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Possible legal consequences of wild animals roaming around the streets



By MTHO MAPHUMULO

Topics Personal Injury Law

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Within the first month of the new year, there have been two tigers reported to have escaped from captivity and found to be roaming around freely on the streets. The first one was found and euthanised. By the time it was located, it had already seriously injured at least one resident. There have been no reported incidents in respect of the currently untraced tiger. In the later part of 2022, there were reports of lions having escaped from one game reserve in KwaZulu-Natal which were later reported to have been caught and killed by the community. Not so long ago there were reports of an elephant that had escaped from one nature reserve that was also killed by the community. These animals put the lives and well-being of residents under serious threat. It is against this background that it is necessary to delve into the legal ramifications that may flow from incidents of injury or death relating to such animals.

For there to be a cause of action in law, there must be injury or death. It is also crucial to establish who the owner or person responsible for the animal is. There does not need to be absolute proof as to who the owner is – sufficient circumstantial evidence may suffice (depending on the unique dynamics of the matter). For an example, in a case where there is a nearby game reserve that has had its fence destroyed, and suddenly there are wild animals seen on the streets. On the balance of probabilities, in the given scenario, the animals belong to the owners of the game reserve.

Claims arising out of wild animal attacks are based on the legal principles of actio de feris in terms of which the bringing of dangerous or wild animals on or into a public place, or a place, which members of the public have access to, is prohibited. Strict liability is applicable, i.e. the claimant/victim does not need to prove negligence on the part of the owner. As to what a victim can claim in damages, each case will be different. In a case of an injury (not death), one can potentially claim for past medical expenses, future medical expenses, general damages, past loss of earnings and future loss of earnings. It is important to point out that it is not in every case that these

deceased, to whom the deceased owed a legal duty to maintain, will be able to claim for loss of support. If the deceased is a minor or someone whom no one depended on for support, the family members or appropriate individuals may be able to claim for emotional and psychological trauma where circumstances permit. Once again, the unique facts of each case will determine the outcome.

In closing, where an escaped wild animal has injured or killed, the victim(s) should seek legal advice in order to determine whether they have any legal recourse. Not only can this serve as part of a healing process and ensuring justice prevails, it may also encourage owners of these animals to be more vigilant and erect necessary equipment to guard against animals escaping.

Article sourced from Adams & Adams.

See also:

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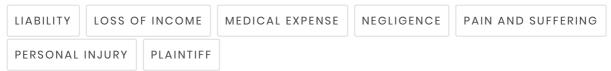
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