

REPUBLIC OF SOUTH AFRICA



IN THE HIGH COURT OF SOUTH AFRICA  
(GAUTENG DIVISION, PRETORIA)

CASE NO: A120/2025

(1) REPORTABLE: YES / NO  
(2) OF INTEREST TO OTHER JUDGES: YES / NO  
(3) REVISED: YES/ NO  
DATE: 08 June 2026 Signature.. [REDACTED]

In the matter:

RAND MUTUAL ASSURANCE (PTY) LTD

APPLICANT

AND

SOPHIA BENT

RESPONDENT

*This Judgment is deemed to have been handed down electronically by circulation to the parties' representatives via email and uploaded onto the caselines system on 08 June 2026 at 11h00.*

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Judgment- Leave to Appeal

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Thupaatlase AJ (Lenyai J concurring)

## **Introduction**

[1] This is an application for leave to appeal against the judgment of this court dated 09 December 2025. The said judgment against which leave to appeal is sought is detailed enough and the court do not intend to rehash its reasoning and its findings.

[2] In the judgment the court upheld the appeal by the respondent against the decision of Tribunal wherein it upheld the decision of Rand Mutual Assurance (applicant) to reject the claim submitted in terms of *Compensation for Occupational Injuries and Diseases Act 130 of 1993 (COIDA)*. The court set aside the decision of the Tribunal dated 03 April 2025 and held that the respondent was entitled to compensation as envisaged in section 22(1) in terms of COIDA.

[3] The court further remitted the matter to applicant herein for a calculation and determination of the amount for compensation payable to the respondent herein as a result of the incident. The applicant was ordered to pay costs on an attorney and client scale.

## **The Legal Frame work**

[4] Section 17(1) (a) of the Superior Courts Act 10 of 2013 provides that leave may only be granted where the judge is of the opinion that:

4.1 The appeal would have reasonable prospects of success; or

4.2. There is some other compelling reason why the appeal should be heard, including conflicting judgments on the matter under consideration.

[5] It is trite that the threshold for granting leave to appeal has been raised under the current dispensation. In the case of *MEC for Health, Eastern Cape v Mkhitha* 2016 (6) SA (SCA) 1 at para 17 held that:

'An application for leave must convince the court on proper grounds that there is a reasonable prospect or realistic chance of success on appeal. A mere possibility of success, an arguable case or one that is not hopeless is not enough. There must be a sound, rational basis to conclude that there is reasonable prospect of success on appeal.'

[6] It is clear that the word 'would' in section 17 (1)(a) indicates a measure of certainty that another court will differ from the court whose judgment is sought to be appealed against, not merely that it might do so.

[7] There is a clear recognition of the heightened threshold in cases where leave to appeal is sought. In the case of *Dexgroup (Pty) Ltd v Trusco Group Intl (Pty) Ltd* 2013 (6) SA 520 (SCA) at para 24 court reiterated that:

'The need to obtain leave to appeal is a valuable tool in ensuring that scarce judicial resources are not spent on appeals that lack merit. It should in this case be deployed by refusing leave to appeal.'

### **Grounds of Appeal**

[8] As stated at the beginning of this judgment, the court dealt comprehensively with the authorities dealing directly with the matter before it. In its oral argument before the court, counsel for applicant emphasised that the case has potential for massive precedence value. It is the conclusion of this court that such a consideration cannot be used as a measure to grant leave to appeal. A further point raised by Counsel for the applicant was that Rand Mutual needs guidance on similar future matters. I am of the view that this is not a point that can justify granting leave to appeal.



[9] It is clear from the grounds of appeal and oral arguments before the court that what the applicant actually appears to want is an opportunity to re-argue the matter before the appeal court. The court was not pointed to any misdirection in its judgment.

[10] In respect of the grounds of appeal raised by the applicant, the judgment dealt with the facts and the law as presented by the parties. It is clear from the judgment how the Court arrived at each conclusion on the contentious issues raised by each party. When the facts and the law are examined, there is in my view no sound and rational basis for the conclusion that the appeal would have a reasonable prospect of success.

[11] Given the factual findings made in the judgment the court is not persuaded that another court 'would' reach a different conclusion. In the circumstances, the applicant has failed to meet the threshold of section 17(1) (a) (i) and (ii) of the Superior Courts Act 10 of 2013.

[12] The following order is made:

1. The application for leave to appeal is dismissed.
2. The applicant is to pay the respondent's costs and Counsel's fees on a party and party on Scale C.

  
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**T THUPATLAASE AJ**  
**ACTING JUDGE OF THE HIGH COURT**  
**GAUTENG DIVISION, PRETORIA**

I concur and it is so ordered.

  
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**MMD LENYAI J**  
**JUDGE OF THE HIGH COURT**  
**GAUTENG DIVISION, PRETORIA**

Heard on: 01 April 2026

Judgment delivered on 08 June 2026

Appearances:

For the Applicant: Adv. M Meyerowitz

Instructed by: Precious Nobuhle Mudau Inc. (PNM Incorporated)

For the Respondent: Adv. J Du Plessis

Instructed by: Briel Incorporated