

IN THE HIGH COURT OF SOUTH AFRICA

GAUTENG LOCAL DIVISION, JOHANNESBURG

CASE NO: 751/2018

DATE: 18-02-2025

DELETE WHICHEVER IS NOT APPLICABLE

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

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

(3) REVISED.

DATE 18/02/2025

SIGNATURE 

10 In the matter between

THABISO RAMAROPE

Plaintiff

and

ROAD ACCIDENT FUND

Defendant

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**J U D G M E N T**

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**WEIDEMAN, AJ:**

20 The accident from which this claim arose occurred on or about 21 February 2015. The plaintiff was a pedestrian at the time. The parties had previously engaged in negotiations which resulted in the aspect of negligence becoming settled on or about 10 February 2017 on the basis of a 70%/30% apportionment in favour of the plaintiff.

In addition, on 11 December 2019, the Health Professions Council of South Africa confirmed that the plaintiff's injuries were serious, entitling the plaintiff to claim general damages.

The claim was before Court on a default basis. The plaintiff formulated his claim as follows in his particulars of claim:

1. Past loss of earnings of R332 938;
- 10 2. Future loss of earnings of R808 675;
3. General damages of R1 000 000; and
4. Future medical expenses of R280 000

According to the particulars of claim, the particularity of the plaintiff's injuries were to be extracted from the medical legal report of Dr Schnaid, attached to the particulars of claim. Having considered the report for this purpose, the injuries are summarised as follows:

- 20 1. A laceration to the head and face with chipped upper and lower canines;
2. Soft tissue injuries to the left shoulder, the left elbow and both knees;
3. A compound fracture of the right tibia and fibula.

Before presenting his submissions on the aspects of

general damages and loss of income, counsel for the plaintiff moved an application in terms of Rule 38(2) for the plaintiff's expert witnesses' evidence to be accepted on affidavit. That application was granted.

Counsel took the Court through the sequelae of the various injuries as recorded in the medical legal reports filed of record and then referred the Court to a number of judgments which had been uploaded as part of counsel's  
10 Heads of Argument. The Court is indebted to counsel for the assistance in this regard.

Having considered the injuries, and in particular the sequelae as set out in the various medical legal reports, I am satisfied that an amount of R1 000 000 in respect of general damages is fair and reasonable. My order accordingly is that the aspect of general damages will be dealt with on the basis that the defendant is liable to pay the plaintiff the amount of R1 000 000 for general damages.

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Turning to the aspect of loss of income, the medico legal reports and agreements of experts make it clear that, but for the accident, the plaintiff would at best have had very modest income prospects and that now that the accident has occurred, he is factually unemployable.

The following factors are however also relevant to the outcomes referred to above and must be considered:

- the possibility of a residual earning capacity,
  - periods of unemployment prior to the accident *in casu*, and
  - the nature of the employment which would have been available to the plaintiff, but for the accident and whether the plaintiff would have been able to sustain it until normal retirement age.
- 10
- The contents of the joint minute between the industrial psychologists, signed by both on 13 November 2019.

After considering all relevant factors, the Court accepted the calculations of the actuary in respect of past loss of earnings in the sum of R380 500 and in respect of future loss of earnings in the amount of R924 200.

- 20 These figures must be reduced, both in respect of the accrued and prospective losses, to make provision for all the contingencies mentioned, by 50%.

The nett effect is that the claim for past loss of earnings is allowed in the sum of R190 250 and the claim for future loss



of earnings in the sum of R462 100. Combined, it renders a total amount of R652 350.

The 30% apportionment on negligence must then be deducted leaving a net figure of R456 645 in respect of loss of income or impairment of earning capacity.

To this amount must be added the sum of R700 000, being the award for general damages after deduction of the  
10 apportionment on liability.

The combined total award in respect of the plaintiff's claims for loss of income and general damages is R1 156 645 to which must be added the Undertaking in terms of Section 17(4)(a) of the Road Accident Fund Act, limited to 70%.

The plaintiff is further entitled to his costs.


#### ORDER

20 My order reads as follows:

1. The plaintiff's application in terms of Rule 38(2) is granted.
2. The defendant shall pay the plaintiff the nett amount of R1 156 645 in settlement of the plaintiff's claim.
3. The defendant shall provide the plaintiff with an

Undertaking in terms of section 17(4)(a) of the Road Accident Fund Act for 70% of such future hospital, medical or ancillary expenses as the plaintiff may require.

4. The plaintiff is entitled to recover his party and party costs as taxed or agreed. Counsel's fees to be on scale B.

  
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**WEIDEMAN, AJ**

**JUDGE OF THE HIGH COURT**

10 **DATE:** 18/02/2025