

SOUTH AFRICA / JUDGMENT

Howell v Road Accident Fund (2019/28805) [2025] ZAGPJHC 401 (23 April 2025) [2025] ZAGPJHC 401

COURT

South Gauteng High Court, Johannesburg

BEFORE

GC Wright

CASE / FILE NUMBER

2019/28805

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IN THE HIGH COURT OF SOUTH AFRICA

GAUTENG DIVISION, JOHANNESBURG

CASE NO: 2019/28805

1. Reportable: No
2. Of interest to other judges: No
3. Revised

23 APRIL 2025

WRIGHT J

HOWELL, HERBERT JAMES KNOCKIES

Applicant

and

ROAD ACCIDENT FUND

Respondent

JUDGMENT

WRIGHT J

1. In this trial in which the plaintiff, Mr Howell claims damages from the RAF arising out of an alleged motor bike accident in 2017, Mr A Louw who appears for Mr Howell, asks that the trial proceed.
2. It would appear that there is agreement that the question of the merits be separated from that of quantum.
3. The RAF denies liability.
4. The matter was set down for trial starting yesterday, 22 April 2025. The matter was allocated to me yesterday afternoon and I was able to proceed today, over Teams, at 12 noon. Mr Madesele for the RAF had requested that I start today at 12 noon. There is some dispute between Mr Louw and Mr Madesele as to precisely who is to blame for the matter not proceeding earlier today than 12 noon.
5. The matter is not ripe for trial.
6. The RAF has not discovered and this morning it uploaded to caselines various documents, some of which are barely legible.
7. The newly uploaded documents include a copy of the police docket and include an apparent statement by Mr Howell to the police made in 2018 in which Mr Howell allegedly said that he remembered nothing of the accident.
8. Mr Louw indicated that he would call Mr Howell and possibly two other witnesses on the merits.
9. Mr Madesele indicated that he would seek to cross-examine Mr Howell on his alleged statement to the police in 2018.
10. During the course of debate, Mr Louw agreed that Mr Howell had made an affidavit dated 19 March 2018, at caselines 19-101 to 19-102, which is accurate and made freely and voluntarily. This affidavit, it was agreed by Mr Louw, could be used by Mr Madesele in cross-examining Mr Howell.
11. However, the alleged statement by Mr Howell to the police in 2018 would be the subject of a trial within a trial. Mr Madesele would not be allowed to cross-examine Mr Howell on this statement until its admissibility is proved. This is because Mr Louw disputed the admissibility of the 2018 statement.
12. Regarding costs, it appears, and I put it no higher than that, that Mr Howell in fact made a statement to the police in 2018. He has not discovered this statement.
13. Costs should be reserved. In due course the truth about the 2018 statement will hopefully be revealed. It is then that a proper finding about all the possible causes for the matter not proceeding today can be made.

14. Mr Madesele agreed to a suggestion by Mr Louw that the RAF discover by 5 May 2025 and that failing such discovery Mr Howell could apply for the striking of the defence and the entering of judgment.

ORDER

1. The matter is removed from the roll.
2. Costs reserved.
3. The defendant is to discover by 4pm on 5 May 2025, failing which the plaintiff may apply for the striking of the defence and the entering of judgment in favour of the plaintiff.

GC Wright

Judge of the High Court

Gauteng Division, Johannesburg

HEARD: 23 April 2025

DELIVERED: 23 April 2025

APPEARANCES :

Plaintiff Adv A Louw

antonlouw@law.co.za

Instructed by Potgieter R Attorneys

rudolph@potgieterattorneys.co.za

Defendant Att M Madesele

matimuma@raf.co.za

Instructed by Road Accident Fund

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