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Public works MEC fully liable for motorcyclist's injuries, court rules

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The high court has ruled that a North West public works MEC is "one hundred percent liable" for a motorcyclist suffering severe injuries in an accident on a poorly maintained road.

In 2015, Ryan Brews, 43, lost control of his motorcycle while rounding a curve on a road in the North West and ending up in a ditch. An inspection revealed the road had severe undulations, bumps and poor surface drainage.

Brews sued the regional department of public works in the high court in Mahikeng.

In response, the MEC in charge of the department – which in 2015 was Modada Sambatha – did not dispute Brew's accident and admitted to being responsible for road maintenance.

However, the MEC said in court papers that Brews was speeding and "failed to obey road signs", which recommended a speed of 40km/h. He claimed that it was Brew's own fault that he suffered injuries, because the road in question was "properly repaired".

At trial, Brews said that even though he wanted to speed he could not because of traffic. Also, he also did not recall seeing any speed warning signs.

Brews testified that he is an experienced motorcyclist and has navigated all sorts of roads. When he lost control after a



Pay up: A former North West public works MEC must pay the costs of a motorcyclist injured on a road in need of repair. /Supplied

sudden turn, he crashed into a ditch and lost consciousness before being assisted later by an elderly couple, who corroborated Brews' description of the accident.

Brews and the department called expert witnesses. The experts agreed that, despite the MEC stating the road was "properly repaired", there was a warning sign indicating the road was uneven. Both experts also examined the accident site, though only Brews' expert did so soon after the accident.

They agreed the section of the road was in poor condition, such that routine maintenance is not a solution. North West High Court judge Andre Peterson

ruled on Tuesday that he "can safely reject [the MEC's] plea that the road had been properly repaired".

Brews' expert, Louis Roodt, also an experienced motorcyclist, tested the road and confirmed it was uneven and unsafe. "The presence of the bumps and holes on the roadway was and still is hazardous especially for a motorcycle rider which is classified as a vulnerable road user," Roodt said in a report to the court.

"Mr Brews eventually fell and collided with a ditch on the left-hand side of the road."

The sudden undulations on the road will throw even experienced cyclists off course, Roodt

said. The MEC's expert could not find fault with these findings.

In his testimony, the MEC also relied on the warning sign that indicated the possibility of uneven roads that was placed less than 100m from the unsafe section of road, which the judge said was contrary to the legal requirement. "The noncompliance with the distances outlined for the erection of warning signs could not have given sufficient warning to the plaintiff or any other road user of the impending road failure," he said.

The speed limit sign was also not optimally visible, according to photographic evidence Brews and his expert presented to court. Peterson held that the department "failed to comply with its duty to ensure that the said sign" was properly visible according to regulations.

Peterson also found that the MEC's claim Brews was speeding was unsubstantiated.

Peterson ruled that the MEC "had not taken any reasonable or proper steps to maintain the road where the undulations occurred at the point where the accident occurred prior to April 2015. A direct result of the lack of maintenance or proper maintenance is the road deteriorated."

Brews was not responsible for his accident at all.

The MEC was ordered to pay the full amount that Brews will be asking for at a later hearing, plus costs.

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