

SOUTH AFRICA / JUDGMENT

## Road Accident Fund v Lombard and Another (74084/2019) [2023] ZAGPPHC 1937 (16 November 2023) [2023] ZAGPPHC 1937

COURT

North Gauteng High Court, Pretoria

BEFORE

Botha

CASE / FILE NUMBER

74084/2019

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IN THE HIGH COURT OF SOUTH AFRICA

GAUTENG DIVISION, PRETORIA

CASE NO: 7 4 0 8 4 / 2 0 1 9

1. REPORTABLE: YES/NO
2. OF INTEREST TO OTHER JUDGES: YES/NO
3. REVISED: YES/NO

DATE: 16/11/2023

In the matter between:

Road Accident Fund

Applicant

And

Henry Lombard

1 st Respondent

The Sheriff Centurion East

2nd Respondent

**REASONS****FOR JUDGMENT**

BOTH A J

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**Introduction**

The Applicant applied for an order in the following terms:

1.1 That the late filing of the application be condoned;

1.2 That the claim for interest for the late payment of the capital by the 1st Respondent be dismissed;

1.3 In the alternative, the Court orders that the court order be varied to include interest on late payment of capital;

1.4 That the 1st Respondent be ordered to pay the costs of this application, in the event of opposition;

1.5 That pending determination of the dismissal of the claim for interest for late payment of capital, the order be suspended or stayed.

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The order

2.1 On 19 March 2021 Millar J made an order in favour of the 1st Respondent and the Applicant was ordered to pay damages to the 1st Respondent within 14 days after the order.

2.2 The order of Millar J did not specifically mentioned the payment of interest.

2.2 Apparently the issue of interest was raised and argued before Millar J and his view was that the aspect of interest need not be incorporated in a court order as it follows ex lege.

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3.1 Full argument was presented during this hearing and regard was had to inter alia the following case law:

- a) General Accident Versekerings Maatskappy Suid Afrika Bpk v Bailey NO 1988 (4) SA 353 (A);
- b) Saunders NO v MEC of the Department of Health: Limpopo Province (899/2013)[2015] ZAGPPHC 360 (1 June 2015);
- c) Thoroughbred Breeders Association v Price Waterhouse 2001 (4) SA 551 (SCA);
- d) Steyn NO v Rona! Bobroff & Partners 2013 (2) SA 311 (SCA);

e) West Rand Estates Ltd v New Zealand Insurance Co Ltd 1926AD 173; and more.

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After listening to argument by both parties and having debated the issue I made the following ruling that formed the basis for the order:

4.1 It is declared that interest follows ex lege on any judgment debt against the RAF and starts running i.t.o. Sec 17(3) (a) of Act 56 of 1996 after 14 days of the date of the judgment;

4.2 To prevent applications as in the instance, it is advisable that a specific prayer for interest be contained in the order;

4.3 It was further ordered that , ex abundanti cautela, the order of Millar J be varied to contain an order for interest that starts running 14 days after the date of the order till date of payment.

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I suffice with my ex tempore judgment and reasons and have nothing more to add.

GB BOTHA

Acting Judge of the High Court

Gauteng Division, Pretoria

Date of Hearing: 16 October 2023

## Judgment

delivered: 16 October 2023

## Reasons

delivered: 16 November 2023

Attorneys for applicant: State Attorney Pretoria

Counsel for applicant: Ms B Rangata

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Counsel for respondent: Adv SJ Myburg

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