




**IN THE HIGH COURT OF SOUTH AFRICA  
GAUTENG DIVISION, PRETORIA**

**CASE NO: 74084/2019**

1. REPORTABLE: <del>YES</del> /NO
2. OF INTEREST TO OTHER JUDGES: <del>YES</del> /NO
3. REVISED: <del>YES</del> /NO
DATE: 16/11/2023


In the matter between:

Road Accident Fund

Applicant

And

Henry Lombard

1 st Respondent

The Sheriff Centurion East

2<sup>nd</sup> Respondent

## REASONS FOR JUDGMENT

BOTHA AJ

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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 1<sup>st</sup> 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 1<sup>st</sup> 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 1<sup>st</sup> Respondent and the Applicant was ordered to pay damages to the 1<sup>st</sup> 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] ZAGPHC 360 (1 June 2015);

c) Thoroughbred Breeders Association v Price Waterhouse 2001 (4) SA 551 (SCA);

d) Steyn NO v Ronal 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.

A handwritten signature in black ink, appearing to be 'GB BOTHA', written over a horizontal line.

**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

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