

NAIDOO v ROAD ACCIDENT FUND

Summary

In this matter the Plaintiff sued the Road Accident Fund for damages following the bodily injuries he suffered as a result of a motor vehicle accident which occurred in 2017 near Empangeni in KwaZulu-Natal. He was a driver at the time of the collision and had been approaching a bend when he collided into another motorist while trying to avoid a truck travelling in the opposite direction which had veered on to his side of the road causing him to lose control.

The parties in the matter separated the issues for determination by the court (being liability & quantum), hence in the present case the only issue in dispute was that of liability. The Defendant denied liability contending that the collision was caused by the negligence of the Plaintiff in failing to keep a proper lookout, alternatively that the Plaintiffs negligence contributed to the collision. The court noted the common cause facts that the accident had occurred in the afternoon, the weather was clear and the vehicles had been traveling on a single narrow road.

Court held, there is a duty on all road users to keep a proper lookout on the road to avoid colliding with other road users. The court further held, the negligence of one driver does not absolve the other driver who has a duty to take evasive action in order to avoid a collision. Further held, the court was satisfied that the Plaintiff did encroach on the lane of the insured driver however the insured driver did not take any evasive action to avoid colliding with the Plaintiff. The court therefore concluded that both drivers negligence caused the accident and that liability for the cause of the collision should be apportioned on a 50%/50% basis. The court therefore order that the Defendant was liable to compensate the Plaintiff for 50% of his agreed or proven damages.

Case citation: Naidoo v Road Accident Fund (22249/19) [2020] ZAGPPHC 562

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