

**MKHONZA, ALBERT**

Plaintiff

and

**ROAD ACCIDENT FUND**

Defendant

---

**SUMMARY OF THE JUDGMENT**

---

**CHOHAN AJ:**

This is a claim for damages against the Road Accident Fund (the RAF) arising out of injuries sustained by the plaintiff in a motor vehicle collision. The plaintiff alleges that he sustained injuries when his car was hit by a tyre from an unknown vehicle while travelling on the N3 motorway.

The plaintiff was unable to state where the tyre originated from and, in particular, whether it had come off or fallen off another vehicle travelling in the opposite direction. No other evidence was led by the plaintiff and the question that ultimately had to be determined was whether, on the probabilities, the plaintiff's vehicle was struck by a tyre that had come from or had fallen off such a vehicle and whether the driver of that vehicle was, in the circumstances, negligent.

In order to address these probabilities, the court embarked upon 2 enquiries. The first was to determine whether the collision was caused, as contended by plaintiff, by a tyre that fell off a vehicle travelling in the opposite direction. The second enquiry (which depended on the first being an affirmative) was whether the driver of the unknown vehicle was negligent in allowing the tyre to have fallen off from his vehicle.

Both enquiries required inferences to be drawn on the available limited evidence. The court had to balance the probabilities and select an inference which was the more natural or plausible conclusion from amongst several conceivable ones, even though that conclusion was not the only one. The court accepted that such an inference may be premised on acceptable deductive reasoning based on proven physical facts.

The court accordingly found that the most plausible inference to be drawn from the plaintiff's evidence was that the tyre that had struck his vehicle had come from an oncoming vehicle. The court furthermore inferred negligence on the part of the unknown driver, relying partly on the *res ipsa loquitur* principle.

The RAF was, in the circumstances, ordered to compensate the plaintiff.