

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

CASE NO: 2023/072586

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

In the matter between:

N[...] N[...] K[...] H[...] obo

B[...] M[...] N[...]

Plaintiff

and

ROAD ACCIDENT FUND

Defendant

JUDGMENT

BHOOLA AJ,

Introduction

[1] This is an application for default judgment where the plaintiff, Ms N[...] N[...] K[...] H[...], institutes action against the Road Accident Fund (“the RAF”), on behalf of her minor daughter B[...] M[...] N[...], seeking damages arising from a motor vehicle collision that allegedly occurred on 16 April 2018., Zola North, Soweto Gauteng.

[2] 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 before considering the quantum.

Factual background

[3] Upon careful consideration of the record, material and unexplained discrepancies became apparent in the documentary evidence relied upon in support of the claim.

[4] These discrepancies include amongst other things:

4.1 differing accident report (AR) numbers appearing on the RAF1 form and SAPS documentation.

4.2 conflicting dates relating to the reporting and registration of the accident.

4.3 alterations to recorded numbers on the AR without initials or an explanation.

4.4 uncertainty as to contemporaneous reporting of the accident to SAPS, and

4.5 the absence of a contemporaneous accident scene sketch or investigation.

[5] The inconsistencies go to the reliability and coherence of the documentary foundation of the plaintiff's case and, in particular, to whether all the documents

relied upon relate to one and the same collision. The court is required to determine liability on evidence. In the absence of a sworn explanation addressing these discrepancies, the court is unable to make a safe factual finding as to how the accident occurred, or whether negligence on the part of the insured driver has been established on a balance of probabilities.

Issue for determination

[6] The issue for determination whether the plaintiff has discharged the onus of proving negligence and causation as well as the quantum in respect of the motor vehicle collision that occurred on 16 April 2018.

Legal Principles

[7] 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.¹

[8] Damages cannot be considered in the absence of proof of liability and causation.² The plaintiff bears the onus of establishing both on a balance of probabilities.

Evaluation

[8] In the present case, and notwithstanding that the matter was properly enrolled and argued, the court is of the view that the matter is not ripe for determination of

¹ Moolman v Estate Moolman 1927 CPA 27, RAF v Duma 2013(6) SA 9 (SCA)

² Minister of Safety and Security v Van Duivenboden [2002(6) SA 43] (SCA)

liability in its present form. It would not be in the interests of justice to make a finding on liability on an incoherent and unexplained evidentiary record, particularly where the claim concerns a minor. In the absence of supplementary evidence or an affidavit explaining the inconsistencies, the court is unable to determine liability with certainty, without engaging in conjecture or speculation.

[9] The court must ensure that findings on the merits are grounded in reliable evidence. Where evidential deficiencies are curable, it would be inappropriate to dismiss the claim outright or to make adverse findings on liability in circumstances where the plaintiff has not yet had the opportunity to address those deficiencies.

Conclusion

[10] In the circumstances, the court is unable to determine liability at this stage, 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, and considered afresh.

Order

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

11.1. The court is unable to and has not determined the issue of liability.

11.2 The plaintiff is granted leave to file an affidavit within (twenty) 20 days of this order, addressing the inconsistencies in the documentary evidence.

11.3. the matter is postponed *sine die*.

11.4. The plaintiff is granted leave to re-enrol the matter on the RDJ trial roll once the documentary discrepancies identified in this judgment have been properly addressed on affidavit.

11.5 There is no order as to costs.

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 09 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 09 January 2026.

APPEARANCES

Date of hearing: 22 October 2025

Date of judgment: 09 January 2026

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