

**THE FINANCIAL SERVICES TRIBUNAL**

**CASE NO: PFA22/2024**

In the matter between:

**FATHIMA SAYED**

Applicant

and

**OLD MUTUAL SUPERFUND PROVIDENT FUND**

First Respondent

**A SINGH-SEWDIAL AND Y SINGH-NINAN**

Second Respondents

**THE PENSION FUNDS ADJUDICATOR**

Third Respondent

Tribunal: Pretorius J, Francis J & Adv SM Maritz

Appearance for Applicant: Adv C van der Spuy

Appearance for First Respondent: Mr Mbleka

Appearance for Second Respondents: Adv P van den Berg SC

Date of Hearing: 4 November 2024

Date of Decision: 29 November 2024

**Summary:** Application for Reconsideration in terms of Section 230 of the Financial Sector Regulation Act, 9 of 2017 (“the FSR Act”) of a determination (section 30M) of the Pension Funds Adjudicator to dismiss the Applicant’s complaint relating to the allocation of a death benefit following the death of a member of the First Respondent pursuant to section 37C of the Pension Funds Act, 24 of 1956 (“the Act”).

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**DECISION**

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**A. INTRODUCTION**

1. The Applicant applied for reconsideration in terms of section 230 of the FSR Act of a determination of the PFA, dated 15 March 2024, and received by the Applicant on the same date, to dismiss the Applicant's complaint raised against the allocation of a death benefit by **OLD MUTUAL SUPERFUND PROVIDENT FUND** following the death of its member, Mr A Singh ("the deceased member" or "the deceased") pursuant to section 37C of the Act.
2. The First Respondent is **OLD MUTUAL SUPERFUND PROVIDENT FUND** ("the Fund").
3. The Second Respondents are **A SINGH-SEWDIAL AND Y SINGH-NINAN**, the major biological daughters of the deceased member ("the daughters of the deceased" or "the second Respondents").
4. The Third Respondent is **THE PENSION FUNDS ADJUDICATOR** ("the PFA" or "the Adjudicator").
5. The Applicant filed her heads of argument late, beyond the stipulated deadline of 4 October 2024, as outlined in the Financial Services Tribunal ("the FST") Directive sent to her on 5 September 2024. On 17 October 2024, she requested an extension to 21 October 2024 but missed this deadline, ultimately filing on 11 October 2024. (Is this correct). Despite a reminder from the FST Secretariat on 23 October 2024, she failed to apply for condonation. The Applicant explained that the delay was due to needing Counsel to prepare her heads of argument after reviewing the Second Respondents' submissions in their heads of argument. While the Tribunal found the explanation unsatisfactory, it condoned the late filing, considering there was no significant opposition during the hearing.

## **B. RELEVANT BACKGROUND**

6. The complaint concerns the allocation of a death benefit by the Fund following the death of its deceased member in accordance with section 37C of the Act. A total benefit in the amount of R21 308 051.38 became available for allocation to the beneficiaries of the deceased.
7. The deceased was a member of the Fund until his passing on 24 July 2021. The Applicant was the deceased's life partner.
8. The complainant is aggrieved because the trustees of the Fund allocated the deceased member's entire death benefit to the deceased's two daughters (50% each). On 18 September 2023, the Applicant lodged a complaint with the PFA.

*The Complainant's Grounds in Complaint*

9. The complainant claims she was in a romantic relationship with the deceased since 2007 and resigned from her employment at ABSA Bank to care for him and her minor child from a previous marriage. She claims that all living expenses were paid by the deceased.
10. She asserts that the deceased provided her with an allowance equivalent to her former salary, financially supporting her and her child throughout their 17-year relationship.
11. The deceased also assisted her with a R700,000.00 payment to settle her mortgage bond after she sold her divorce-acquired property for R967,592.72. She claims that she transferred the proceeds of the sale to the deceased.
12. After selling her property, she moved in with the deceased and signed a cohabitation agreement on 28 February 2017. She claims she felt compelled to sign the agreement due to her fear of being without housing and alleges there were no witnesses at the time of signing the agreement, and that some terms were not explained to her. She referred to clause 5 of the agreement, which deals with the rights she waived. According to the complainant, she is no longer bound by the cohabitation agreement following the deceased's death as the agreement states that it terminates upon the death of either party (clause 6.1.1), and that she is entitled to benefits arising from the deceased's passing.
13. She also alleges financial manipulation by the deceased, including requests from the deceased for payment of significant sums of money, which she paid him.
14. The complainant states that her income during her relationship came from maintenance payments from her former spouse, credit overdraft facilities, and sporadic but sufficient payments from the deceased.
15. She contends that the Fund allocated the deceased's death benefit to the deceased's two biological daughters, who were at the time of the deceased's death employed and financially independent businesswomen, and that they inherited significant business interests from the deceased.
16. The complainant states that she was informed by the executor of the deceased's estate that his estate is insolvent and therefore incapable of providing the necessary finance anticipated for the established of a trust that she was the beneficiary of. She states that due to the financial

