



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

Case Number: 2018/85633

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

SIGNATURE

DATE 06/05/2024

In the matter between:

FRANSEN FRANK HAROLD

Applicant

and

THE ROAD ACCIDENT FUND

Respondent

This Judgment was handed down electronically by circulation to the parties/their legal representatives by email and by uploading to the electronic file on Case Lines. The date for hand-down is deemed to be 06 May 2024.

JUDGMENT: LEAVE TO APPEAL

Molahlehi J,

- [1] This is an application for leave to appeal against the judgment made by this court on 27 October 2023 in terms of which the applicant's claim for damages arising from a motor cycle accident which occurred on 29 January 2017 was dismissed. The respondent opposed the application.
- [2] The general approach when dealing with the application for leave to appeal is now well established in our law. The test to be applied is provided for in section 17 of the Superior Courts Act requires that leave to appeal may be granted only where a judge is of the opinion that there are reasonable prospects of success on appeal or that there are some other compelling reasons why leave to appeal should be granted.
- [3] In considering the grounds of appeal, the submissions made by both parties and the judgment of this court I am of the view that there are reasonable prospects that the appeal court may arrive at a different conclusion than that of this court. I accordingly find that the application for leave to appeal stands to succeed.

Order

- [4] In the circumstances, I make the following order:
1. The applicant is granted leave to appeal to the full bench of third Division with the costs to be in the appeal.

Molahlehi J
Judge of the High Court of South Africa

Appearances

For the Plaintiff: U Jordaan

Instructed by: Leon JJ Van Rensburg Attorneys

For the Defendant: N Moyo

Instructed by: State Attorneys

Hearing date: 15 April 2024

Delivered: 06 May 2024