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

Not reportable
Case no: 2671/2025

In the matter between:

MPHUTHI MOEKETSI JAMES **PLAINTIFF**

and

ROAD ACCIDENT FUND **DEFENDANT**

Neutral citation: *James v Road Accident Fund* (2671/2025) [2026] ZAFSHC 380 (28 July 2026)

Coram: MPAMA AJ

Heard: 29 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 14h45 on 28 July 2027.

Summary: Road Accident Fund – special plea – validity of claim – s 24 of the Road Accident Fund Act 56 of 1996 – objection period – 60 days – substantial compliance – merits – passenger claim – negligence – tyre burst – default proceedings.

ORDER

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1 The special plea is dismissed.

2 The defendant shall be liable for payment of 100% of the plaintiff's proven or agreed damages.

3 Quantum is separated and postponed *sine die*.

4 The costs shall be costs in the cause.

JUDGMENT

Mpama AJ

[1] This is a claim against the Road Accident Fund (the defendant) for damages arising out of a motor vehicle accident. At the commencement of the proceedings, I was informed that the matter was enrolled for the purpose of arguing the special plea and hearing of the merits with the quatum to be seperated for later adjudication. I granted seperation of the issues and the matter proceeded before me on special plea and merits. Ms Lephoto appeared on behalf of the defendant. She advised that she was duly instructed to argue the special plea but held no instructions to address the merits. She further indicated that, insofar as the merits are concerned, the plaintiff would proceed on the merits by way of default.

[2] On 13 January 2024, the plaintiff was travelling between Bothaville and Allanridge. He was a passenger in a bakkie driven by the insured driver, Mr Thekiso, when he was involved in a motor vehicle accident and sustained bodily injuries. On 12 December 2024, the plaintiff lodged his claim with the defendant. The claim was lodged with the following documents: the plaintiff's copy of identitity document; special power of attorney; consent form; an accident report; s 19*(f)* affidavit; plaintiff's salary advice; medical records and RAF 4 form. The defendant, by way of correspondence dated 22 March 2025, lodged an objection. The defendant objected to

the validity of the plaintiff's claim on the basis that the claim did not meet all the requirements for a valid claim in terms of section 24(1) of the Road Accident Fund Act 56 of 1996 (the Act) read with Board Notice 271 of 2022. In the said correspondentce, inter alia, the defendant required the following documents from the plaintiff: medical reports establishing the claimant's disability; employment certificate; proof of injuries; official documents confirming any disability; payslips pre and post accident; proof of any income and an itemised tax invoice from a registered medical provider and/or hospital records for past medical expenses.

[3] On 27 May 2025, the plaintiff commenced action proceedings against the defendant. The defendant filed a plea and later on an amended plea wherein a special plea was raised. The defendant requested condonation for the late filing of the amended plea.The plaintiff informed the court that, despite the amendment being filed within a short period before the hearing of the trial, the plaintiff condoned non-compliance with the court rules and pleaded with the court to also do so as the best interest of the plaintiff would be served if such condonation is granted. In the exercise of my discretion and in the interest of justice, I granted the condonation.

[4] During the course of the hearing, the defendant contended that the plaintiff's RAF1 form was defective in that it omitted certain particulars pertaining to the plaintiff's medical report and further that it was not accompanied by the required hospital records. It was argued that such non-compliance constituted a contravention of s 24(2) of the Act and rendered the plaintiff's claim invalid. It was further submitted that the defendant had formally objected to the claim and communicated such objection to the plaintiff by way of correspondence dated 22 March 2025, which was served on the plaintiff. Notwithstanding the said objection and without furnishing any response thereto, the plaintiff procceded to issue summons.The defendant proposed that the special plea be upheld.

[5] The plaintiff, however, expressly denied that the defendant's objection was delivered within the statutory period of 60 days, as required of the defendant. It was the plaintiff's contention that the purported objection was filed way beyond the 60 day period as it is dated 20 March 2025, which was never served on the plaintiff, as the plaitiff first saw it when the defendant filed its special plea. The plaintiff argued that the objection is of no legal force or effect and the defendant cannot at this point raise a special plea on

the validity of the plaintiff's claim. Lastly, with reference to authorities, it was argued, that in the event the court finds there was a valid objection lodged by the defendant, it should find, in consideration of the documents lodged with the claim, that the plaintiff substantially complied with s 24 of the Act.

[6] Section 24(1) and (2) of the Act provides:

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

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

(b) . . .

(2)*(a)* The medical report shall be completed on the prescribed form by the medical practitioner who treated the deceased or injured person for the bodily injuries sustained in the accident from which the claim arises, or by the superintendent (or his or her representative) of the hospital where the deceased or injured person was treated for such bodily injuries: Provided that, if the medical practitioner or superintendent (or his or her representative) concerned fails to complete the medical report on request within a reasonable time and it appears that as a result of the passage of time, the claim concerned may become prescribed, the medical report may be completed by another medical practitioner who has fully satisfied himself or herself regarding the cause of death or the nature and treatment of the bodily injuries in respect of which the claim is made.'

[7] Section 24(5) of the Act provides:

'If the Fund or 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 agents as contemplated in subsection (1), object to the valdity thereof, the claim shall be deemed to be valid in law in all respects.'

[8] On whether the defendant objected to the plaitiff's claim within the prescribed 60 day period or not I do not intend to dwell at length. First, when the plaintiff raised the issue concerning the late objection by the defendant, the defendant neither denied the allegation nor furnished proof that such objection was duly served upon the plaintiff. In my view this constitutes an admission by the defendant that the objection was filed out of time and never served upon the plaintiff. Section 24(5) of the Act obliges the defendant to lodge its objection within 60 days of the claim being lodged. It is my opinion that the defendant cannot by way of a special plea or outside the 60 day period, object to the validity of the claim when it has failed to comply with the statutory time period. The claim is deemed valid in law .The purported objection is invalid and of no legal effect. Therefore, the special plea stands to be dismissed as the defendant never filed a valid objection to

the claim of the plaintiff.