position of the estate, she was informed by the executor that she may have to forfeit her special bequest, such as a car and the house.

17. She states that she cannot rely on the R35 000.00 monthly provision in the deceased's will.
18. Although she received a R7 million life insurance payout, she argues it is insufficient to cover living expenses and unforeseen costs.
19. She notes that her former spouse has since the deceased's passing assumed financial responsibility for their son, who has moved out, leaving her without maintenance contributions.
20. The complainant, now aged 53, states that she has been unemployed for more than 15 years and that she struggles to obtain employment at her age. She submits that her policy payout may not sustain her for life.
21. She asserts that the Fund failed to recognize her as a factual dependant. She provided a non-registered marriage certificate dated 24 June 2019 as evidence of her and the deceased's intent to legitimise their relationship. She also claims they were engaged.
22. The complainant contends that the Fund acknowledged in its response that the death benefit was sufficient to meet the financial needs of all dependants.
23. The complainant alleges that the Fund has conflated benefits received in terms of the will and the payout she received from policies. She emphasized that the executor of the deceased's estate confirmed that the deceased's estate is insolvent. She states that the only benefit she received was from the insurance policies, which are subject to estate duty and will be significantly reduced.
24. She argues that the waiver clause in the cohabitation agreement was intended for potential divorce scenarios. Clause 6.1 of the agreement specifies the conditions under which it terminates and does not preclude a discretionary award of a pension benefit.
25. She confirms that she and the deceased lived separately for 4 to 5 years before he passed away.
26. The complainant states that the executor of the deceased's estate pays her an estimated amount of R35 000.00 monthly due to her dependency on the deceased.

27. She claims these payments are essential for her survival and mentions seeking temporary support from her former spouse to cover expenses. However, this arrangement will end when her son completes his studies in December 2023.
28. She denies receiving payouts from multiple policies, confirming a single payout of R7 million.
29. The complainant highlights her diagnosis of Lupus, which affects her daily functioning, and her proximity to retirement age, limiting her earning capacity. She contrasts her financial situation with the deceased's daughters, who hold high-paying jobs.
30. She argues that the Fund acted prematurely in paying out the death benefit despite the dispute, asserting that recovery of already disbursed funds is possible, and that greater caution was warranted.
31. The complainant claims that the Fund failed to consider relevant factors such as:
  - 31.1 The cohabitation agreement does not exclude the discretionary award of a benefit;
  - 31.2 That her relationship with the deceased was like a marriage;
  - 31.3 That she was factually dependent on the deceased;
  - 31.4 That the deceased's estate is insolvent, and she has not beneficial claim in it;
  - 31.5 That the only insurance payment she received is subjected to estate duty;
  - 31.6 That she has been out of the workforce since 2007 at the behest of the deceased;
  - 31.7 That she had not realistic chance of employment; and
  - 31.8 That the beneficiaries that were awarded the death benefit had no proof of financial dependency on the deceased, are independent and wealthy women with no financial maintenance needs.

#### *The Fund's Response*

32. The Fund confirmed that the deceased was its member from 1 August 1994 until his death on 24 July 2021, with a total death benefit of R21 308 051.38.
33. The Fund identified the deceased's dependants as follows: the life-partner (Applicant/complainant) of the deceased, her adult child, the deceased's two adult children (the Second Respondents), 4 grandchildren, and his ex-spouse.
34. The Fund noted that the complainant was allocated a monthly amount of R35 000.00 in the deceased's will but was instead paid a lump sum. Additionally, she received an immovable

property valued at R1 700 000.00. The Fund argued that these provisions negated her need for further financial support.

