



**IN THE HIGH COURT OF SOUTH AFRICA
FREE STATE DIVISION, BLOEMFONTEIN**

Not Reportable

Case no: 3368/2020

In the matter between:

ELIZABETH CATHARINA STEYL

FIRST PLAINTIFF

JACO STEYL

SECOND PLAINTIFF

and

MOTHEO TVET COLLEGE

FIRST RESPONDENT

MEC OF THE DEPARTMENT OF

HIGHER EDUCATION AND TRAINING

SECOND RESPONDENT

SIEBERT BADENHORST

THIRD RESPONDENT

ANTON SWANEPOEL

FOURTH RESPONDENT

Neutral citation: *Steyl and Another v Motheo TVET College and Others* (3368/2020)
ZAFSHC 41 (10 February 2026)

Coram: MHLAMBI J

Heard: 22 JULY 2025

Delivered: This judgment was handed down electronically by circulation to the parties' representatives by email and released to SAFLII. The date and time for hand-down is deemed to be 09h30 on 10 February 2026

Summary: Delict – negligence – death from burn injuries sustained during mechanical engineering course at college premises – failure to provide safety training, proper equipment, or prove safety measures pleaded – breach in duty of care – burn injuries direct cause of death.

ORDER

The first, third, and fourth defendants are held 100% liable for any proven damages suffered by the plaintiffs and for the costs of suit.

JUDGMENT

Mhlambi J

[1] The plaintiffs sued the defendants for damages arising from the death of Chris Steyl, the first plaintiff's son and the second plaintiff's twin brother. The plaintiffs withdrew the claim against the second defendant.

[2] It is common cause that the deceased was enrolled as a mechanical engineering student with the first defendant in 2017. On 30 October 2017, he was injured at the first defendant's campus when a motor vehicle the mechanical engineering students were working on caught fire. The deceased sustained third-degree burns over 48% of his body. The fourth defendant extinguished the flames. The third defendant transported the deceased to the hospital in his own vehicle after obtaining the first plaintiff's permission. The deceased received emergency care in the hospital's trauma section. He was then transferred to the intensive care unit, where he passed away on 11 November 2017.

[3] It is not in dispute that the third and fourth defendants acted within the course and scope of their employment with the first defendant, and that, if the first defendant is not found liable, the third and fourth defendants are personally liable. The defendants admitted that they were fully aware of the risks inherent in conducting the mechanical engineering course for students generally. They had a legal duty to prevent damage and did so by providing fire extinguishers.

[4] The plaintiffs called five witnesses in support of their case: Dylan Coetzee, a former student of the TVET College; Jaco Steyl, the deceased's twin brother; Elize Steyl; and Dr Loubser, the trauma surgeon who treated the deceased in the hospital. The defendants unsuccessfully sought absolution from the instance after the plaintiffs closed their case. The respondents closed their case without tendering any evidence.

[5] Dylan Coetzee testified that he photographed the premises, and those photographs were entered into evidence. At the first defendant's campus, no safety training was provided to students. They were given tools, but were not taught how to use them on vehicles brought in for repairs. Most extinguishers were not in good working order. Jaco Steyl testified that he was a former student of the first defendant. He did not witness the incident but saw a car engine on fire and the deceased covered in flames, which the third defendant extinguished with a fire extinguisher. The deceased's hair was scorched, and he appeared to have a light sunburn. The deceased did not wear his full protective clothing at the time of the incident, wearing only his pants and a black T-shirt. He had put his top in his locker because he complained about the heat. Although students were expected to wear their full protective clothing, they wore overall pants and T-shirts. Students did not receive safety training.

[6] The first plaintiff confirmed that she consented to the fourth defendant taking her deceased son to the hospital because he had sustained burn wounds. She testified that his upper torso and head were bandaged. He remained in the intensive care unit until the day of his death. She was informed that the cause of death was septicaemia.

[7] Mr Potgieter testified about safety measures that should be in place on premises where dangerous materials are used, in terms of the Occupational Health and Safety Act 85 of 1993. According to him, students should receive proper training and tools and be made aware of the relevant hazards. The first defendant failed to provide the plaintiffs with the necessary documentation, including risk assessments for all activities, registers for all tools and equipment, service records for all lifting equipment, and the Department of Labour's previous inspection reports for the period 2017 to 2022. Students should not be permitted to work if they were not properly trained, and there was no assurance that the necessary safety measures were in place or that they had received the required training.

