Everything you need to know about claims against the RAF

To claim directly with the RAF without instructing an attorney is certainly not in your best interest or feasible for the following reasons:

- Your claim may be incomplete and procedurally invalid.
- It could become prescribed in the hands of the RAF.
- It may not be quantified adequately, which will result in an under-settlement.
- You may lack the expertise of a competent attorney to decide if the offer made by the RAF is commensurate with your injuries.
- It may take longer to be finalised.

Who may claim because of a motor vehicle accident?

Any person ('the third party")

- who has suffered a bodily injury;
- who paid the funeral costs;
- who is a dependent of a deceased (spouse and children);
- is the parent or legal guardian of a minor child.

When will the RAF be liable?

- The third party must have suffered damage or loss (bodily injury to him or herself or because of someone else's death).
- Caused by or arising from the driving of a motor vehicle by any person within the Republic, provided the injury or death is due to the negligence or wrongful act of the identified driver or owner of the motor vehicle, or of their employer, in the performance of the employee's duties as an employee.
- The RAF would be liable even if the accident was caused due to the negligent driving of an unidentified driver or owner.
- If the third party were the sole cause of the accident, there would be no claim against the RAF.
- If the third party were contributory negligent, the RAF would apportion

the claim.
- The circumstances of the accident (how it occurred) are referred to as the merits of the claim.
- The third-party may not claim for injuries or death of a breadwinner from the driver or owner of the vehicle that caused the accident, only from the RAF.

What can I claim?

- Past medical expenses (even if the medical scheme paid the expenses).
- Future medical expenses (the third party will only be entitled to an Undertaking).
- Past loss of earnings (a dependent will be entitled to past loss of support).
- Future loss of earnings (a dependent will be entitled to future loss of support).
- General damages for pain and suffering, loss of amenities, etc) provided it is a serious injury.
- Funeral costs limited to the necessary actual costs to cremate the deceased or to inter him or her in a grave.

Prescription of a third-party claim

- Three years to lodge a claim with the RAF from the date of the accident provided the driver or owner of the vehicle has been identified. A minor has three years from the date upon which he or she reaches majority, which is 18.
- If the driver or owner of the vehicle has not been identified, the claim will prescribe within two years, even for a minor.
- To interrupt prescription after lodging of the claim, a summons must be served on the RAF within five years from the date of the accident.

How long does it take for an RAF claim to be finalised?

Every claim is different due to the merits of the claim and the injuries sustained in the accident.

Other aspects that will determine the finalisation of a claim are the following:

- The time it takes to obtain the required information and documentation to lodge a claim with the RAF.

- Compliance with the RAF's outstanding requirements after lodgement.
- The obtaining of various expert reports from medical specialists to quantify the claim.
- The issuing of a summons and the legal proceedings before a trial date can be obtained.
- The relevant court directives applicable to each division.
- The allocation of a trial date.
- Whether the matter proceeds to trial or is postponed.
- Payment of the settlement amount and costs by the RAF (at least 6 months after settlement or a court order is obtained).

Conclusion

RAF claims are specialised and complicated and should rather be handled by an attorney specialising in this area of the law, particularly because the Road Accident Fund Act and Regulations are complex. A competent attorney will ensure that your claim does not prescribe, is quantified as quickly as possible within the constraints of the Act and Regulations and that you receive the best possible settlement.

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