

A WIN FOR POOR CHILDREN IN RAF PAYMENTS CASE!

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The Centre for Law welcomes today's judgment of the Constitutional Court in *Wayne Coughlan NO v the Road Accident Fund (RAF)*. It is an important judgment for poor children who are receiving social assistance from the state which is used to pay for everyday expenses like food, transport and education.

The children in this case lost their mother due to a road accident. They were owed R 112 942 by the RAF, as compensation for the loss of her support. However, they had been in foster care with their grandmother since their mother's death, and the monthly foster care payments provided by the Department of Social Development amounted to a total of R 146 790. According to the RAF, the foster care payments cancelled out the RAF claim. The Constitutional Court has made it clear that the foster child grant amount must not be deducted, so the children will now be paid out what is owing to them.

The judgment is very important for all children whose parents die in a road accident in cases where the children are in foster care – there are currently just under 500 000 children receiving the foster child grant. The Centre is particularly appreciative of the fact that Court went further and also extended the ruling so that it applies to children receiving the child support grant. This is significant as over 11 million children receive the child support grant – and they are the poorest children.

Prior to this judgment the Supreme Court of Appeal has upheld the RAF's position that the money paid out in foster grants or child support grants must be deducted from the total amount that the fund will pay out. The Constitutional Court has stated a clear principle that in future these social assistance grants are not to be deducted.

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