

SOUTH AFRICA / JUDGMENT

Baloyi v Road Accident Fund (3959/18) [2025] ZAGPPHC 665 (27 June 2025)

[2025] ZAGPPHC 665

COURT

North Gauteng High Court, Pretoria

BEFORE

De Jager

CASE / FILE NUMBER

3959/18

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REPUBLIC

OF SOUTH AFRICA

IN

THE HIGH COURT OF SOUTH AFRICA

GAUTENG

DIVISION, PRETORIA

CASE

NUMBER: 3959/18

(1)

REPORTABLE: NO

(2)

OF INTEREST TO OTHER JUDGES: NO

(3)

REVISED.

DATE

27/06/2025

SIGNATURE

In

the matter between: BALOYI
VINCENT ATLHOLANE
And
ROAD
ACCIDENT FUND

JUDGMENT

DE JAGER AJ

- [1] This matter was before me for adjudication on 25 June 2025, set down on the Trial Default Judgement Roll. The claim is for an amount in excess of R10 000 000.00 (Ten Million Rand).
- [2] The expert reports uploaded substantiating the Plaintiff's traumatic brain injury contain several factual statements that the Plaintiff is forgetful, unable to count, or to be left alone as he gets lost. Family members further report that the Plaintiff is mentally unstable and spends time with people in the community who are psychotic.
- [3] The expert reports and counsel during argument confirmed that the Plaintiff is functionally illiterate.
- [4] A practice note and heads of arguments were filed, these did not deal with the Plaintiff's ability to furnish instructions or manage his own affairs.
- [5] It appears that merits have not been conceded or adjudicated despite an offer and acceptance for general damages in the amount of R350 000.00 (Three Hundred and Fifty Thousand Rand). Counsel was not able to indicate how this occurred, or even if it is possible.
- [6] The Plaintiff, despite the above, attested to affidavits in this matter and ostensibly instructed his legal team. After deliberation with counsel about the ability of the Plaintiff to instruct his legal representatives, it was requested that this matter be removed. The matter stood down to 27 June 2025.
- [7] It appears that subsequent to the appearance on 25 June 2025, a proposed deed of trust, and appointment of a trustee was uploaded. This is a belated attempt at trying to protect future funds that may be awarded to the Plaintiff, in circumstances where the Plaintiff on what is currently before Court, cannot sensibly give instruction to the legal team. This is not acceptable.
- [9] I am compelled to appoint an independent curator ad litem to assist the Plaintiff and report to Court.
- [10] Accordingly, the following order is made:
 - 1. That a Curator ad litem is to be appointed in the matter by the acting Deputy Judge President, N Davis.

2. The Pretoria Society of Advocates, under the leadership of Adv L Haupt within 5 (five days) of this order nominate a senior advocate, of more than 20 years adequate experience in matters of personal

injury to act as Curator ad litem in this matter on behalf of the Plaintiff.

3. The name of such nominated Curator ad litem to be communicated to the Honourable Justice N Davis.
4. The nominated Curator ad litem to assist the Plaintiff in this matter with the powers and duties as set out below.
5. The nominated Curator ad litem is authorised to approach the Acting Deputy Judge President, alternatively a Judge in chambers to extend the powers and functions in the event that such powers and functions as set out is not sufficient.
6. The nominated Curator within 30 court days of today, being 11 August 2025 report to Honourable Justice N Davies in this matter, specifically regarding the following matters:
 - 6.1 The Plaintiff's ability to manage his own financial affairs and take decisions with regards to his person;
 - 6.2 The acceptance of the amount of R350 000.00 (Three Hundred and Fifty Thousand Rand) as full and final settlement for general damages in this matter [CASELINES 12 (1)];
 - 6.3 How the amount for general damages received by the Plaintiff's attorneys has been utilized;
 - 6.4 The signed confirmatory affidavit of the Plaintiff dated 24 January 2025 [CASELINES 009:2], given the severity of the brain injury of the Plaintiff and the reports by experts indicating that the Plaintiff cannot read;
 - 6.5 The validity of the contingency fee agreement uploaded under [CASELINES 13];
 - 6.6 The suitability of the current legal representation of the Plaintiff to continue the representation of the Plaintiff in this matter;
 - 6.7 The costs, if any of the action to date including costs associated with the appearance on 25 and 27 June 2025;
 - 6.8 The belated (26 June 2025) uploaded deed of the trust;
 - 6.9 The further conduct of the current action and any further potential claims that the Plaintiff may have, including the possible rescission of the full and final award of R350 000.00 in general damages.
7. The attorneys of record are ordered to provide the curator with copies of all information and documents relating to the Plaintiff's claim.
8. The Plaintiff's attorneys to attend to the urgent service of

this order by sheriff on the offices of the Pretoria Bar, and via email on

8.1 Adv L Haupt (Pretoria Bar) a[...];

8.2 Office Manager – Petra Jacobs (Pretoria Bar) m[...]

9. The costs of the 25 and 27 June 2025 is reserved.

J DE JAGER

ACTING JUDGE, THE HIGH COURT

Date of hearing : 25 June 2025

Date of Judgment : 27 June 2025

Appearances:

For The Plaintiff : Adv. Brian Matlhape

Instructed by : Chauke J Attorneys Inc

For The Defendant : No Appearances

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Prepared on 9 October 2026 · Esheria