

SOUTH AFRICA / JUDGMENT

Vassiliou v Road Accident Fund (820/2022) [2024] ZAGPPHC 1224 (28 November 2024) [2024] ZAGPPHC 1224

COURT

North Gauteng High Court, Pretoria

BEFORE

Mnisi

CASE / FILE NUMBER

820/2022

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REPUBLIC OF SOUTH AFRICA

IN THE HIGH COURT OF SOUTH AFRICA

GAUTENG DIVISION, PRETORIA

CASE NO:820/2022

In the matter between:

CONSTANTINE VASSILIOU Applicant

And

ROAD ACCIDENT FUND Respondent

JUDGMENT:

APPLICATION FOR LEAVE TO APPEAL

MNISI AJ

INTRODUCTION

- [1] This is an unopposed application for leave to appeal to the Full Bench of this division, against the whole judgment and Order which I handed down in the Default Judgment Court on 27 May 2024, dismissing the applicant's action.
- [2] In terms of section 17(1) of the Superior Courts Act 10 of 2023, leave to appeal may only be granted where the judge(s) are of the opinion that:

- (a) (i) the appeal would have a reasonable prospects of success; and
- (ii) there is some other compelling reason why the appeal should be heard, including conflicting judgments on the matter under consideration.”

GROUND FOR SEEKING LEAVE TO APPEAL

[3] The applicant’s grounds for seeking leave to appeal are summarised as follows:

(a) The Court a quo erred in dismissing the applicant’s action in that:

(i) The applicant’s action against the respondent was undefended, and therefore the applicant’s evidence was uncontested;

(ii) The Court a quo did not have to consider the issue of compliance of section 24 of the Road Accident Fund Act 56 of 1996;

(iii) The Court a quo erred in finding that there was no medical evidence before Dr Schutte when he completed the RAF1, in that he only had to satisfy himself that as to the nature and treatment of the injuries, which he did;

(iv) The Court a quo erred in concluding that there was no nexus between the injuries sustained and the accident as per Dr Deacon;

(v) The Court a quo erroneously concluded that the applicant was not a credible witness based on the fact that the applicant visited the General Practitioner sometime after the accident;

(vi) The Court a quo ought to have found that the applicant was the only witness and his evidence and that of Dr Deacon was uncontested;

(vii) The Court a quo erred in referring to the applicant as being deceased, while he is still alive; and

(viii) The Court a quo erred in holding that the applicant failed to discharge the onus of proving that the defendant is liable to compensate the applicant in terms of section 17 of the Road Accident fund Act 56 of 1996.

SUMMARY OF THE SUBMISSIONS

[4] Counsel for the applicant argued that the reference to the applicant as a driver in the supplementary affidavit was an error which his attorneys have overlooked.

[5] He further argued in his heads of argument that there are conflicting judgments on matters such as this one. Despite this proposition, he did not refer this Court to any of the judgments or authorities.

ANALYSIS

[6] What is required of this court, is to consider objectively and dispassionately, whether there are reasonable prospects that another court will find merit in the arguments advanced by the losing party.

[7] The Supreme Court of Appeal in *Four Wheel Drive v Rattan N.O*[1] ruled as follows:

“There is a further principle that the court a quo seems to have overlooked – leave to appeal should be granted only when there is ‘a sound, rational basis for the conclusion that there are prospects of success on appeal’. In the light of its findings that the plaintiff failed to prove locus standi or the conclusion of the agreement, I do not think that there was a reasonable prospect of an appeal to this court succeeding that there was compelling reason to hear an appeal without any merit.”

[8] It is by now, trite that an application for leave to appeal procedure ensures that the appeal process is not abused and that only meritorious cases proceed to appeal. In the present matter, I am troubled by the applicant’s conduct. After the judgment was handed down, the applicant filed certain material evidence which he sought to rely upon in the course of the application. To my mind, this is yet another example of a case which ought not to

be allowed to occupy the attention of the appeal court.

CONCLUSION

[9] I have carefully considered the submissions of the applicant, and the grounds advanced for leave to appeal, and I am not persuaded that the appeal would have reasonable prospect of success. In addition, there are no compelling reasons why leave to appeal should be granted. I stand by the reasons set out in the judgment against which this leave to appeal application lie.

[10] In the premises, the application for leave to appeal is refused.

ORDER:

In the result, the following order is made:

1. The application for leave to appeal is dismissed.

J Mnisi

Acting Judge of the High Court, Pretoria

Delivered: this judgment is handed down electronically by uploading it to the electronic file of this matter on Caselines. As a courtesy gesture, it will be emailed to the parties/their legal representatives.

Heard On:

10 October 2024

Decided On: 27 November 2024

Counsel for Plaintiff: Adv C Cross

Instructed by: VZLR Attorneys

Counsel for Defendant: Unknown

[1] 2019

(3) SA 451 (SCA) at para 34.

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Prepared on 9 October 2026 · Esheria