

Govt pays out more than R330m to Marikana victims

Government has paid more than R330m in claims related to the Marikana tragedy.



Image source: Evgenyi Lastochkin – 123RF.com

This was revealed by Solicitor-General Fhedzisani Pandelani during a media briefing on Thursday, 17 August 2023.

Claims payments have been disbursed to claimants through their legal representatives, including the Wits Law Clinic, as well as the Socio Economic Rights Institute of South Africa (SERI).

The tragedy occurred in 2011 at the North West town when police officials shot and killed some 34 miners during a labour-related strike at Lonmin Mine.

Some 78 others were injured, with a further 10 people – including law enforcement officials – dying in clashes before the tragedy.

“The Marikana incident of 16 August 2012 is a painful and significant and solemn chapter in our nation’s history. It is something that we cannot downplay because people are still impacted emotionally and it casts a sombre shadow over the tragic clash between striking miners and law enforcement, resulting in multiple fatalities.

“As a result of which, we, as government lawyers, are now seized with having to meet the lawful demands that have been lodged with us. These funds have served to address a spectrum of claims that relate to legal consideration stemming from the Marikana incident,” Pandelani said.

In relation to the 10 people who died in earlier clashes, Pandelani said that no claim has been laid against government.

“There is always a narrative of confining the fatalities to only 34 individuals. In our book, it’s actually 34 plus another 10 who are never accounted for. We also need to take that into account. In relation to the 10 who died before the other miners, we’ve got no claim that has been lodged against government.

“The other 10 people who died, there was no causation on the death itself that was attributable to government or the State. Their settlements might have been settled by other individuals,” Pandelani said.



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Constitutional damages

Turning to the potential constitutional law damages that may be lodged against the state, Pandelani said the Solicitor-General’s office currently does not have the mandate to deal with those matters.

He said upon instruction to do so, “it is an issue that we are prepared to explore”.

“Where a new concept... is introduced, such as constitutional litigation, which was not existing at the time of incident, you find a situation where you are applying the law retrospectively. We need to get instructions from the South African Police Service and everybody else.

“We are having to deal with the... concept of constitutional litigation. Why was it not pleaded as and when the matters started? And as creatures of instruction, where do you then derive the powers to settle on an aspect using taxpayers’ money on an issue which has not been ventilated in court? Until and unless there are new developments and there is cogent argument that is presented before any court of law about any novel or new issue that arises out of the Marikana litigation, I think we have done enough.

“Remarkable strides have been realised in the strategic orchestration and harmonisation of the Marikana litigation. The resolution of numerous claims stands as a testament to our unwavering commitment to justice and due process,” he said.