35. The cohabitation agreement indicated that the complainant waived her rights to claim pension benefits from the deceased, suggesting he did not want her to share in the death benefit proceeds. The Fund also found that the complainant and the deceased had lived apart for years before his death, and she had received R7 million from policy payouts and R35 000.00 monthly from the estate until these payouts.
36. The Fund states that it was confirmed that the complainant receives R12 000.00 monthly from her eldest son and R10 000.00 per month from her ex-spouse for child support. Despite being 53 years old, she has prior work experience, a tertiary education, and income-earning potential.
37. The Fund concluded that the Applicant had received sufficient financial support through third-party payouts and other provisions. Her objections did not present new evidence, and despite her intent to lodge a complaint with the PFA, she had failed to do so for a period of three months whereafter the Fund allocated the benefit to the beneficiaries.
38. Regarding other dependants, the Applicant's child receives maintenance from his biological father and was not financially dependent on the deceased. The deceased's ex-spouse received R8 million in third-party payouts, and the deceased's grandchildren are indirectly supported by his two adult daughters, who received the death benefit. According to the Fund, it has exercised its discretion properly in terms of section 37C of the Act and made an equitable and fair allocation.
39. The Fund stated there was no evidence of the deceased estate's insolvency, which required confirmation from the executor but was not provided. Additionally, it denied that the Applicant's policy payment was subject to estate duty, citing section 4(q) of the Estate Duty Act, 45 of 1995.
40. The Fund recognised the Applicant as a factual dependant but noted she failed to submit proof of a formal marriage. It reiterated that her R7 million third-party payment was sufficient for her future needs.
41. Finally, while acknowledging the Applicant's Lupus diagnosis, the Fund maintained she could still find employment. It deemed its allocation to the deceased's two adult children equitable and consistent with section 37C of the Act.

*The Adjudicator's Determination*

42. The PFA stated that the primary issue to be determined was whether the board equitably allocated the death benefit in terms of section 37C of the Act. It emphasized the board's duty to conduct a thorough investigation to identify beneficiaries, and thereafter to decide on an equitable distribution, and finally decide on the most appropriate mode of payment of the benefits. The PFA relied on section 37C and the definition of a dependant in terms of section 1 of the Act in dismissing the complaint.
43. The PFA noted that the complainant was the deceased's life-partner for 17 years and cohabited with him until four years before his death. While the Fund recognized the complainant as a factual dependant, the PFA stated that such recognition does not automatically entitle one to a share of the death benefit – financial dependency is the decisive factor. It highlighted that the Fund must consider various factors, including dependency, in its investigation and allocation process.
44. The PFA agreed with the Fund's finding that the third-party policy payout received by the complainant sufficiently covered her financial needs. It also concurred that the complainant's life policy did not form part of the deceased's estate under section 4(q) of the Estate Duty Act, 45 of 1995.
45. The PFA confirmed that, under section 37C(1)(a) of the Act, dependency is determined at the time of allocation. It found that the complainant was better off financially due to the payouts she received and noted that she had not provided evidence of the deceased's estate being insolvent.
46. The PFA further observed that, despite being 53 years old, the complainant had work experience and a tertiary education, granting her income-earning potential. Consequently, it upheld the Fund's decision not to allocate a portion of the death benefit to her.
47. The PFA also considered the cohabitation agreement between the deceased and the complainant, in which she waived her rights to claim any pension benefits. The PFA held that the principle of *caveat subscriptor* applied, presuming the complainant understood the agreement's implications. It emphasized that a cohabitation agreement, unlike a will, is signed by both parties and regulates their relationship and assets. Since the deceased provided for the complainant through other means, and she presented no valid reasons to challenge the agreement, the Fund was justified in considering it when allocating the death benefit.

48. Lastly, the PFA reiterated that the board has discretionary powers to equitably allocate death benefits. The PFA's role is not to decide the fairest or most generous distribution but to assess whether the board acted reasonably, rationally, and lawfully. It found that a decision of the Fund is subject to review only if it acted unreasonably, improperly, or unduly fettered its discretion. It concluded that the board had considered all relevant factors and had not abused its discretion in its decision-making process. Consequently, the complaint was dismissed.
49. As stated above, the complainant was aggrieved by the PFA's determination, and on 14 May 2024 she filed her application for reconsideration.

