**National Assembly**

**Question No.2271**

**Mrs N J Nolutshugu (EFF) to ask the Minister of Transport:**

(a) What total number of road accident claims that have been lodged against the Road Accident Fund have been awaiting settlement for more than (i) 10 years and (ii) five years, (b) on what date will the outstanding claims finally be settled and (c) what total amount would it take to settle all the claims? NW2844E

**REPLY**

(a) The total number of road accident claims that have been lodged against the Road Accident Fund (RAF) and have been awaiting settlement, as at 9 October 2020, for more than (i) 10 years is 6 933 and (ii) five years is 39 214,

(b) the date on which the outstanding claims will finally be settled is unknown at this time due to the multitude of variables that are inherent in the adversarial, common-law, claims dispensation administered by the RAF, which variables include but are not limited to, delays attributable to claimants’ attorneys, amongst others, failing to locate the claimant in order to take instructions, failing to accept the RAF’s tender, failing to set the matter down for trial, failing to pursue the quantum aspect of the claim after a judgment has been obtained in respect of the merits (the liability aspect of the claim), failing to submit financial records or other substantiating evidence in support of a claim, and failing to submit actuarial reports in support of a claim; the non-availability of medical experts to assess claimants, compile reports and, or, testify in court; the failure by expert witnesses to agree on important aspects of the claim; the long lead time to obtain a trial date; and, the investigation by the RAF into potential fraudulent aspects of the claim; and

(c) although the aggregated total amount claimed in respect of the claims referred to in paragraphs (a)(i) and (ii) above is R49 985 029 061, the total amount it would take to settle (pay) all of the aforementioned claims is unknown at this time due to the multitude of variables that are inherent in the adversarial, common-law, claims dispensation administered by the RAF, which variables include but are not limited to, the claimant succeeding in proving the merits of the claim (where the claim was repudiated by the RAF); the apportionment of fault as determined by the court (where the percentage contributory negligence was in dispute, or where a third party was joined on the basis of his, her or its alleged contributory negligence); amendment by the claimant of the claimed amount based on, *inter alia*, fresh medico-legal or other expert reports, or new medico-legal or other expert reports, or new case law, or amendments to legislation; receipt by the claimant of a collateral benefit, which may qualify for deduction from the claimed amount; receipt by the claimant of an accelerated benefit, which may qualify for deduction from the claimed amount; determination by the Compensation Commissioner of the workman’s claim, which may qualify for deduction from the claimed amount; a change in the employment status of the claimant, which may have a bearing on the basis of calculation of the claimed amount; a change in the rehabilitation outcome of the claimant, which may have a bearing on the basis of calculation of the claimed amount; the death of the claimant, prior to settlement or the court order; as regards a claim for non-pecuniary loss, the timing of the death of the claimant, prior to, or after, close of pleadings, which may have a bearing on the right to, and calculation, of amount claimed in respect of non-pecuniary loss; settlement reached between the RAF and the claimant and, or, the sum awarded by the court; the outcome of appeals and reviews, in respect of orders by the lower courts; the application of the statutory limit on the quantum of claims for loss of support or loss of income; adjustments to the amount claimed to provide for inflation; the issuing by the RAF of an undertaking, instead of making payment of a lump-sum in respect of the costs of future medical expenses; and, where agreed, the payment of loss of income or loss of support in instalments.