

# What you need to know about road accident claims for minors

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19 Jun 2020

Child victims of road accidents are eligible for compensation from the Road Accident Fund (RAF), providing the qualifying criteria are satisfied.



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Here are a few guidelines about RAF claims for minors injured or killed on South Africa's roads.

## Who can lodge a RAF claim for minor victims?

A parent or guardian can lodge a claim on behalf of a minor. Where there is no parent or guardian, an application can be brought to the High Court, appointing a Curator ad Litem to act on the minor's behalf in respect of the claim. Alternatively, the minor can wait until he or she is 18 to register a claim.

## What can minors claim from the Road Accident Fund?

Minors can claim compensation for:

- all medical expenses incurred as a result of the accident
- general damages for pain and suffering if the injury is deemed serious
- the minor's future loss of earnings/earning capacity which can be a significant loss.

## How much can be claimed?

There are no statutory limits on the amounts that can be claimed for medical expenses. Medical expenses are, however, paid in line with tariffs based on the National Health Reference Price List (NHRPL) and the Uniform Patient Fee Structure.

General damages can also be claimed in cases where injuries are classified as serious injuries.

## **Time limits for lodging RAF claims**

When the wrongdoer in the accident can be identified, the RAF claim, together with all supporting documents, must be lodged by a parent, guardian or Curator ad Litem, any time following the collision before the minor reaches the age of majority, or by the minor themselves within three years after reaching 18.

In the case of a hit-and-run accident where the offending party is unknown, a claim must be submitted on behalf of the minor claimant within two years of the accident. If the claim isn't lodged within this period, it prescribes (becomes unenforceable in law).

## **Documents required for RAF claims**

For a RAF claim to be successful, the following forms must be completed and submitted in hard copy to the RAF offices:

- RAF 1 – details of the minor and their parents / guardian / Curator ad Litem, information about the motor vehicles and parties involved in the accident, the date and location of the accident and the monetary amounts claimed in respect of damages
- RAF 3 – details of the accident, as per both involved parties
- RAF 4 – a serious injury assessment report by a qualified medical professional but only in respect of a claim for general damages.

In addition, while a medical report and police report are a substantive requirement, supportive documents such as witness statements, invoices relating to the accident, photographs of the damaged vehicle and the surrounding area are helpful in support of the claim.

## **What to expect once a RAF claim has been submitted**

The RAF has 120 days to consider the evidence and determine the validity of a claim and the amount of damages payable. Unfortunately, the RAF rarely, if ever, concludes a case within the prescribed period.

Once the 120 day period has expired, your lawyer can immediately issue summons in order to pursue the claim in court.

The RAF may make an offer of an out-of-court settlement that you can either accept or reject.

If you reject the offer, the case goes before the court, where arguments are made for and against your claim. The court determines how much you are paid in damages, based on the evidence presented.

## The importance of using a qualified attorney

An attorney specialising in RAF claims not only expedites the entire process, he or she can issue summons to escalate the matter to court and introduce expert witness testimony to support the claim.

Alternatively, a qualified attorney has the expertise to negotiate the best possible out-of-court settlement and hold the RAF liable for interest on late payments.

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