

Myburgh Attorneys

HAVE YOU BEEN INJURED IN A CAR ACCIDENT?

OR

DO YOU KNOW SOMEBODY
WHO HAS BEEN INJURED
IN A CAR ACCIDENT?

WHAT ARE YOUR RIGHTS?

THE ROAD ACCIDENT FUND (RAF)

The RAF was created to compensate victims who have been involved in road accidents and injured by the negligent driving of another person. The RAF is run by the government and

receives its funding from a portion of the fuel levy that all motorists pay when they put petrol in their vehicles.

WHEN CAN YOU CLAIM?

You **CAN** claim if you fall in the following category of persons that was involved in a car accident:

- ⇒ you were driving a motor vehicle
- ⇒ you were a pedestrian
- ⇒ you were a passenger
- ⇒ you were riding in a taxi / bus
- ⇒ you were riding a bicycle
- ⇒ your minor / child was injured or killed
- ⇒ a breadwinner in your family was killed

If you fall in one of the above categories and can prove that the accident that you were injured in was not all your fault then you could have a claim against the RAF, but you can not profit from your own negligence.

When can you **NOT** claim?

- you were not injured
- the accident was 100% your fault
- your breadwinner was not killed
- the accident was not anyone's fault

WHAT CAN I CLAIM FOR, FROM THE ROAD ACCIDENT FUND?

In certain cases you can claim for:

- ⇒ General Damages (Pain & Suffering, disfigurement, disability, etc.)
- ⇒ Past Medical Expenses
- ⇒ Future Medical Expenses
- ⇒ Past Loss of Earnings
- ⇒ Future Loss of Earnings
- ⇒ Funeral Expenses / Loss of Maintenance

You can not claim material damages (such as damage to your motor vehicle or any material belongings) from the RAF. You will need to claim these specific damages from the person who caused the accident.

WHAT DETAILS SHOULD YOU GET FROM THE OTHER PARTIES IF YOU ARE INVOLVED IN AN ACCIDENT?

- ⇒ Full names, ID numbers, Address (work & home), telephone numbers (work & home) and vehicle registration number(s) of all drivers, passengers and witnesses
- ⇒ Description of Vehicle(s) and Driver(s)
- ⇒ Details of Police, Traffic and Ambulance Officials
- ⇒ Details of Tow Truck Personnel
- ⇒ If possible, try sketch the scene of the accident (with names of roads & intersections) / Take photos of scene of accident (If possible use a cellphone)

WHAT SHOULD YOU DO IMMEDIATELY AFTER YOU HAVE BEEN IN AN ACCIDENT?

Report the Accident to the SAPS immediately, if you are the driver the law obliges you to report the accident within 24 hours, but if you are badly injured then do so at the first reasonable opportunity (If you can't, get somebody that you know to do it). Make sure to retain the case number.

- ⇒ Go to a doctor / hospital immediately and make sure that they record your visit, your injuries & the treatment given (Always keep these medical bills and statements and reference numbers)
- ⇒ If you have been involved in a Hit & Run, make sure to physically hand in an affidavit of how the accident happened at the Police Station where you have reported the Accident within 14 Days of the Accident or if you are badly injured, within 14 days after being able to do so and also keep a copy thereof.

WHAT INFORMATION WILL YOU NEED TO SUBMIT WHEN DOING THE CLAIM OR SEEING AN ATTORNEY WHO WILL CLAIM ON YOUR BEHALF?

- ⇒ (Police) Officer's Accident Report (OAR) or SAPS collision report (SAP 352)
- ⇒ Witness statements taken by the Police
- ⇒ Hospital / Medical / Clinical Records
- ⇒ Details of Medical Practitioners / Institutions that treated you
- ⇒ All hospital medical accounts (remember to pay the accounts, even if you claim)
- ⇒ Details of any material damages claim against the driver and the outcome thereof

******PLEASE NOTE: YOUR ATTORNEY WILL NORMALLY ACQUIRE THE ABOVE INFORMATION ON YOUR BEHALF******

HOW MUCH DO YOU HAVE TO PAY IN ORDER TO CLAIM FROM THE RAF?

There are normally two ways in which fees are levied:

- 1) In terms of a Fee Agreement; OR
- 2) On a Contingency Basis.

Attorneys can differ when it comes to charging a client but normally the attorney will agree not to take their costs for doing the work for you until you are paid out by the RAF (This means that you will not have to pay the attorney any money until the claim is finalized in the event of your claim being successful).

Always discuss this with your attorney first.

HOW MUCH TIME DO YOU HAVE TO INSTITUTE A CLAIM AGAINST THE RAF?

You may lose your claim if you wait too long!

You should contact an attorney immediately after being in an accident, usually within 3 years but the sooner the better, to establish whether you have a claim or not and so that the attorney can start getting all the vital information that is needed for your claim to succeed. The longer you wait, the harder it is to get the evidence and the more you forget.

- ⇒ In the event that you have all the details of the person who caused the accident, you will then have a period of **3 years** to institute a claim.
- ⇒ In the event that you do not have all the details of the person who caused the accident (Hit-&-Run accident) then you will have a period of 2 years to institute a claim. (Provided that you have handed in an affidavit at the police within 14 days of the accident occurring).

These time period are known as prescription.

A parent can claim on behalf of a minor so you don't have to wait until you are 21 to claim. For minors the prescription periods can differ.

HOW LONG WILL YOUR CLAIM TAKE?

Claims against the RAF are known to take up to 5 years or more to finalize but that all depends on the circumstances surrounding the accident.

IT IS ALWAYS BETTER TO CONSULT WITH AN EXPERIENCED ATTORNEY AND ENSURE THAT YOUR ATTORNEY EXPLAINS EVERYTHING TO YOU IN DETAIL.

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