[8] Dr Loubser testified that the deceased was admitted to the Bloemfontein Medical Clinic on 30 October 2017 after sustaining burn wounds from an explosion or fire in the engine of the vehicle he was working on. He was admitted to the intensive care unit for hemodynamic monitoring, ventilator support, and airway protection. His report was entered into evidence and marked as Exhibit C. He testified that the deceased suffered severe inhalation injuries and that ventilation was a major issue. He was stable until 10 October

2017, when he developed fever and respiratory failure. *Staphylococcus aureus* septicaemia was confirmed by blood culture, and he passed away on 11 October 2017. The report stated that the autopsy confirmed severe inhalation injury. He further testified that the pathologist's report confirmed his diagnosis.

[9] The application for the absolution from the instance was based on the following:

- (a) The cause of death was septicaemia, which absolved the defendants of any blame.
- (b) No evidence was presented regarding the cause of the fire and its effect, that is, causation and its effect.
- (c) No evidence was presented to indicate the damage suffered by the plaintiffs.
- (d) No case was made out against the defendants.

[10] At the outset of the trial, the plaintiff's letter to the defendant's attorneys was admitted into evidence and marked as Exhibit 1. In the letter, the parties agreed that the matter would proceed on the merits first, as the merits were separate from the quantum. It was therefore common ground that the matter would proceed only on the merits and that the quantum would stand over.

[11] In the amended particulars of claim, the claim was pleaded as follows:

'8.

At all material times thereto the above lecturers/personnel/staff of the First Defendant alternatively the lectures/personnel/staff of Second Defendant alternatively the Third and Fourth Defendants had a legal duty towards the deceased during his enrolment and attendance to his course at the Motheo Bloemfontein campus. The First-Fourth Defendants are experts and specializes in lecturing and presenting Mechanical engineering courses. The First-Fourth Defendants purported themselves to be experts in the lecturing and presenting of Mechanical engineering course. The First-Fourth Defendants as such were fully aware of the risks inherent to the students more specifically the deceased in conducting to the Mechanical engineering course. The First-Fourth Defendants thus had a duty to prevent that damages arise on the basis that it did on the 30th October 2017.

9.

The lecturers/staff/personnel of the First Defendant alternatively the lecturers/staff/ employees of the Second Defendant alternatively the Third and Fourth Defendants, were negligent and acted contrary to the legal duty owed to the deceased.

10.

The lecturers/staff/personnel of the First Defendant or alternatively the lecturers/staff/employees

of the Second Defendants alternatively the Third-and Fourth Defendants:

- 10.1 failed to observe their legal duty owed to the deceased;
 - 10.2 failed to implement such steps as would reasonably be required to prevent the occurrence of the incident;
 - 10.3 Failed to take into account the commonly known high rate of similar incidents occurring;
 - 10.4 failed to foresee the risk associated with students working on motor vehicles;
 - 10.5 failed to provide a safe working environment for the students and more specifically the deceased;
 - 10.6 failed to inform the students and more specifically the deceased of the risks in the relevant working environment;
 - 10.7 failed to provide safe working procedures for the learning content which the students and more specifically the deceased was busy with at the time of the incident;
 - 10.8 Failed to have the necessary health and safety measures in place to attend to the said incident;
 - 10.9 failed to appoint a firefighter and or first Aid with the relevant training;
 - 10.10 failed to provide the necessary first aid to the deceased at the scene of the accident;
 - 10.11 failed to contact an ambulance to be dispatched to transport the deceased to the hospital.
- 11.

Due to the negligence and wrongful breach of the First Defendant's lecturers/ personnel/staff alternatively the Second Defendant's lecturers/personell/staff alternatively the Second Defendant's lecturers/personnel/staff alternatively the Third- and Fourth Defendants' duty of care towards the deceased, the deceased incurred burn wounds and passed away as a direct result thereof.'

[12] In their plea, the defendants pleaded as follows to the relevant particulars of the claim:

'10. Ad paragraphs 8

- 10.1 it is denied that the defendants:
 - 10.1.1 had a legal duty towards the deceased;
 - 10.1.2 are experts and specialize in the lecturing and presenting Mechanical Engineering although the third and fourth defendants are lecturers; and
 - 10.1.3 purported themselves to be experts in the lecturing and presenting of Mechanical Engineering.
- 10.2 it is admitted that the defendants:
 - 10. 2.1 were fully aware of the risks inherent to the students in general in conducting the Mechanical Engineering course; and
 - 10.2.2 had a legal duty to prevent damages from arising and in fact took steps to prevent the said

damages by, among others, having fire extinguishers on site.

