



**IN THE HIGH COURT OF SOUTH AFRICA
MPUMALANGA DIVISION, MIDDELBURG**

CASE NO: 1714/2024

DELETE WHICHEVER IS NOT APPLICABLE
(1) REPORTABLE: **NO**
(2) OF INTEREST TO OTHER JUDGES: **NO**
(3) REVISED **YES/NO**

SIGNATURE

03/09/2026

DATE

In the matter between:

FREDDY THABISO SHOROMA

PLAINTIFF

And

ROAD ACCIDENT FUND

DEFENDANT

Delivered: This judgment was handed down electronically by circulation to the parties' legal representatives by email. The date for hand down is deemed to be 03 September 2026.

JUDGMENT

Phahlamohlaka J

[1] The plaintiff, Freddy Thabiso Shoroma, claims damages against the Road Accident Fund ('defendant') as a result of the injuries arising from a motor vehicle accident that occurred on 27 March 2020.

[2] The merits and general damages have been settled, and the dispute now centres on the defendant's special plea regarding the plaintiff's claim for past and future loss of earnings. The defendant alleges non-compliance with Section 24 of the Road Accident Fund Act 56 of 1996 ("the Act") which provides that:

“(1) A claim for compensation and accompany medical report under section 17 one 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 original 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 is in writing.

(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 any other 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.”

[3] The plaintiff lodged a claim with the RAF on 18 May 2023, which included a claim for past and future loss of earnings. The defendant raised a special plea, asserting that the plaintiff failed to indicate a claim for loss of earnings in the RAF1 form and thus cannot enforce such a claim.

[4] The defendant further contends that the plaintiff's lodgement was non-compliant and that objections were raised in writing.

[5] The Supreme Court of Appeal in *Nonkwali v RAF*¹ held that:

“[9] The effect of this finding cannot be articulated better than Corbett JA did in *Evins v Shield Insurance Co Ltd* 1980 (2) SA 814 (A). There, the court dealing with the concept of a single course of action in the context of prescription with regard to the amendment of the particulars the plaintiffs claim as originally pleaded by him, set said:

‘Where the plaintiff seeks by way of amendment to augment his claim for damages, he will be precluded from doing so by prescription if the new claim is based upon a new course of action and the relevant prescriptive period has run, but not if it was part and parcel of the original cause of action and merely represents a fresh quantification of the original claim or the addition of a further item of damages.’

¹ *Nonkwali v RAF*¹ [2008] ZASCA 3 at para 10

a plaintiff's claim under the Act is a single, indivisible cause of action, and the various heads of damages are not separate claims.

[6] Closer to home, Mangena AJ of this Division dealt with same issue in *Mthimkhulu v Road Accident Fund*² where he stated the following:

"I fully align myself with the above sentiments. This is in line with the 'once and for all rule' which requires a party with a single course of action to claim in one and the same action whatever remedies the law accords him. The rationale underlying the rule is that, if a cause of action has previously been fully litigated between the parties, then a subsequent attempt by the one to proceed against the other on the same course for the same relief can be met by an exception *rei judicatae vel litis finitiae*. The rationale in our law is to prevent inextricable difficulties arising from discomfort or conflicting decisions due to the same suit being aired more than once in different judicial proceedings or actions. The rule has its origins in considerations of public policy which requires that there should be attempts set to litigate and that an accused person or defendant should not be twice harassed in respect of the course same course..."

[7] I fully align myself with the views expressed in the judgments I referred to above. The law in this regard is settled, that compliance with section 24 of the RAF Act does not require that the plaintiff ought to submit a claim form for every head of damages they intend to pursue. In my view, the fact that the

² 2608/2024) [2026] ZAMPMBHC 27 (11 March 2026) at para [15]

plaintiff did not include one head of damage in the claim form is not a bar to pursue that head at a later stage.

[8] The plaintiff lodged a claim for loss of earnings by registered post and received an objection from the defendant. The defendant's special plea is based on the alleged failure to indicate this head of damage in the RAF1 form.

[9] The legal position, as established by the authorities above, is that the failure to specify a head of damage in the RAF1 form does not bar the plaintiff from claiming it in court, provided it arises from the same cause of action.

[10] In my view, the defendant's reliance on procedural non-compliance is misplaced. I cannot find any authority that supports the defendant's contention.

[11] However, the plaintiff still bears the burden of proving the quantum of loss of earnings with admissible evidence. The defendant has raised concerns about the sufficiency of such evidence, including lack of collateral information and documentary proof, but this will only be dealt with at trial.

[12] After having considered the relevant authorities, it is my considered view that the defendant's special plea is meritless and therefore stands to be dismissed.

Order

[13] In the result I make the following order:

14.1 The defendant's special plea is dismissed.

14.2 The defendant is ordered to pay costs including costs of counsel to be taxed on scale B.


K F PHAHLAMOHLAKA
JUDGE OF THE HIGH COURT
MPUMALANGA DIVISION, MIDDELBURG

Appearances

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Defendant: Mr Mkansi
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Date judgment reserved: 30 April 2026