I make the following order:

15.1 The plaintiff is granted leave to file an affidavit within (twenty) 20 days of this order, addressing:

15.1.1 the discrepancies in the AR including the multiple handwriting, date anomalies, late completion).

5.1.2 clarifying the contradictory accident dates and registration numbers of the insured driver in the witness's statements.

15.2 filing authenticated medical records in a chronological manner attaching an affidavit explaining the medical records sequence immediately after the collision.

15.3 the matter is postponed *sine die*.

15.4 the plaintiff is granted leave to re-enrol the matter on the RDJ roll once that above directions are complied with.

15.5 The costs are costs in the cause.



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**CB. BHOOLA**

Acting Judge of the High Court

Gauteng Division of the High Court, 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 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. SB Vukeya

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For the defendant: No appearance