

IN THE HIGH COURT OF SOUTH AFRICA

GAUTENG LOCAL DIVISION, JOHANNESBURG

CASE NO: 042006/2024

DATE: 22-01-2025

DELETE WHICHEVER IS NOT APPLICABLE

(1) REPORTABLE: ~~YES~~ / NO.

(2) OF INTEREST TO OTHER JUDGES: ~~YES~~ / NO.

(3) REVISED.

DATE 22/1/2025

SIGNATURE [Redacted Signature]

10 In the matter between

NONCEBA JACQUELINE BUKANI

Plaintiff

and

THE ROAD ACCIDENT FUND

Defendant

J U D G M E N T

WEIDEMAN, AJ:

20 Matter number 24 on this week's roll is the matter of NJ Bukani and the Road Accident Fund, case number 042006 of 2024. The plaintiff in this matter, an adult female born on the 9th of February 1965, was involved an accident on the 19th of March 2022. The aspect of liability was previously conceded by the defendant on or about the 9th of

December 2023 when it accepted 100% liability for such damages as the plaintiff may be able to substantiate.

At the commencement of the discussion in respect of the plaintiff's loss of income, counsel moved an application in terms of Rule 38(2) for evidence to be led via the affidavits of the various experts and for the Court to take cognisance of various other documentation not directly linked to the experts. The application was granted.

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The plaintiff sustained the following injuries as per paragraph 7 of her particulars of claim: a broken right wrist, a right-hand injury which consisted of a fracture of the base of the thumb, and a left knee injury.

At the time of the accident she was in the midst of a two month notice period which ended in April 2022. The plaintiff was in stable employment with the same elderly couple for a period of 11 years up to the time that she was placed on
20 notice. She originally took care of both the husband and wife and attended to both their needs for an extended period.

She continued to take care of the surviving partner and on the death of the last of her patients, she remained as a

caretaker in the house for a while, until the children placed her on terms and terminated her employment.

With that history and with a letter of confirmation of service, indicating that she had taken care of the same couple for a period of 11 years, there is no reason to suspect that the plaintiff would have had any difficulty in finding work of a similar nature, had the accident not occurred. One does not retain employment as a carer where you are involved, not
10 only in taking care of the elderly couple, but also to perform domestic chores, do grocery shopping, and sit with them when they wish to do so in the garden, if you are not reliable, competent and trustworthy. The plaintiff has an exemplary employment record which would have stood her in good stead had the accident not intervened.

She is now in the autumn of her life and future employers may be reluctant to employ her because of her age. Given the length of service that she had, the Court has no problem
20 with accepting her income, as at the time of termination of her employment, as reflecting her earning capacity and thus has no quarrel with the actuarial calculation in projecting that income forward.

That being said, I am of the opinion that a five percent

contingency deduction on the accrued part of the income claim, and a 10 percent contingency deduction on the projected future income would be fair to both plaintiff and defendant. The net effect of this is that the claim for accrued loss of income is R91 347 and the claim for future loss of income is R338 610. I calculate the combined total as being R429 957.

My order is therefore as follows:

- 10 1 The defendant is liable for 100% of such damages as the plaintiff may be able to substantiate.
- 2 The plaintiff's application in terms of Rule 38(2) is granted.
- 3 The plaintiff's claim in respect of general damages is postponed *sine die*.
- 4 The plaintiff's claim for loss of income will be dealt with on the basis that the defendant is liable to the plaintiff in the sum of R429 957.
- 20 5 The plaintiff is entitled to an Undertaking in terms of section 17(4)(a) of the Road Accident Fund Act for such future hospital, medical or ancillary expenses as she may require.
- 6 The plaintiff, having been substantially successful is entitled to her party and party costs

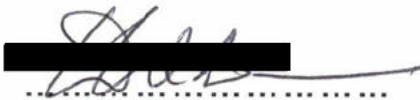
as taxed or agreed, counsels' fees to be on scale

B.

That is my order.

ORDER

In matter number 24, that is case number 042006 of 2024,
the matter of Bukani and the Road Accident Fund. The
matter was presented earlier today, and I gave an ex-
10 *tempore* order. That order has been reduced to writing and I
mark it X.


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WIDEMAN, AJ

JUDGE OF THE HIGH COURT

DATE: 22/01/2025