

Can Employees Sue Their Employer for Stress and Anxiety in South Africa?

Mental health in the workplace is becoming an increasingly critical issue in South Africa. Research shows that 10% of South Africans suffer from depression, and workplace stressors like job insecurity, high demands, discrimination, and poor management practices significantly contribute to this statistic. Despite the prevalence of these conditions, the South African Depression and Anxiety Group (SADAG) has found that only one in six employees are likely to disclose their struggles to a manager. This reluctance is due to stigma and a fear of being dismissed or overlooked.

This reality raises a crucial legal question: can an employee hold their employer legally responsible for stress, anxiety, or other mental health conditions caused by the workplace?

In South African law, it is possible to seek legal recourse, but the requirements are stringent. Claims of this nature are typically framed within the context of delictual law, constructive dismissal under the Labour Relations Act (LRA), discrimination under the Employment Equity Act (EEA), or compensation claims under the Compensation for Occupational Injuries and Diseases Act (COIDA). Regardless of the legal route taken, employees must demonstrate that their suffering goes beyond normal stress and amounts to a recognisable and diagnosable psychological injury, such as depression, anxiety disorder, or post-traumatic stress disorder. Medical evidence is crucial, and the employee must establish a direct causal link between the employer's conduct and the harm suffered.

Employees in South Africa may pursue civil claims for damages when an employer's wrongful or negligent conduct causes psychiatric injury. Constructive dismissal claims can arise if working conditions become intolerable, while the EEA protects employees from harassment and unfair discrimination, including based on mental illness. Work-related mental illness may also qualify for compensation under COIDA.

In *Jansen v Legal Aid South Africa* (2018), a paralegal diagnosed with major depression was dismissed despite medical recommendations for workplace adjustments. The Labour Court found the dismissal automatically unfair and discriminatory, highlighting the employer's failure to accommodate his condition. Mr. Jansen was reinstated and awarded compensation, demonstrating that courts recognise mental illness as a valid workplace issue.

Employees experiencing work-related stress or anxiety should seek a formal medical diagnosis, report concerns in writing, and document incidents. Given the complexity and evidentiary requirements, professional legal advice is essential.

South African law imposes a duty on employers to maintain a safe, fair environment and accommodate mental health conditions. Failure to do so can result in liability, making mental health a significant legal and organizational priority.