

IN THE NORTH GAUTENG HIGH COURT, PRETORIA
(REPUBLIC OF SOUTH AFRICA)

CASE NUMBER: 33716/2008

30/7/2010

In the matter between:-

MJALI (MTSHALI) ANNA

PLAINTIFF

and

ROAD ACCIDENT FUND

DEFENDANT

JUDGMENT

GOODEY AJ:

[1] In this matter the Plaintiff sues the Defendant for damages in the form of loss of support resulting from the death of her "elleged" customary husband in a motor collision which occurred on 26th January 2007 in the area of Balfour.

DELETE WHICHEVER IS NOT APPLICABLE	
(1) REPORTABLE	☒ YES/NO
(2) OF INTEREST TO OTHER JUDGES	☒ YES/NO
(3) REVISED	☒
DATE	27/6/10
SIGNATURE	

[2] By agreement between the parties, both counsel have requested me to:

2.1 Decide whether or not the Plaintiff has *locus standi*. In other words, whether the deceased had a legal duty to support the Plaintiff or not;

2.2 Decide, if I find in favour of the Plaintiff, whether or not the Plaintiff has proven at least 1% negligence on the part of the insured driver pertaining to the aforesaid collision;

2.3 Finally, should I find 2.1 and 2.2 in favour of the Plaintiff, to award her damages in the amount of R613,519.00. In short, the parties have agreed that in the event of the Court finding that the Plaintiff proven the necessary *locus standi* to have a dependant's action for loss of support and that the Defendant is liable for the said loss of support the quantum of her damages will be R613,519.00 (per the agreed Employer's Certificate and actuarial report of Actuaries, Clemans, Murfin & Rolland)

[3] I find in favour of the Plaintiff pertaining to paragraphs 2.1 and 2.2 above, I will give my reasons later.

Consequently, I make the following order:

The Defendant is ordered:

1. To pay the sum of R613,519.00 to the Plaintiff;
2. To pay interest on the amount claimed a *tempore morae* at the rate of 15,5% per annum, from a date 14 days after judgment to date of payment to the Plaintiff;
3. To pay costs of suit inclusive of Value Added Tax to the Plaintiff.



GOODEY AJ