IN THE REPUBLIC OF SOUTH AFRICA

IN THE HIGH COURT OF SOUTH AFRICA

GAUTENG DIVISION, PRETORIA

CASE NO: 2023/019609

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

DATE 10/04/2026 [redacted] SIGNATURE

In the matter between:-

RAND MUTUAL ASSURANCE LTD (J J ROBERTS)	**PLAINTIFF**
And	
ROAD ACCIDENT FUND	**DEFENDANT**

JUDGEMENT

MATIKA AJ:

Introduction

1. This is an application for default judgement in terms of Rule 31(2) (a) [1] of the uniform Rules of Court.

2. The Plaintiff, Rand Mutual Assurance Company Ltd, is an insurer. It is, for purposes of the Compensation for Occupational Injuries and Diseases Act 130 of 1993 (COIDA), a mutual association, which means that it is licensed to carry on the business of insuring employers against their liabilities under COIDA to employees (s 30(1).[2]

3. The Plaintiff in terms of subrogation has the right to sue the Road Accident Fund in its own name. [3]

4. The defendant, is the Road Accident Fund a statutory body established in terms of section 2 (1) of the Road Accident Fund Act 56 of 1996 as amended.

Factual matrix and evidence

5. The plaintiff seeks Judgment for payment of R409 749.50, together with interest and costs, arising from COIDA compensation paid by the plaintiff to its insured

---

1. Rule 31(2)(a) reads: "Whenever in an action the claim or, if there is more than one claim, any of the claims is not for a debt for liquidated demand and the defendant is in default of delivering of notice of intention to defend or of a plea, the plaintiff may set the action down as provided in
of notice of intention to defend or of a plea, the plaintiff may set the action down as provided in
sub-rule (4) for default judgment and the court may, after hearing evidence, grant judgment against the defendant or make such an order as it deems fit

2. Section 30(1): 'The Minister may, for such period and subject to such conditions as he may determine, issue a licence to carry on the business of insurance of employers against their liabilities to employees in terms of this Act to a mutual association which was licensed on the date of commencement of this Act in terms of section 95 (1) of the Workmen's Compensation Act: Provided that the Minister may, from time to time, order that, in addition to any securities deposited in terms of the Insurance Act, 1943 (Act No. 27 of 1943), and the Workmen's Compensation Act, securities considered by the Director-General to be sufficient to cover the liabilities of the mutual association in terms of this Act be deposited with the Director-General or his or her nominee

3 Rand Mutual Assurance Co Ltd v Road Accident Fund [2008] JOL 22697 (SCA); [2009] 1 All SA 265 (SCA)

employee following a motor vehicle collision. The application brought in terms of Rule 31(2) (a) of the Uniform Rules of Court.

6. The Combined Summons was served by the Sheriff on the defendant on 14 March 2023.

7. The defendant was afforded 20 days in terms of the Combined Summons to deliver the notice of intention to defend. The defendant did not enter an appearance to defend, and the dies expired. Application for default judgment was served on the defendant, and notice of set-down was served on 01 December 2025.

8. The plaintiff insured the liabilities of KEMPSTON COMMERCIAL CENTER in terms of COIDA ("Plaintiff's insured company").

9. The affidavit in support of the default judgment application was deposed to on 25 January 2024 by an employee of the plaintiff who is employed as a Recoveries consultant in the employ of the Plaintiff. The affidavit states as follows :

> " Mr. Jason Jesse Robbert's employer, Kempston Commercial Center, had insured its liabilities to employees in terms of Section 30(1) of the Compensation for Occupational Injuries and Diseases Act 130 of 19993 ("COIDA") with the plaintiff. On 11 November 2019, whilst in the course and scope of his employment and /or furthering the interest of his employer, Mr. Robberts was involved in a motor vehicle Collison and was fatally injured. His claim was assessed in terms of COIDA, and the final award in terms thereof was made, after taking into consideration all the payments made and to be made on his behalf, the final amount was made up of the following: Past Medical expenses R246,884.21;

permanent disablement lump Sum R80,250.00; days off paid R82,605.29. Total paid R409 749.50.

Issues

10. The issues for determination are (a) whether the defendant is liable for the plaintiff's damages; and (b) if liability is established, the quantification of the plaintiff's claim in respect of past medical expenses R246, 884.21; permanent disablement Lump Sum R80, 250.00 and days off paid R 82,605.29.

Law

11. It is trite that the plaintiff bears the onus to prove negligence on the part of the defendant. Once a *prima facie* case is established, the defendant must produce evidence to disprove the inference of negligence on his or her part; failing which/she risks the possibility of being found liable for the damages suffered by the plaintiff.

