

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

Not reportable
Case no: 995/2025

In the matter between:

L[...] E[...] M[...] obo
T[...] O[...] M[...]

APPLICANT

and

ROAD ACCIDENT FUND

RESPONDENT

Neutral citation: *M[...] obo T v Road Accident Fund* (995/2025) [2026] ZAFSHC 290
(13 May 2026)

Coram: MPAMA AJ

Heard: 22 April 2026

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 16h00 on 13 May 2026.

Summary: Road Accident – special pleas – loss of support – s 24(1) of the Road Accident Fund Act 56 of 1996 – substantial compliance – RAF 1 Form – medical report – accident report – s 19(e) and (f) – condonation.

ORDER

- 1 The defendant's non-compliance with the rules is condoned.
- 2 The special pleas are dismissed.
- 3 Costs shall be costs in the cause.

JUDGMENT

Mpama AJ

[1] The plaintiff has instituted action in his personal and representative capacity on behalf of his minor child, T, claiming damages for loss of support against the Road Accident Fund (the defendant) arising from the fatal injuries sustained by the child's mother in a motor vehicle collision that occurred on 03 March 2024. On 19 August 2024, the plaintiff lodged his claim with the defendant. The RAF 1 form was delivered to the defendant. The defendant raised an objection to the validity of the plaintiff's claim on the ground that it failed to comply with the statutory requirements prescribed under s 24(1) of the Road Accident Fund Act 56 of 1996 (the Act) on a letter dated 19 August 2024. The plaintiff furnished his reply to the objection on a letter dated 13 September 2024.

[2] On 24 February 2025, the plaintiff issued summons against the defendant. The defendant thereafter filed its Notice of Intention to Defend, followed by the delivery of its plea. Subsequent pleadings were exchanged between the parties until the matter was enrolled for a pre-trial hearing. At the said hearing, the defendant indicated its intention to amend its plea and raise special pleas. Nevertheless, such amendment was not effected until few days before trial.

[3] Counsel for the plaintiff placed on record that there had been non-compliance with the applicable rules relating to the filing of the amended plea. Counsel further indicated that the plaintiff was not opposed to the defendant's application for condonation and that non-compliance with the rules can by agreement between the parties be condoned by the court. The plaintiff indicated his preference is that the matter proceed on the special pleas, that a postponement would occasion undue delay and would not serve the interests of justice. This was confirmed by the defendant. In the interest of justice I condoned the defendant's non-compliance with the times limits prescribed in rule 28 of the Uniform Rules of the Court and ruled that the court will hear the arguments on special pleas.

[4] The defendant raised the following special pleas: the first plea pertains to the alleged failure by the plaintiff to lodge a substantially compliant claim in terms of s 24 of the Act read with Board Notice 271 of 2022 in that certain information required for the

submission of the claim was not provided. The validity of the plaintiff's claim lies solely on whether the claim lodged with the defendant was valid. The defendant argued that the plaintiff responded to the defendant's objection, however failed to adequately reply thereto and file the documents that were requested by the defendant. He further contended that the plaintiff had not, despite the defendant's written objection complied with these prescripts and the court must dismiss the plaintiff's claim.

[5] The plaintiff, with reference to authorities stressed that what was required from the plaintiff was substantial compliance with s 24 of the Act and the plaintiff complied with the section. He further argued that some of the documents and information required by the defendant was not necessary for the purposes of investigating the claim.

[6] Section 24(1)(a) of the Act provides:

'A claim for compensation and the accompanying medical report under section 17(1) shall-

(a) be set out on a prescribed form, which shall be completed in all its particulars.'

The RAF 1 form serves as a basis for the claims to be lodged with the defendant.

