

IN THE HIGH COURT OF SOUTH AFRICA
FREE STATE DIVISION, BLOEMFONTEIN

Case No. 5994/2015

In the matter between:

CRAIG EDDIE KIRKHOFF

PLAINTIFF

And

ROAD ACCIDENT FUND

DEFENDANT

CORAM: GUSHA, AJ

DELIVERED ON: This amendment order was handed down electronically by circulation to the parties' legal representatives by email and release to SAFLII. The date and time for the hand down are deemed to be at 12h00 on 28 July 2023.

AMENDMENT ORDER

[1] On the 4th July 2023 I granted an order in the following terms;

In the result I make the following order;

33.1. The plaintiff's claim for damages in respect of past loss of earnings is dismissed.

33.2. *The defendant shall pay to the plaintiff;*

33.2.1. *R350 000.00 (Three hundred and fifty thousand rand) in respect of general damages arising from the motor vehicle accident that occurred on the 21st June 2013.*

33.2.2. *R 508 700 (five hundred and eight thousand rand) in respect of future loss of income.*

33.3. *The defendant shall furnish the plaintiff with an undertaking in terms of section 17(4) (a) of Act 56 of 1996 for payment of 100% of the for the future accommodation of the plaintiff in a hospital or nursing home, or treatment of or rendering of a service or supply of goods to him, arising from the injuries sustained by him in the motor vehicle collision on the 21st June 2013.*

33.4. *The defendant shall pay the plaintiff's taxed or agreed party and party costs until the date of this order including costs of counsel. Such costs shall include the following the reasonable and qualifying fees of the following experts:*

33.4.1. *Dr JJ Schutte - General Practitioner*

33.4.2. *Dr LF Oelofse – Orthopaedic surgeon*

33.4.3. *Drs van Dyk & Partners – Radiologists*

33.4.4. *Mrs M Grobler of Rita van Biljon Occupational Therapists*

33.4.5. *Mrs L van Zyl of Rita van Biljon Occupational Therapists*

33.4.5. *Dr EJ Jacobs – Industrial Psychologist*

33.4.6. *Munro Forensic Actuaries.*

33.5. *Payment of the capital amounts shall be made without set-off or deduction, within 180 (hundred and eighty) calendar days from the date of granting of this order, directly into the trust account of the plaintiff's attorneys of record by means of electronic transfer, the details of which are the following:*

*Honey Attorneys - Trust Account
Bank – Nedbank, Maitland Street, Bfn
Branch Code - 11023400
Account No. – 1[...]
Reference – HL Buchner/l22884*

33.6. *Payment of the taxed or agreed costs shall be made within 180 (hundred and eighty) days of taxation, and shall likewise be effected into the trust account of the plaintiff's attorney.*

33.7. *Interest a tempore-morae shall be calculated in accordance with the Prescribed Rate of Interest Act 55 of 1975, read with section 17(3)(a) of the Road Accident Fund Act 56 of 1996, one hundred and eighty (180) days from the date of this order.*

[2] Paragraph 33.2.2 of the aforesaid order contains an error in respect of the amount payable in respect of future loss of income. The correct amount awarded should reflect as *R 548 700 (five hundred and forty eight thousand rand)*.

[3] The aforesaid variation is effected, *mero motu*, in accordance with Rule 42 (1) (b).¹

¹ **42. Variation and rescission of orders**

(1) The court may, in addition to any other powers it may have, *mero motu* or upon the application of any party affected, rescind or vary—

(b) an order or judgment in which there is an ambiguity, or a patent error or omission, but only to the extent of such ambiguity, error or omission;

[4] The varied order should therefore read as follows:

In the result I make the following order;

33.1. The plaintiff's claim for damages in respect of past loss of earnings is dismissed.

33.2. The defendant shall pay to the plaintiff;

33.2.1. R350 000.00 (Three hundred and fifty thousand rand) in respect of general damages arising from the motor vehicle accident that occurred on the 21st June 2013.

33.2.2. R 548 700 (five hundred and forty eight thousand rand) in respect of future loss of income.

33.3. The defendant shall furnish the plaintiff with an undertaking in terms of section 17(4) (a) of Act 56 of 1996 for payment of 100% of the for the future accommodation of the plaintiff in a hospital or nursing home, or treatment of or rendering of a service or supply of goods to him, arising from the injuries sustained by him in the motor vehicle collision on the 21st June 2013.

33.4. The defendant shall pay the plaintiff's taxed or agreed party and party costs until the date of this order including costs of counsel. Such costs shall include the following the reasonable and qualifying fees of the following experts:

33.4.1. Dr JJ Schutte - General Practitioner

33.4.2. Dr LF Oelofse – Orthopaedic surgeon

33.4.3. Drs van Dyk & Partners – Radiologists

- 33.4.4. *Mrs M Grobler of Rita van Biljon Occupational Therapists*
- 33.4.5. *Mrs L van Zyl of Rita van Biljon Occupational Therapists*
- 33.7.5. *Dr EJ Jacobs – Industrial Psychologist*
- 33.7.6. *Munro Forensic Actuaries.*

33.8. Payment of the capital amounts shall be made without set-off or deduction, within 180 (hundred and eighty) calendar days from the date of granting of this order, directly into the trust account of the plaintiff's attorneys of record by means of electronic transfer, the details of which are the following:

*Honey Attorneys - Trust Account
Bank – Nedbank, Maitland Street, Bfn
Branch Code - 11023400
Account No. – 1[...]
Reference – HL Buchner/l22884*

33.9. Payment of the taxed or agreed costs shall be made within 180 (hundred and eighty) days of taxation, and shall likewise be effected into the trust account of the plaintiff's attorney.

33.10. Interest a tempore-morae shall be calculated in accordance with the Prescribed Rate of Interest Act 55 of 1975, read with section 17(3)(a) of the Road Accident Fund Act 56 of 1996, one hundred and eighty (180) days from the date of this order.

NG GUSHA, AJ

On behalf of the plaintiff
Instructed by:

Adv. Pohl SC
Honey Attorneys
BLOEMFONTEIN

On behalf of the respondent

Instructed by:

Ms. P Banda

State Attorney

BLOEMFONTEIN