

**THE REPUBLIC OF SOUTH AFRICA
IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG HIGH COURT DIVISION, PRETORIA**

Case no: **50675/2018**

(1) REPORTABLE: NO

(2) OF INTEREST TO OTHER JUDGES: NO

(3) REVISED.

DATE 30 JUNE 2024

SIGNATURE

In the matter between:

A O HOLTZHAUSEN

Plaintiff

and

ROAD ACCIDENT FUND

Defendant

J U D G M E N T

MAKHOB A J

[1] This is a claim for damages by the plaintiff against the Road Accident Fund. Counsel represented both the plaintiff and defendant.

[2] The matter proceeded to trial on merits. The plaintiff was the only witness and on behalf of the defendant counsel did not call any witness but only addressed the court he did not even ask to file heads.

[3] The plaintiff testified that on the 15th of March 2017 at about 11H00 he was travelling in his motorcycle on Lynnwood Road from East to West.

- [4] The road had four lanes, he was traveling on the left lane whereas the insured driver was travelling on the far right lane. They were both traveling in the same direction.
- [5] He approached the intersection of Lynnwood Road and Jan Shoba road the robot turned green. The insured driver who was travelling in a Honda vehicle suddenly turned left without indicating and collided with him. He sustained injuries. The witness was cross examined, thereafter the plaintiff closed his case.
- [6] The defendant did not lead any oral evidence and closed its case. Counsel for the plaintiff asked for 100% liability against the defendant. For the defendant counsel asked for apportionment of damages 60/40%, alternatively the matter is left in the court's hands. On quantum counsel for the defendant left the matter in the Court's hands. For the plaintiff council relied on his heads of argument and the reports uploaded on CaseLines.
- [7] The plaintiff gave his evidence in a clear and direct manner and his evidence is not contested by the defendant. The court is satisfied that he proved the negligence of the insured driver on a balance of probabilities.
- [8] The court finds that the defendant is liable 100% in favour of the plaintiff.
- [9] The joint minute reports all indicate that the plaintiff is an unfair competitor in the open labour market due to the injuries he sustained.
- [10] The quantum claim by the plaintiff was not disputed by the defendant during the trial.

ORDER

- [11.1] The defendant is ordered to pay the plaintiff the amount of R 3 200 000(Three million two hundred thousand rand) in respect of past and future loss of earnings.

[11.2] R 550,000 (Five hundred and fifty thousand rand) in respect of general damages.

In total = R 3 750 000 (Three million seven hundred and fifty thousand rand).

[11.3] Section 17(4)(a) undertaking

[11.4] Cost of suit.

MAKHOB A J
JUDGE OF THE HIGH COURT
GAUTENG DIVISION, PRETORIA

MATTER HEARD AND RESERVED ON: 03 MAY 2023

JUDGMENT HANDED DOWN ON: 30 JUNE 2023

APPEARANCES:

For the Applicant: Adv C R VAN ONSELEN (instructed by) NEL VAN DER MERWE
& SMALMAN

For the Respondent: RAF from STATE ATTORNEY PRETORIA