12. The plaintiff pleaded case is that these claims against the Road Accident Fund are brought in terms of section 17 of the Road Accident Fund Act [4]

Liability of Fund and agents

13. Section 17 of the Road Accident Fund Act provides that :

"(1) The Fund or an agent shall-

(a) ...;

[4] Act 56 of 1996 as amended.

(b) subject to any regulation made under section 26, in the case of a claim for compensation under this section arising from the driving of a motor vehicle where the identity of neither the owner nor the driver thereof has been established, be obliged to compensate any person (the third party) for any loss or damage which the third party has suffered as a result of any bodily injury to himself or herself or the death of or any bodily injury to any other person, caused by or arising from the driving of a motor vehicle by any person at any place within the Republic, if the injury or death is due to the negligence or other wrongful act of the driver or of the owner of the motor vehicle or of his or her employee in the performance of the employee's duties as employee: Provided that the obligation of the Fund to compensate a third party for non-pecuniary loss shall be limited to compensation for a serious injury as contemplated in subsection (1A) and shall be paid by way of a lump sum."

14. Section 24 of the Act provides the procedure for lodging claims by claimants for compensation by the RAF. It reads as follows:

"(1) A claim for compensation and accompanying medical report under Section 17 (1) shall-

(a) be set out in the prescribed form, which shall be completed in all its particulars;

(b) be sent by registered post or delivered by hand to the Fund at its principal, branch or regional office, or to the agent who in terms

of section 8 must handle the claim, at the agent's registered office or local branch office, and the Fund or such agent shall at the time of delivery by hand acknowledge receipt thereof and the date of such receipt in writing.

(5) if the Fund or the agent does not, within 60 days from the date on which a claim was sent by registered post or delivered by hand to the Fund or such agent as contemplated in subsection (1), object to the validity thereof, the claim shall be deemed to be valid in law in all respects".

15. A default judgment is a judgment authorized by section 23 of the Superior Courts Act 10 of 2013[5], to be granted in the circumstances prescribed in the rules.

16. Rule 31(2)(a) of the Uniform Rules of Court prescribes that after hearing evidence, a Court in the exercise of its discretion may grant judgment against the defendant or make such order as it deems fit.

17. Section 16 of the Civil Proceedings Evidence Act (CPEA)[6] provides that judgment may be given in any civil proceedings on the evidence of any single competent and credible witness.

Analysis of the evidence

---

5 A judgment by default may be granted and entered by the registrar of a Division in the manner and in the circumstances prescribed in the rules, and a judgment so entered is deemed to be a judgment of a court of the Division

6 Act 25 of 1965 as amended.

18. This being a default judgment, this Court must be satisfied that credible evidence was tendered to prove on the preponderance of probabilities that the bodily injuries sustained by Mr. Robberts were due to the negligent driving of a motor vehicle by an insured driver in order for the plaintiff's claim to succeed.

19. In terms of section 24 of the Act, a claimant must lodge a claim on the prescribed RAF1 form with the Road Accident Fund. The Road Accident Fund then has 60 days within which to object to the validity of any such claim lodged.

20. Before this court, there is no evidence that this claim was lodged, nor is there any document confirming the lodgement of the claim by Mr. Robberts and or by the plaintiff in the manner prescribed by the Act.

21. Before, me there is no prove that this claim was submitted to the Road Accident fund, no prove that Mr Robberts was ever involved in a motor vehicle accident, there is no accident report, there is no hospital records, there is no affidavit of Mr Robberts, there is no proof of lodgement of the claim with the Road Accident Fund in accordance with the provisions of the Road Accident Fund Act by the Plaintiff -Rand Mutual Assurance ltd and by Mr Robberts himself.

22. Therefore, this Court is not satisfied that it should exercise its discretion and grant judgment by default. It must be emphasized that a default judgment is not granted simply because the defendant lacks a defense, but rather is entered in accordance with the court's rules and the law.

Conclusions

23. In summary, on the available evidence, this court is not in a position to grant a default judgment.

The Order

It is ordered that:

1. The application for default judgment is refused.
2. There is no order as to costs.

[redacted]

F MATIKA

ACTING JUDGE OF THE HIGH COURT

GAUTENG DIVISION, PRETORIA

APPEARANCES:

For the Plaintiff:	Adv Z Matondo
Instructed by:	Mconi & Associates
For the Defendant:	No appearance
Date of Hearing	13 January 2026
Date of judgment:	10 April 2026