**C. *APPLICANT'S GROUNDS FOR RECONSIDERATION***

50. The Applicant's grounds for reconsideration of the PFA's decision are based on similar facts as those in her complaint, and for brevity's sake will not be repeated, but it should be incorporated herein by reference.
51. Additionally, the Applicant argues (in heads of argument):
- 51.1 That The PFA's determination is unfair and legally inappropriate because of an improper assessment of the common cause facts, and an impermissible consideration of irrelevant facts and a manifest failure to consider what was pertinent and relevant. Specific allegations will be addressed in our analysis and decision, if relevant.
- 51.2 That the waiver argument is fallacious – only rights can be waived and the Applicant had no right to a benefit – she had (and has always had) a *spes* coupled with an expectation that the Fund discharge its statutory obligations. Furthermore, even if the Applicant could waive a *spes*, the Act does not permit such a waiver.
- 51.3 That it is well-established that pension funds serve a public benefit in that they are meant to assist the deceased's dependants “*so that they are less likely to be a drain on the State's resources*”. As a result, the Act does not only bind the Fund, but a death benefit cannot legally be waived – as it will be against public policy. It follows that, reliance by both the Fund and the PFA on the *caveat subscriptor* rule was inappropriate.



52. On 29 November 2023<sup>1</sup>, the Applicant filed additional submissions (“new evidence”), which was not before the Fund (decision-maker). The Tribunal will consider these additional submissions as far as they are relevant.

**D. SECOND RESPONDENTS’ OPPOSITION**

53. The Second Respondents essentially raised two main issues in their heads of argument:

53.1 That the legal effect of the Applicant’s waiver of the right to share in the deceased’s pension benefit contained in the cohabitation agreement concluded between the parties is that she cannot claim any part of the death benefit.

53.2 Alternatively or additionally: That there are no grounds to interfere with the discretion exercised by the board of trustees of the Fund to allocate the death benefit to the deceased’s daughters. This must be seen in light of the fact that the Applicant received substantial payments in terms of the deceased’s life policies after his death and inherited an immovable property.

**E. LEGAL PRINCIPLES AND TRIBUNAL’S DECISION**

54. Section 37C(1)(a) read with the definition of “dependant” defined in section 1 of the Act, the basis of the PFA’s determination, states as follows:

- 54.1 Section 37C(1)(a) provides as follows:

*“Notwithstanding anything to the contrary contained in any law or in the rules of a registered fund, any benefit (other than a benefit payable as a pension to the spouse or child of the member in terms of the rules of a registered fund, which must be dealt with in terms of such rules) payable by such a fund upon the death of a member, shall, subject to a pledge in accordance with section 19(5)(b)(i) and subject to the provisions of section 37A(3) and 37D, not form part of the assets in the estate of such a member, but shall be dealt with in the following manner:*

- (a) If the fund within twelve months of the death of the member becomes aware of or traces a dependant or dependants of the member, the*

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<sup>1</sup> New submissions, B341

*benefit shall be paid to such dependant or as may be deemed equitable by the board, to one of such dependants or in proportions to some of or all such dependants.*

(b) ...

(bA) *If a member has a dependant and the member has also designated in writing to the fund a nominee to receive the benefit or such portion of the benefit as is specified by the member in writing to the fund, the fund shall within twelve months of the death of such member pay the benefit or such portion thereof to such dependant or nominee in such proportions as the board may deem equitable: Provided that this paragraph shall only apply to the designation of a nominee made on or after 30 June 1989: Provided further that, in respect of a designation made on or after the said date, this paragraph shall not prohibit a fund from paying the benefit, either to a dependant or nominee contemplated in this paragraph or, if there is more than one such dependant or nominee, in proportions to any or all those dependants and nominees.”*

54.2 “*Dependant*” is defined in the Act as follows:

- (a) *a person in respect of whom the member is legally liable for maintenance;*
- (b) *a person in respect of whom the member is not legally liable for maintenance, if such person;*
  - (i) *was, in the opinion of the board, upon the death of the member, in fact dependent on the member for maintenance;*
  - (ii) *is the spouse of the member;*
  - (iii) *is a child of the member, including a posthumous child, an adopted child and a child born out of wedlock.*
- (c) *a person in respect of whom the member would have become legally liable for maintenance, had the member not died.”*

55. The effect of section 37C(1)(a), as read with the definition of “dependant”, is to require a Fund, within a period of 12 months from the death of its member, to identify the dependants of the deceased who may potentially qualify for an equitable distribution from the deceased’s death benefit in terms of section 37C. Having once identified the potential class of dependants, the board of the Fund is vested with a large discretion to determine, in the light of its assessment of their respective needs, in what proportions the death benefit will be distributed among the

class of dependants (See: *Fundsatwork Umbrella Pension Fund v Guarnieri and Others 2019 (5) SA 68 (SCA) at para 8* (“the Guarnieri case”)).

