



Justice For Miners Campaign Response to Tshiamiso Trust Compensation Payments

Press Statement from the Justice for Miners Campaign: 5 August 2021

For Immediate Release

The Justice for Miners Campaign welcomes the announcement made on 2 August by the Tshiamiso Trust of their first significant batch of compensation payments.

As much as we appreciate that 102 Claimants effected by TB and Silicosis are to receive a total of R9 074 523.80 and as much as we see this as a step in the right direction, it is but a drop in the ocean. We say this knowing that that half a loaf is better than nothing. However, there are approximately 500 000 Ex-miners that must be paid out of R5 Billion within 12 years, as per the High Court Judgement of 2019.

To report a settlement of R9 074523.00 in the 2 years since the Trust deed became effective on 26 July 2019 is hammering a nail on the coffin of the majority of still uncompensated claimants and their families. In our opinion more would have been done had the Trust cooperated with the Civil Society proposals to improve and fulfill its responsibilities speedily and justly.

To significantly speed up increase the volume of payments to eligible claimants the JFM Campaign again urges the Tshiamiso Trust:

- to critically review and improve the performance of TEBA officials and medical service providers at Tshiamiso Trust lodgment sites where JFM has revealed serious problems in the treatment of claimants, handling of lodgments, execution of medical examinations and accessing of employment records
- to include Occupational Medical Health Practitioners and local service providers from across the region in an effort to improve medical examination, X-ray, and autopsy services
- to improve inadequate communication with claimants (automated SMSs, English language only documents requiring consent signatures)

- to place a moratorium on all rejected claimants until the data base of employment records and medical records is substantially improved (JFM has exposed a number of rejects which were made on the basis of false information traced back to the current Trust data base)
- to force the settling mining companies to fulfill their obligation to supply full medical and employment records of all employees that fall within the settlement date so that these can fill the data base that are triggering rejection of claimants
- to put in place a clear appeals process with the period extended to 180 days from the current 30 days
- to heed the Judge Vally ruling that in the absence of employment records needed to prove eligibility affidavits should be accepted and that the Trust should err on the side of paying claimants rather than not paying
- to put in place effective arrangements for cross border transport of body tissues of deceased ex-miners in cooperation with the MBOD and NIOH.
- to distance itself from the undue and obstructionist influence of the Trust's Companies' Agent in the green lighting of payment demands submitted to the Agent by the Trust; instead, the Trust should fulfill its historical and legal obligation to err on the side of paying rather than not paying ex-miners who continue to suffer in poverty and are dying without being compensated in even greater numbers because of the Covid-19 pandemic.
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As much as we have had good engagements with the Trust, we believe more can be done to facilitate compensation payments and minimize delays.

It is also the responsibility of the mining companies and the Minerals Council to ensure that the Tshiamiso Trust works effectively and quickly to fulfill the requirements of the trust deed.

The South African Government also has responsibility to see that the settling mining companies, and the Tshiamiso Trust fulfill their obligations without delay. The SA government and its departments of Health and Labour, the MBOD and the NIOH must also fulfill their statutory obligations regarding certification of and payment of claims under the statutory system and the coordination of processes between the Tshiamiso Trust and the statutory system.

Although the SA government is represented on the Tshiamiso Trust and the Trust Deed proposes synergies between Statutory and Trust compensation to ex-goldminers nothing of this has been seen in practice to date.

JFM Campaign Chapters consisting of Civil Society organizations and ex-Miners have been established in various regions in SADC. Their task is to help Ex-miners access compensation. Notwithstanding efforts of the Tshiamiso Trust the JFM Chapters receive large numbers of queries from Claimants about the lodgments and their payments.

The JFM Campaign sincerely hopes that the long overdue first batch of payments will be followed up within weeks by many installments of thousands of payments to eligible claimants.

Further, the Justice for Miners Campaign appeals to the Tshiamiso Trust to urgently implement and publicise an appeal mechanism whereby those Claimants found to be ineligible can appeal against their rejection. Without a just and clearly outlined appeal mechanism many Claimants will not receive the compensation they are entitled to.

Issued by Bishop Jo Seoka on behalf of Justice for Miners

Chair, Justice for Miners Campaign

"All the mining companies are accused of failing to protect the health of the employees when they were legally bound to do so and as a result causing (the mine workers) to contract TB and silicosis," CL 90, pg. 63 (Deputy Judge President Phineas Mojapelo Class Action Application Judgment).



Bishop Jo Seoka

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