

SOUTH AFRICA / JUDGMENT

Mokgaetjie v Road Accident Fund (61400/2023) [2025] ZAGPJHC 293 (27 February 2025) [2025] ZAGPJHC 293

COURT

South Gauteng High Court, Johannesburg

BEFORE

Weideman

CASE / FILE NUMBER

61400/2023

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IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG LOCAL DIVISION,
JOHANNESBURG
CASE
NO: 61400/2023

DATE: 27-02-2025
(1)
REPORTABLE: NO.
(2)
OF INTEREST TO OTHER JUDGES: NO.
(3)
REVISED.
In
the matter between
MATLOU
LINAH MOKGAETJIE
Plaintiff
and
ROAD ACCIDENT
FUND
Defendant

JUDGMENT

WEIDEMAN, AJ:

This matter was a loss of support claim instituted on behalf of one of the children of a father who passed away in an accident which occurred on the 8th of February 2020. The child's date of birth is the 17th of August 2017.

The matter had been standing down since Tuesday to allow the plaintiff to obtain clarity on the status of the claims of the widow and the deceased's five other children. From the available documentation it appeared that the deceased fathered six children, albeit that the documentation to hand does not confirm whether all of the children were born out of his relationship with the plaintiff in this matter.

When the matter was called again today, counsel drew the court's attention to documentation which had been uploaded onto Caselines and which confirm the settlement of the claims of some of the dependants of the deceased in this matter. The settlement offer does however not specify which of the dependants' claims were addressed by this offer of settlement. On Caselines at 09-11, an offer and acceptance appear, dated 15 June 2022 and in respect of a claimant by the name of Masibuku. This offer is in the sum of R3 987 395.80 but does not specify which of the dependants' claims it addressed.

Before this court is an actuarial report dated 12 May 2022 and which contains a figure of R6 847 324 which represents the total loss of support claim on behalf of what is recorded as the deceased's spouse and his six children. There is no indication as to the relationship between this figure and the amount that had been tendered in respect of some of the other dependants.

The deceased's income was debated with counsel and a question mark was raised over the amount of R88 000 per month emanating from a 2017 payslip and which amount was used for the actuarial calculation in the matter in casu.

Counsel drew my attention to a report that had been uploaded onto Caselines and which is to be read in conjunction with the offer of settlement that is contained on CaseLines 08-11. This document seems to have been generated for the purpose of the settlement of the Masibuko claims.

The income figure per month in that document correlates well with the figure utilised in the actuarial calculation in the matter to hand. Counsel did not draw the court's attention to any documentation and in reading the case, the court did not come across any documentation which could motivate for an assumption that Lethabo (the child to whom this matter relates) would have been supported to age 21. In the circumstances the standard approach of dependency until age 18 must apply.

Turning to the calculation itself, there is no reason to deviate from the figures as produced by the actuary.

My order is therefore as follows:

1. The defendant is liable to the plaintiff in respect of such damages as the plaintiff may be able to substantiate;
2. The defendant shall pay the plaintiff the sum of R837 760 in respect of loss of support;
3. The plaintiff is entitled to claim party-and-party costs as taxed or agreed from the defendant. Counsels' fees to be on Scale B.

WEIDEMAN, AJ

JUDGE OF THE HIGH COURT

DATE:

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Prepared on 11 October 2026 · Esheria