56. Furthermore, the board has a large or wide discretion, which means that the powers of a court or the Adjudicator to interfere with that discretion is limited. A court of law could not without more substitute its discretion for that of the board, if follows that neither could the Adjudicator (See: *University of Pretoria Provident Fund v Du Preez 2015 JDR 1978 (GP); [2016] JOL 35014 (GP) at para 34*).
57. To affect an equitable distribution, it is required of the board of trustees to take into consideration all the relevant factors and discard irrelevant ones. The board may also not unduly fetter its discretion, nor should its discretion reveal an improper purpose. If it has acted as aforesaid, no reviewing tribunal will lightly interfere with their decision. It should be noted that even if the Tribunal may not necessarily agree with the decision of the board, that is not a ground for setting aside the board’s decision. The test in law is whether the board has acted rationally and arrived at a proper and lawful decision (See: *Stacey (Koevort) v Old Mutual Protektor Pension Fund and Another [2005] 1 BPLR 73 (PFA) at para 15*).
58. In *Guarnieri (supra)* Wallis J said the following about decision taken by board of pension funds in terms of section 37C:
- “The obvious time at which decision should be taken in that regard is when the determination is made. At that stage the board should have completed its enquiries and be in a position to assess the relative present and future needs of all members of the class of dependants it has identified.”*<sup>2</sup>
59. An inheritance or other windfall which a potential beneficiary receives after the passing away of a member should be taken into account in making the allocation.<sup>3</sup>
60. The reference in section 37C of the Act to “*in proportion to some or all such dependants*” indicates that because a person has been identified as a dependant does not mean that he or she is entitled to a share of the benefit.<sup>4</sup>

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<sup>2</sup> Para 23. See also para 25

<sup>3</sup> Para 20

<sup>4</sup> Hunter, Esterhuizen, Jithoo and Khumalo, *The Pension Funds Act: A Commentary* (“Commentary”), p 691

61. The Act does not prescribe what factors the board should consider when determining an equitable distribution. Based on prevailing case law these factors include, *inter alia*, the extent of the dependency and the nature of the beneficiary's relationship with the deceased.
62. The board is not bound by a deceased member's wishes for instance as stated in a nomination form or in his will, but these are factors that it should take into account. In this matter, the deceased neither completed a nomination form nor included a wish in his will regarding the allocation of his death benefit.
63. The Tribunal notes that in the Fund's initial response to the complaint it identified the Applicant as a non-dependant, but in subsequent responses and correspondence to the Applicant's attorney<sup>5</sup> it identified the Applicant as a factual dependant. In the Adjudicator's determination, it was accepted that the Applicant was a dependant (factual dependant) within the meaning of the Act.<sup>6</sup> Thus, the Applicant was not excluded as a dependant, as the waiver in the cohabitation agreement was not considered a total bar to the Applicant's claim. However, it was treated as a factor in allocating the deceased's death benefit, as it indicated the deceased's wish that the Applicant should not share in his death benefit. Based on this, it is unnecessary for this Tribunal to determine the validity and enforceability of the waiver in the cohabitation agreement, or to address the arguments related to it.
64. The Tribunal notes that in the Fund's response to the complaint it, *inter alia*, took the following relevant factors into account when exercising its discretion in terms of section 37C<sup>7</sup>:
- 64.1 the deceased and the Applicant had lived apart for a few years before his death;
  - 64.2 the financial assistance the deceased gave was arbitrarily and influenced by the deceased's whims;
  - 64.3 the fact that the Applicant received R35 000 per month for a period (as per deceased's will)<sup>8</sup>;
  - 64.4 the Applicant received payments in the region of R7 million from a policy payouts as a result of the death of the deceased<sup>9</sup>;
  - 64.5 the Applicant inherited an immovable property valued at R1.7 million<sup>10</sup>;

