###### National Assembly

Question Number: 2756

**Mr K S Mubu (DA) to ask the Minister of Transport:**

(a) Has an investigation been lodged into the train collision that took place at Booysens, Johannesburg, on 17 July 2015, (b) when will the specified investigation report be released, (c) who is conducting the specified investigation, (d) what are the total damages caused in the specified collision, (e) what compensation has been paid to passengers thus far and (f) what criteria was used to determine such compensation? NW3188E

**Reply**

1. A preliminary investigation was conducted immediately after the accident by the Railway Safety Regulator (RSR), the preliminary report was released on Monday, 20th July 2015. A Board of Inquiry (BOI) is currently underway to determine the root cause that led to the accident.
2. It is estimated that the BOI process will take three to four months to finalise.
3. The RSR has appointed specialists for the BOI with a Chairperson of the BOI, Human Factors Specialist and Signaling Specialist.
4. The estimated cost of damage to both the Rolling Stock and the Infrastructure is R7 567 999.14
5. Information not yet complete.
6. See response in (e).

**Ministerial Note:**

**Criteria used to determine compensation?**

In the ordinary course of business, and because passengers who get involved in accidents of the nature this one is would invariably sustain injuries which affect each one of them differently, given the extent of such injuries, an opportunity gets created for claims to arise and for litigation to be instituted, by way of exercise of one’s rights, to recover damages that emanates from such accidents.

Ordinarily, the root cause of these types of accidents would be some negligence on the part of PRASA or its operators, and in full cognisance of the fact that passengers involved are affected and inconvenienced in a variety of ways, PRASA has had to, in the past, recognise that most of the passengers who are affected, require assistance that caters for their immediate medical expenses and other damages of the like, depending on the unique personal circumstances of the affected and injured persons. This recognition has led to some acceptance that indeed it is a responsible act of compassion to assist those very passengers PRASA is out to serve, which assistance normally takes place only in circumstances stated here under:

* 1. That an accident, or incident of the nature this one is must have occurred;
  2. That any passenger so to be assisted, or compensated, must have been involved in such an accident;
  3. That such an involved passenger must have sustained bodily injuries, alternatively must have experienced traumatic emotional shock, which then necessitate medical treatment;
  4. That such an injured passenger must have received treatment, as a result of the accident and the injuries involved, from the hospital, a clinic or any other medical facility were medical treatment would be rendered; and
  5. That such injuries sustained have resulted in passengers incurring medical and hospital expenses, or loss of income, or that in future there would be a need for medical treatment, and/or that non pecuniary losses, often referred to as general damages, are indicated.

It is against the background above that PRASA would engage with the affected and injured commuters in order that such a determination for the damages suffered, and/or compensation sought, be made. This exercise normally leads to settlements with the different passengers affected, and subsequently to compensation, as may be, depending on the nature of the injuries suffered.

Further, it is to be noted that over and above verifying the details and the information or documents as indicated above, and in respect on non-pecuniary damages, PRASA embarks upon a strict process of assessing damages by relying on useful legal tools and remedies that solely depend on legal authorities given the seriousness of the injury or injuries involved. The assessment of general damages, it must be added, is to a great extent arbitrary and incapable of true economic evaluation. There are strict guidelines, though, that are followed, that are dictated to by documents like the Quantum Yearbook, by Robert Koch, and Quantum of Damages, by Corbett & Buchanan, as an indication of what the estimation of such compensation should be.

There are no statutory limitations on what an affected passenger can recover from PRASA, and such passengers have a constitutional right, on common law grounds, to institute proceedings against PRASA, which they normally do through the assistance of attorneys.