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**Author:** ZeIda venter

DAMAGES

# Pothole may cost taxpayers R8.6m

**ZELDA VENTER**  
zelda.venter@inl.co.za

A POTHOLE in a road may result in a deep financial hole for the MEC of Public Works and Roads in the North West, as a motorist who was seriously injured after his car hit the treacherous spot is claiming R8.6 million for his medical expenses, as well as other damages.

Petrus Jacobs turned to the North West High Court, sitting in Mahikeng, following his harrowing experience after his car hit a massive pothole on a gravel road.

He was travelling along a road known as the Sterkstroom gravel road in the Klerksdorp area when the car he was driving hit the hole. He lost control, and collided with a tree on the side of the road.

Jacobs' case was based on the argument that the MEC was liable for his damages as his office had a legal duty to maintain the road in question, keep it in a state of good repair and upkeep, and ensure the safety of all road users.

As a result of the accident, he suffered various fractures, contusion of the lungs and soft tissue injuries.

He claimed damages in the amount of R8.6m for past and future medical expenses, past and future loss of earnings and general damages.

The MEC's plea against the claim was essentially a bare denial.

In its argument, the MEC's office said the accident was caused by the sole negligence of Jacobs, as he failed to keep a proper lookout for potholes on the road.

While Jacobs cannot remember much of the accident, witnesses testified on his behalf, including a farmer in the area, Thys Ingwerson.

He was called to the scene on the morning of the accident.

He identified the area as an alternative gravel road between Klerksdorp and Ventersdorp, which connects Opraap and Sterkstroom.

This road is generally used if there are road works on the main road or the main road is for some or other reason inaccessible.

The road itself is fairly busy.

Although the road is supposed to be a two-way road, it has narrowed over the years. He and other community members had previously complained to the local authorities about the condition of the road, but were told that there was no equipment to fix the road. Thus, the road was not fixed.

He testified that there were potholes all across the road, approximately 20 to 30mm deep and half a metre wide. After the last pothole he noticed that there were skid marks up to the resting position of Jacobs' vehicle.

According to Ingwerson, it appeared that he went directly into the pothole and lost control of the vehicle.

Ingwerson told the court there were no signs to warn road users of the potholes. He also said there were several trees in the area, which threw shade on the road and made it near impossible to see the potholes.

A civil engineer who inspected the road after the accident testified that it was not maintained, with heaps of soil dumped in the middle of the road and "danger plates" lying on the ground face down.

It was clear to him that there was no adequate inspection and no maintenance of the road, as well as no warning signs.

The provincial roads department meanwhile did not call any witnesses in a bid to defend the claim. It simply told the court that Jacobs should have kept a watch on the road and that he should have dodged the potholes.

Judge Sandiswa Mfenyana said the roads department did have a duty to maintain the road. She said it should have foreseen the possibility of the lack of maintenance of the road causing an accident and causing harm to road users.

The MEC (the department) was held 100% liable for the damages Jacobs could prove he had suffered. If the parties do not settle on the amount of damages, this would be determined at a later stage.