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<sup>5</sup> Fund's response to Applicant's attorney dated 4 May 2023, at A381 & Table at A383; Fund's response, para 6.11, B318

<sup>6</sup> PFA's Determination, A42, para 5.10

<sup>7</sup> Fund's correspondence, B366-370, para 1.1-1.24

<sup>8</sup> Deceased's Will, Clause 2.1.3.2, A365-372

<sup>9</sup> Life Policies, A297-301

<sup>10</sup> Deceased's Will, Clause 2.2.1, A368

- 64.6 the Applicant received a further amount of R12 000 per month from her eldest son and further R10 000 per month child support for her youngest son from her ex-spouse;
- 64.7 the waiver in the cohabitation agreement;
- 64.8 the Applicant's Lupus diagnosis, which does not exclude her from finding suitable work;
- 64.9 the Applicant's age of 53, her prior work experience, her tertiary education, and her income-earning potential;
- 64.10 that no evidence of the deceased estate's insolvency was provide by the Applicant, neither was any confirmation received from the executor;
- 64.11 the fact that the Applicant's policy payment was not subject to estate duty, citing section 4(q) of the Estate Duty Act, 45 of 1995;
- 64.12 the fact that no appropriate evidence has been submitted by the Applicant that confirms that the R7 million plus assets and other income inherited from the deceased member's estate will be insufficient to sustain her;<sup>11</sup> and
- 64.13 the fact that no formal marriage took place between the Applicant and the deceased.
65. Based on the above, the Fund concluded that the Applicant had received sufficient capital from third-party payments<sup>12</sup> to sustain her financially in the future. Consequently, she was excluded from any allocation of the deceased's death benefit. This Tribunal is satisfied that the Fund considered all relevant facts at the time of its determination, acted rationally, and arrived at a proper and lawful decision.
66. The Tribunal also notes that the Fund determined the deceased's grandchildren would be financially supported by their guardians (the deceased's daughters) and would indirectly benefit from the deceased's death benefit. This is regarded as a valid consideration.
67. The Applicant's argument that the Fund failed to consider the circumstances of the deceased's daughters – such as their age, qualifications, employment, financial independence, inherited shareholding in the deceased's business, and alleged overvaluation of the business – does not assist her case. At the time of the Fund's determination, the Applicant had been adequately provided for through third-party payments and inheritances and was not left financially destitute. It is also unlikely she “*will be a drain on the State's recourses.*”

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<sup>11</sup> Fund's additional response, para 1.11, B367

<sup>12</sup> Fund's response, paras 7-28, B319-322

68. Additionally, section 1(b)(iii) includes major children of the deceased who were not financially dependent on the deceased at the time of his death. The deceased's daughters, therefore, fall within this provision and are entitled to the death benefit (See: *Bruce v Lifestyle Retirement Annuity Fund* [2001] 7 BPLR 2198 (PFA) & *K Wilkinson and A Wilkinson v The Pension Funds Adjudicator and Others* (PFA/73/2019)[2020]). Additionally, the Tribunal notes that the deceased's four grandchildren, who received no direct allocation, would still indirectly benefit through the allocation made to the daughters.
69. The Tribunal also considered new evidence provided after the Fund's decision, especially regarding a death benefit from another pension fund, where the Applicant received R5 289 200.00<sup>13</sup> in November 2023. The reasoning behind this allocation was not disclosed to the Tribunal and could not be considered. Nevertheless, this further payout highlights that the Applicant was sufficiently provided for and is now in a stronger financial position than when the Fund made its decision. No substantial evidence has been presented to demonstrate the Applicant's alleged hardship. Accordingly, the Tribunal is satisfied that the Applicant has been adequately provided for to ensure her financial sustainability.
70. For reasons stated, this Tribunal is satisfied that the Fund exercised its discretion fairly, acted rationally, and arrived at a proper and lawful decision. Thus, the Tribunal finds nothing to deviate from the Fund's decision or the Adjudicator's determination, and therefore the Applicant's reconsideration application is dismissed.

**F. ORDER**

1. The Applicant's reconsideration application is dismissed.

**SIGNED on this day of 29 NOVEMBER 2024.**



**ADV SALMÉ MARITZ**

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<sup>13</sup> Application, A21 (top of page, under the "Annexure 28"), Annexure 28, A442-453