

SOUTH AFRICA / JUDGMENT

Fikre v Road Accident Fund (26899/19) [2025] ZAGPPHC 680 (30 May 2025)

[2025] ZAGPPHC 680

COURT

North Gauteng High Court, Pretoria

BEFORE

P D Kekana

CASE / FILE NUMBER

26899/19

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REPUBLIC OF SOUTH AFRICA

IN THE HIGH COURT OF SOUTH AFRICA

GAUTENG DIVISION, PRETORIA

Case Number: 26899/19

(1) REPORTABLE: NO

(2) OF INTEREST TO OTHER JUDGES: NO

(3) REVISED: NO

In the matters between: -

TESFAYE LODAMO FIKRE

PLAINTIFF

And

ROAD ACCIDENT FUND

DEFENDANT

JUDGMENT

KEKANA AJ

INTRODUCTION

- [1] This is an action for damages brought by the plaintiff against the Road Accident Fund (the Fund) in terms of the provisions of the Road Accident Fund Act 56 of 1996 (the Act), as amended. The action proceeded in the absence of the defendant.
- [2] The matter proceeded on both merits and quantum. The plaintiff testified and did not call any witnesses concerning merits. Regarding quantum, an application in terms of Rule 38(2) of the Uniform Rules was granted in respect of the evidence of the following experts Dr P.T Kumburai, Drs Mkhabele and Indunah, Dr M Makgato, Dr L Mayayise and N Waistberg.

BACKGROUND

- [3] The plaintiff was involved in a car accident on the 28th September 2017 and was admitted and treated at Globblersdal Hospital after sustaining injuries.

TESTIMONY

4] The plaintiff testified that on 28 September 2017, at approximately 20h00, he was driving a motor vehicle from Pretoria to Groblersdal, accompanied by three friends. The plaintiff was travelling along a two-way road and approaching a bend when he encountered an oncoming vehicle. He was unable to observe the vehicle's registration number. According to the plaintiff, the unidentified vehicle, which was towing a trailer, veered into his lane while overtaking a truck. In response, the plaintiff flashed his headlights to signal to the driver to return to the correct lane. Although the vehicle did manage to do so, the plaintiff's vehicle collided with the trailer it was towing, causing the plaintiff's vehicle to overturn. The plaintiff regained consciousness in hospital. When asked about the accident report, which reflected a different version of events, the plaintiff claimed that he had not reported the accident to the police.

THE LAW

- [5] Section 17(1)(b) of the Road Accident Fund Act provides as follows:

“The Fund or an agent shall, subject to any regulation made under section 26, in the case of a claim for compensation under this section arising from the driving of a motor vehicle where the identity of neither the owner nor the driver thereof has been established, be obliged to compensate any person (the third party) for any loss or damage which the third party has suffered as a result of any bodily injury to himself or herself or the death of or any bodily injury to

any other person, caused by or arising from the driving of a motor vehicle by any person at any place within the Republic, if the injury or death is due to the negligence or other wrongful act of the driver or of the owner of the motor vehicle or of his or her employee in the performance of the employee's duties as employee.”

ANALYSIS

[6] It is common cause that the plaintiff sustained injuries in a motor vehicle accident. The onus rests on the plaintiff to establish, on a balance of probabilities, (a) that the driver of the unidentified vehicle was negligent, and if so, (b) that such negligence caused the harm he suffered.

[7] According to the plaintiff's testimony, the accident occurred when his vehicle collided with a trailer, which had encroached into his lane, being towed by an unidentified vehicle. An accident report, completed on the same date (28 September 2017), was introduced into evidence. It was compiled by Warrant Officer Bogopa, who recorded the following description:

"The driver alleges that he was traveling from Groblersdal to Dennilton road on R25 on the curve the torched (sic) the gravel road and lost control the vehicle overturned on the other side of the road."

[8] Depicted on the accident report is a sketch that aligns with the description therein. Although the wording is clumsy, the report

indicates that the plaintiff lost control of the vehicle after the vehicle came into contact with the gravel on a curve. Notably, there is no mention of an unidentified vehicle or trailer in either the narrative or the sketch.

[9] The plaintiff denied having reported the accident to the police and thus refuted the version contained in the accident report. His legal representative argued that the accident report merely reflected the observations of the police officer after the fact.

[10] However, this submission is not supported by the contents of the report. The officer explicitly prefaced the statement with the phrase: "The driver alleges that ...", clearly indicating that the information was obtained from the plaintiff

himself. The officer was not called to testify to clarify the source or accuracy of the information recorded. Furthermore, the plaintiff did not call any of his three passengers to corroborate his version, stating that he no longer knew their whereabouts.

[11] The court is thus faced with two irreconcilable versions—both emanating from the plaintiff. In court, he claimed that the accident was caused by a collision with the trailer of an unidentified vehicle. In contrast, the accident report—submitted as part of his own case—attributes the incident to him losing control after driving onto gravel on a bend.

[12] The plaintiff asked the court to disregard the version in the accident report on the basis that he had not made any statement to the police. This explanation is untenable. The officer who compiled the report expressly stated that the account recorded was provided by the driver. The plaintiff's failure to challenge or correct the report at the time, and his failure to call the officer as a witness, weakens his position significantly.

CONCLUSION

[13] While the plaintiff's testimony stands as the sole evidence before this court, the contradictions within his own account are material and cannot be ignored. He has offered no satisfactory explanation for why the allegedly incorrect information in the

accident report was not addressed or rectified. It was incumbent upon him to call the officer if he wished to challenge the report's

contents. In the absence of corroborative evidence—either from the officer or the plaintiff's passengers—the court is left only with the plaintiff's conflicting versions. The plaintiff has failed to discharge the burden of proof.

[14] I therefore find that there is no evidence upon which a court applying its mind reasonably to evidence could or might find for the Plaintiff. See *Claude Neon Lights (SA) Ltd v Daniel* 1976 (4) SA 403 (A). The plaintiff failed to prove on a balance of probabilities that he sustained injuries as a result of the negligent driving of the

unidentified driver. Accordingly, the claim must fail.

I therefore make the following order:

1. Absolution from the instance.

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P D KEKANA

ACTING JUDGE OF THE HIGH COURT

Date of hearing: 12 February 2025

Date of judgment: 30 MAY 2025

Appearances

For the Applicant: ADV M E MANALA

Instructed by: A.P Phefadu Incorporated

012 328 8802

For the defendant: No Appearance

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Prepared on 9 October 2026 · Esheria