



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

CASE NO: 2023/55491

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 MICHAEL MNYAKA

Plaintiff

and

ROAD ACCIDENT FUND

Defendant

JUDGMENT

BHOOLA AJ,

Introduction

[1] The plaintiff, Mr Michael Mnyaka Sithole, institutes action against the Road Accident Fund (“the RAF”) seeking damages arising from a motor vehicle collision that

allegedly occurred on 20 August 2021, in Brazil Road, Cosmos City, Ransburg, Gauteng.

[2] The matter serves 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] The plaintiff relied on the section 19(f) of the RAF Act¹ and the accident report 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 AR does not contain a CAS number.
- 3.2 the capturing number is blank.
- 3.3 there is no OB (occurrence book) entry number.
- 3.4 the accident was reported on 04 September 2021 at 08:30.
- 3.5 the office where the accident was reported is omitted.
- 3.6 the AR details in respect of the inspection officer is omitted.

[4] 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.

¹ Act 56 of 1996, as amended

Issue for determination

[5] The issue for determination whether the plaintiff has discharged the onus of proving negligence and causation in respect of the motor vehicle collision of 20 August 2021.

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] 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.

Evaluation

[8] In the present case, upon examination of the AR, there exists several incomplete entries as alluded to above. While these deficiencies do not themselves preclude a finding of liability as the AR provides an explanation of how the collision occurred, 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

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

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

probabilities without engaging in conjecture or speculation.

[9] While this matter was enrolled on the RDJ trial roll, 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 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,

Order

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

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

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

1. the absence of the OB entry number.
- 5.1 the absence of a CAS number.
- 5.2 the reason why the capturing number is blank.

- 5.4 the reason why accident was reported on 04 September 2021.
- 5.5 the reason why the office where the accident was reported is omitted.
- 5.6 the absence of the details in respect of the inspection officer.

2. the matter is postponed *sine die*.

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

4. Costs are costs in the cause.



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 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: 22 October 2025

Date of judgment: 05 January 2026

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