[7] The documents that need to accompany the RAF1 form are:

- (i) The statutory medical report completed by the first treating doctor or by the superintendent of the hospital where the injured or deceased was treated;
- (ii) Certified copy of claimant's identity document /passport;
- (iii) Accident report and case docket;
- (iii) Section 19(f) affidavit disclosing how the accident occurred;
- (iv) Copies of medical records, X-rays and hospital notes;
- (v) Copy of payslips; and
- (vi) Copy of death certificate, postmortem report (in the event of death)

[8] The court in, *Road Accident Fund v Busuku* [2020] ZASCA 158; 2023 (4) SA 507 (SCA) para 16, said:

'The RAF 1 form does not call for the detailed information. It is not intended, of itself, to enable the Fund to assess the quantum of the plaintiff's claim. It seeks to enable it to

investigate the impact of the injuries sustained. In order to do so the RAF 1 form requires disclosure of information to guide and facilitate the investigations.'

[9] Without detracting from the fact that the present matter is a claim for loss of support, the plaintiff has annexed to Form 1, amongst other documents, the following documents: the accident report, s 19(f) affidavit and the post-mortem reports, deceased's employment details and proof of income. The form has some details and particularity identifying the deceased as the injured person and the accident details have been substantially disclosed. This division has, on multiple occasions, adjudicated upon this issue and rendered determination thereon. In this regard, reference can be made to the following decisions: *Jeje v Road Accident Fund* [2024] ZAFSHC 265; *Ranosi v Road Accident Fund* [2024] ZAFSHC 310 and *Rasenyalo v Road Accident Fund* [2023] ZAFSHC 150.

[10] The purpose of RAF1 is to assist the defendant to investigate the accident to make up a decision on whether to defend the claim or not. My humble view is that the RAF1 Form, together with the submitted documents records provided sufficient information to enable the defendant to investigate the claim. I am satisfied that there was substantial compliance with the provisions of s 24(1) of the Act. The first special plea stands to be dismissed.

[11] The second special plea: the defendant alleges that there was non-compliance with s 19(e)(ii) &(iii) of the Act in that the plaintiff failed to file a medical report, and refused to allow the defendant to inspect all records in possession of a hospital facility or medical practitioner relevant to the matter. However, the summons expressly records that the deceased was certified dead at the scene of the accident and accordingly did not attend any medical facility. In the light of these circumstances, the special plea is devoid of merit and is hereby dismissed.

[12] The 3rd special plea: the defendant alleges that the plaintiff failed to submit an accident report in compliance with s 19(f)(ii) of the Act. It is undisputed that an accident report was furnished together with the prescribed form. In its objection letter, the defendant acknowledged receipt thereof but objected on the basis that the report bore no legible official stamp and no sketch plan was attached.

[13] In *Pithey v Road Accident Fund* [2014] ZASCA 55; 2014 (4) SA 112 (SCA), the court in para 17 expressed as follows:

‘Second, s 19 excludes liability in the event of a failure to provide information in a particular form. Section 19(f) provides that if the third party refuses or fails:

“(i) to submit to the Fund or such agent, together with his or her claim form as prescribed or within reasonable period thereafter and if he or she is in a position to do so, an affidavit in which particulars of the accident that gave rise to the claim concerned are fully set out; or

(ii) to furnish the Fund or such agent with copies of all statements and documents relating to the accident that gave rise to the claim concerned, within reasonable period after having come into possession thereof....,” the Fund shall not be obliged to compensate the third party in terms of s 17 for any loss or damage. The affidavit and copies of statement and documents mentioned in s 19(f) are required to provide details of how the accident giving rise to the claim arose. It is abundantly clear that the purpose of this provision is, inter alia, to furnish the Fund with sufficient information to enable it to investigate the claim and determine whether or not it is legitimate.’

[14] The requirement upon a claimant when lodging a claim is to furnish sufficient information to enable the defendant to properly assess and investigate the claim. It is not apparent how the absence of, or an illegible stamp upon the accident report could frustrate the defendant’s statutory duty to investigate the claim. The accident report in my view was duly filed. This special plea must also fail.

[15] Accordingly the following order is made:

- 1 The defendant’s non-compliance with the rules is condoned.
- 2 The special pleas are dismissed.
- 3 Costs shall be costs in the cause.

L MPAMA
ACTING JUDGE OF THE HIGH COURT

Appearances

For the applicant: V Bahlekazi
Instructed by: Maduba Incorporated,
Bloemfontein

For the respondent: A Ostermeyer
Instructed by: Office of the State Attorney,
Bloemfontein.