11 Ad paragraph 9

The contents of this paragraph are denied.

12 Ad paragraph 10

12.1 The contents of this paragraph, including its sub-paragraphs, are denied.

12.2 The first and second defendants took reasonable steps so as to avoid the possibility of injury to students and employees and which steps included:

12.2.1 implementing such steps as would reasonably be required to prevent the occurrence of incidents in general;

12.2.2 Providing a safe working environment for the students and lecturers;

12.2.3 Informing the students and lecturers of the risks inherent in the workplace;

12.2.4 providing safe work procedures; and

12.2.5 Having the necessary health and safety measures in place to attend to incidents in general.'

[13] The respondents, therefore, denied negligence and any breach of the legal duty owed to the deceased. The first and second defendants pleaded that they took specified, reasonable steps, including informing students and lecturers of the risks inherent in the workplace, providing safe work procedures, and ensuring the necessary health and safety measures were in place to address incidents that could result in injury to students and employees. However, the respondents were unable to provide proof of these particulars under rule 35(3) of the Uniform Rules of Court.

[14] In his report, Dr Loubser stated that, during the first surgery, the wounds were debrided with temporary skin coverage, and the patient developed a left-sided pleural effusion, for which an IC drain was placed. During the second surgery, autologous skin was transplanted using ReCell to enhance skin growth. The respondents argued that these two operations required extreme measures to prevent bacterial contamination. It appeared that the measures adopted were insufficient, as bacteria established and resulted in septicaemia. 'That being the case', it was argued, '*novus actus* was proven, and no evidence was led to suggest that the fire caused the death when applying the foreseeability test, assuming that negligence was proven, which was not'. This argument is without substance.

[15] The plaintiff argued that Dr Loubser testified that, when calculating the percentage of the body burned, an additional 10% to 14% is attributed to inhalation burns, especially

when the fire is near a victim's face. Once a burn wound reaches the third layer of skin, it is considered a deep dermal burn and classified as a third-degree burn. A burn injury affects all organs and triggers an inflammatory response. This inflammatory response can lead to septicaemia, which is fatal in 80% of patients. The deceased developed a fever, experienced respiratory failure, and was found to have septicaemia. The respiratory failure resulted from the lungs' inability to function. The plaintiff contended that if sepsis was an expected risk of the procedure, septicaemia could not constitute a *novus actus interveniens*, as it was a foreseeable consequence of the deceased's injuries.

[16] In *De Klerk v Minister of Police*,¹ it was stated that:

'Causation comprises a factual and a legal component. Factual causation relates to the question whether the act or omission caused or materially contributed to the harm. The "but-for" test (*conditio sine qua non*) is ordinarily applied to determine factual causation. If, but for a wrongdoer's conduct, the harm would probably not have been suffered by a claimant, the conduct factually caused the harm . . .

Legal causation concerns the remoteness of damage. This entails an inquiry into whether the wrongful act is sufficiently closely linked to the harm for legal liability to ensue. Generally, a wrongdoer is not liable for harm that is too remote from the conduct concerned or that was not foreseeable.'

[17] When absolution from the instance is sought at the close of the plaintiff's case, the test is not whether the evidence led by the plaintiff establishes what would finally be required to be established, but whether there is evidence upon which a court, applying its mind reasonably to that evidence, could or might (not should or ought to) find for the plaintiff.² The plaintiff must make out a *prima facie* case and present evidence on all elements of the claim to survive an application for absolution from the instance, because without such evidence, no court could find for the plaintiff. The inference relied upon by the plaintiff must be reasonable, not the only reasonable one. Absolution at the end of the plaintiff's case, in the ordinary course of events, will nevertheless be granted sparingly. Still, when the occasion arises, a court should order it in the interests of justice. Credibility

¹ *De Klerk v Minister of Police* [2019] ZACC 32; 2019 (12) BCLR 1425 (CC); 2020 (1) SACR 1 (CC); 2021 (4) SA 585 (CC) para24-24.

² *Claude Neon Lights (SA) Ltd v Daniel* 1976 (4) SA 403 (A) at 409G-H.

seldom arises when considering absolution from the instance at the end of the plaintiff's case.³

[18] At the end of the plaintiffs' case, despite their pleaded case, the respondents failed to explain how they took steps to avoid the alleged injury to students, as they alleged in their plea. They also failed to furnish the plaintiffs with the required information regarding the steps they took from 2018 to 2021 to safeguard the students. I was satisfied that the plaintiffs had made out a *prima facie* case against the defendants on the merits, for which the defendants had to answer, and I dismissed the application for absolution from the instance.