[9] Even in the event that I am not right on this issue, one must not lose sight of that the purpose of the RAF1 form is to enable the defendant to investigate the claim. It remains pertinent that this Division has in several decisions pronounced upon the very issue in question, since the defendant habitually raised such special plea in prior proceedings. This Court has held that there are peremptory requirements governing the submission of claims whereas the prescribed requirements relating to the completeness of the form are directory in nature and accordingly, substantial compliance with such requirements was sufficient.[1] In addition, the Supreme Court of Appeal (SCA) in its most recent decision In *Road Accident Fund and Others v Legal Practitioners' Indemnity Insurance Fund, NPC and Others*[2] has finally settled this issue. The SCA was required to determine whether the court a quo had correctly reviewed and set aside two board notices, including Board Notice 271 of 2022 (which introduced more stringent requirements and mandated additional documentation for claims) issued by the Road Accident Fund. The court, amongst other things confirmed that the Minister's decision to issue Board Notice 271 of 2022, constituted an administrative action which was unlawful and fell to be set aside. The court held further that the new requirements imposed upon claimants created unjustified barriers to compensation. The RAF1 form, together with the accompanying documentation lodged with the defendant in these proceedings, demonstrates that the plaintiff has substantially complied with the requirements of s 24 of the Act.

[10] The matter proceeded on the merits by way of default. The plaintiff adduced evidence to the effect that on 29 April 2026, he was a passenger in a motor vehicle driven by his colleague, Mr Thekiso. The accident occurred in the morning at about 11h00. The vehicle was being driven along a tarred road when a sudden sound, consistent with the bursting of a tyre was heard and the vehicle overturned. The driver was unable to control the car and it overturned. He was unable to recall the exact sequence of events thereafter but can recall that after the accident he laid on the ground having sustained severe injuries

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[1] *Jeje v Road Accident Fund* (4628/2023) [2024] ZAFSHC 265 (27 August 2024) para 11; *Ranosi v Road Accident Fund* (6056/2023) [2024] ZAFSHC 310 (20 September 2024) paras 4-6 and 11-12 and *Rasenyalo v Road Accident Fund* (958/2023) [2024] ZAFSHC 150 (1 July 2024) paras 11-14.

[2] *Road Accident Fund and Others v Legal Practitioners' Indemnity Insurance Fund, NPC and Others* [2026] ZASCA 63; [2026] 2 ALL SA 489 (SCA) paras 33-34

on the head, ear, leg and shoulders. He was transported to Bothaville Hospital and later transferred to Welkom Mediclinic. Due to the severity of the injuries sustained during the motor vehicle accident he is unemployed. The insured driver is solely to blame for the accident and was very negligent in operating the vehicle.

[11] The plaintiff argued that because this is a passenger's claim, the plaintiff must only prove 1% negligence on the part of the insured driver to succeed with a claim and the unrebutted evidence proves that the driver was negligent in driving the vehicle hence the vehicle overturned after the tyre burst It is indeed so that this is a passenger's claim and the plaintiff needs to prove only 1% negligence on the part of the insured driver on a balance of probabilities. Where an inference of negligence is to be drawn, once a plaintiff establishes a prima facie case of negligence, the defendant bears an evidential burden to displace the inference of negligence to be drawn.

[12] Regarding a motor vehicle caused by a tyre burst, the court in *Road Accident Fund v Abrahams*[3] said the following:

'[23] Jansen JA explained in *Santam* at 332D: "It can however happen that even in the instance of blameless driving of a motor vehicle, injury or death may result, for example as a result of a wheel which becomes dislodged. If the dislodgement, and the resultant death or injury is due to negligence of the owner (for example because he did not tighten it properly) then the insurer of the particular vehicle is liable because death or injury occurred, despite the blameless driving . . .'

[24] For present purposes it must be assumed that the respondent would prove his allegations against the insured driver at the trial. It is clear that the insured motor vehicle was driven at the time of the accident. The tyre burst was dependant on this fact. As a result, the causal connection between the injuries suffered by the respondent and the driving is sufficiently real. In the circumstances there is no merit in the appellant's contention.'

[13] Upon consideration of the evidence adduced, it is established that the plaintiff was a passenger in a motor vehicle operated by the insured driver at the time of the accident. The evidence details that the vehicle overturned following the bursting of a tyre and he attributes the cause of the accident to the negligent conduct of the driver. This account of events remains unchallenged by the defendant. In my view, the plaintiff has

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[3] *Road Accident Fund v Abrahams* [2018] ZASCA 49; 2018 (5) SA 169 (SCA).

successfully demonstrated negligence on the part of the driver while no contributory negligence can be ascribed to the plaintiff. Accordingly, liability for damages sustained by the plaintiff rests entirely on the defendant.

[14] The general principle is that costs follow the event. There is no reason for me to deviate from the general principle. The following order is made:

1 The special plea is dismissed.

2 The defendant shall be liable for payment of 100% of the plaintiff's proven or agreed damages.

3 Quantum is separated and postponed *sine die*.

4 The defendant is ordered to pay plaintiffs costs to be on scale B in accordance with Rule 67A of Uniform Rules of this Honourable Court.

[redacted]

L MPAMA

ACTING JUDGE OF THE HIGH COURT

Appearances

For the plaintiff:	E E Barlow
Instructed by:	Mavuya Attorneys Bloemfontein
For the defendant:	M Lephotho
Instructed by:	The State Atorney, Bloemfontein.