

REPUBLIC OF SOUTH AFRICA



**THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, JOHANNESBURG**

(1) REPORTABLE: NO
(2) OF INTEREST TO OTHER JUDGES: NO
(3) REVISED: NO

Case no:24655/18

[REDACTED]

DATE

[REDACTED]

SIGNATURE

MATHONSI, SOZA OBERT

APPLICANT

AND

ROAD ACCIDENT FUND

RESPONDENT

JUDGMENT

Kilian AJ

Introduction

[1] This is an application for leave to appeal against a judgment I handed down on 23 September 2024, in which I declared that the defendant's purported sole negligence – or 100% negligence – in causing a motor vehicle accident amounted to an absolution from the instance. The plaintiff in the leave to appeal contends that I erred in my

findings on these issues. For the sake of clarity, I refer to the parties as they were in the original application.

[2] I must now determine whether the plaintiff has demonstrated a reasonable prospect that another court would come to a different conclusion, or whether there is some other compelling reason why leave to appeal should be granted, as required by section 17(1) of the Superior Courts Act.¹ The test – whether another court might come to a different conclusion – has been raised to clarify whether another court would do so. I am of the view that there is no reasonable prospect that another court would come to a different conclusion.

[3] The plaintiff failed to present clear and credible evidence, and the court is not permitted to infer negligence in order to satisfy the plaintiff's burden of proof, as outlined in the judgment. Furthermore, the court cannot infer the occurrence of the accident itself which necessitated prove along with the purported presence of another driver as common circumstances. This failure further undermines the plaintiff's argument for negligence.

[4] Where no credible evidence has been established, I am not persuaded that the appeal would have a reasonable prospect of success.

[5] Order: The application for leave to appeal is dismissed with costs.



Killian N

Acting Judge of the High Court,
Johannesburg, Gauteng

Counsel for the Applicant:

Adv Maphelela instructed by
Mathebula Inc

Counsel for the Respondent:

Ms N Mhlongo (State Attorney)

¹ 10 of 2013.

Date of argument:

6 June 2025

Date of judgment:

11 June 2025