[19] Having closed their case, the respondents argued that the plaintiffs ought to have shown that, because of the respondents' negligent conduct, they suffered psychological injury as a direct result of the deceased's death, which caused them emotional shock. They ought to have testified to this effect and to the effect that the damage claimed was incurred. No such evidence was presented. Inspired by *Swartbooi v Road Accident Fund (Swartbooi)*,⁴ the respondents argued that, what the plaintiffs did was to lead evidence concerning the primary victim, not evidence concerning them as secondary victims who heard about the passing of the primary victim and thereby experienced psychological trauma.

[20] The court, in *Swartbooi*, stated the following:⁵

'Due to the recent recognition of emotional shock as a head of damages in our law, very few notable judgments regarding the assessment of damages for emotional shock have been handed down, except *Barnard*; *Clinton-Parker*; *Sauls* (supra); and *Majiedt v Santam Ltd*. From these cases it is clear that the extent and duration of the psychological consequences induced by emotional shock are the main factors which weigh heavily with the courts when assessing an amount for general damages.'

[21] I was referred to two articles: 'Claims for "emotional shock" suffered by primary and secondary victims' by Raheel Ahmed and Loma Steynberg,⁶ and 'The IMPACT OF THE

³ *MN v BN* [2023] ZAFSHC 236; [2023] 3 All SA 809 (FB); 2023 (5) SA 519 (FB) paras 203 and 204.

⁴ *Swartbooi v Road Accident Fund* [2012] ZAWCHC 29; [2012] 3 All SA 670 (WCC); 2013 (1) SA 30 (WCC).

⁵ *Ibid* para 20.

⁶ R Ahmed and L Steynberg 'Claims for "emotional shock" suffered by primary and secondary victims' (2015) 78 *Journal of Contemporary Roman-Dutch Law* 181-199.

KOMAPE JUDGMENT ON THE SOUTH AFRICAN COMMON LAW OF DELICT: AN ANALYTICAL REVIEW *Komape v Minister of Basic Education* [2020] 1 All SA 651 (SCA); 2020 (2) SA 347 (SCA)' by Michael C Buthelezi.⁷ In the first article, the author commented on the Court's observation regarding the application of the thin skull rule in *Hing and Others v Road Accident Fund*.⁸ The effect of the principle was not to make a wrongdoer liable for harm he did not cause. It was clear from this statement that the thin-skull rule should be applied only after it has been determined that liability must ensue. The severity of the resulting psychological harm or psychiatric injury and the secondary victim's susceptibility to harm are both issues relating to the quantum of the claim for emotional shock, not to the question of whether liability should ensue.

[22] The *Komape* judgment affirmed that it is necessary to prove psychiatric injury in an action for emotional shock, as there is no separate action or compensation for pure grief and bereavement that is not accompanied by substantial psychological lesions.⁹

[23] In light of the foregoing, I am not persuaded that the respondents have a valid defence to the plaintiff's action on the merits. I, therefore, find that the plaintiffs have shown, on a balance of probabilities, that the defendants failed in their duty of care and failed to take positive steps to ensure the deceased's safety. The injuries sustained by the deceased were the direct cause of his death.

Order

[24] I am making the following order:

The first, third, and fourth defendants are held 100% liable for any proven damages suffered by the plaintiffs and for the costs of suit.


J J MHLAMBI
JUDGE OF THE HIGH COURT

⁷ M Buthelezi 'The IMPACT OF THE KOMAPE JUDGMENT ON THE SOUTH AFRICAN COMMON LAW OF DELICT: AN ANALYTICAL REVIEW *Komape v Minister of Basic Education* [2020] 1 All SA 651 (SCA); 2020 (2) SA 347 (SCA)' (2022) 43(3) *Obiter* 630-640.

⁸ *Hing and Others v Road Accident Fund* [2014] ZAWCHC 15; [2014] 2 All SA 186 (WCC); 2014 (3) SA 350 (WCC).

⁹ *R K and Others v Minister of Basic Education and Others* [2019] ZASCA 192; [2020] 1 All SA 651 (SCA); 2020 (2) SA 347 (SCA).

Appearances

For the plaintiffs:

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Instructed by:

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For the respondents:

L Bomela

Instructed by:

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