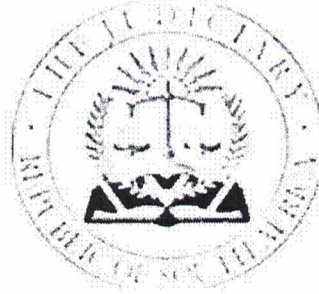


REPUBLIC OF SOUTH AFRICA



IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA

CASE NO: 65618/2017

(1)	<u>REPORTABLE: NO</u>
(2)	<u>OF INTEREST TO OTHER JUDGES: NO</u>
(3)	<u>REVISED.</u>
<u>12/05/21</u> DATE  SIGNATURE	

In the matter between:

LYDIA ZANELE MNGUNI

Plaintiff

and

THE ROAD ACCIDENT FUND

Defendant

J U D G M E N T

The judgment and order are accordingly published and distributed electronically. The date and time of hand down is deemed to be 10:00 on 12 May 2021.

TEFFO, J:**Introduction**

[1] On 30 January 2016 the plaintiff, an adult female who was 26 years old at the time, was involved in a motor vehicle accident. She seeks compensation from the defendant for damages suffered as a result of the injuries sustained in the collision.

[2] The issue of liability has been settled at 100% in favour of the plaintiff. The defendant has agreed to compensate the plaintiff for future medical and hospital expenses by furnishing a section 17(4)(a) undertaking in terms of Act 56 of 1996. General damages have been referred to the Health Professions Council of South Africa (HPCSA) for determination. The issue thereof has been postponed *sine die*.

[3] The head of damages for determination is the plaintiff's claim for future loss of earnings or loss of earning capacity.

[4] No oral evidence was led. The case was presented on the basis of the experts' medico-legal reports filed.

[5] The plaintiff has filed the following medico-legal reports: Dr T Enslin (Serious Injury Assessor); Dr H B Enslin (Orthopaedic Surgeon); Alison Crosbie (Occupational Therapist); Dr G Marus (Neurosurgeon); Dr M Mazabow (Neuropsychologist); Dr D Shevel (Psychiatrist); Sunette van den Heever (Educational Psychologist); Anthony Townsend (Clinical Psychologist); Dr J Watts (Clinical Psychologist); Dr L Berkowitz (Plastic and

Reconstructive Surgeon); Dr R Blumenfeld (Ophthalmologist), Louis Linde (Industrial Psychologist); Algorithm Consulting CC (Actuaries).

[6] The defendant has filed the following reports: Dr Khumalo (Orthopaedic Surgeon); RAF 4 form – Dr Khumalo; Dr Ntimbane (Neurosurgeon).

[7] All the plaintiff's experts save for Anthony Townsend (Clinical Psychologist) have also filed affidavits confirming the correctness of the contents of their reports in respect of their factual findings, their opinions and the reasons thereof. They have also attached copies of their *curriculum vitae*. There was no appearance on behalf of the defendant. The reports filed by the defendant were not accompanied by the experts' affidavits confirming the correctness of their contents and the copies of their *curriculum vitae*.

[8] The RAF Form 1 completed by Dr Ramonyadiwa at Mamelodi Hospital was also filed.

[9] No hospital records have been filed. No joint minutes have been filed.

[10] The notice of set down was served on the defendant. There were engagements between the plaintiff's attorneys and the defendant and the matter could not be resolved. The trial proceeded in the absence of the defendant.

[11] Further documents filed in the quantum bundle were: payslips from the plaintiff's employer, Jaco Roos Attorneys dated 30 June 2015 to July 2016 and from 30 June 2019 to 30 April 2020; Certificate of Service; *curriculum vitae*; school reports; matric certificate; academic record obtained from the

University of South Africa (Unisa) dated 28 August 2018, 18 October 2018 and 9 January 2020 and academic results obtained from Unisa; photographs depicting the injuries the plaintiff sustained in the accident and an X-ray report compiled by Bergman, Roos and Partners Radiologists.

The injuries

[12] The RAF Form 1 completed by Dr Ramonyadiwa at Mamelodi Hospital states that on 31 January 2016 the plaintiff was seen in casualty. X-rays were done on the abdomen, chest and cervical spine. Assessment: Soft tissue injury secondary to motor vehicle accident. No fractures on X-rays. She was discharged on 31 January 2016 with analgesia.

[13] Dr H B Enslin, the plaintiff's orthopaedic surgeon states in his report that according to the information provided by the patient, and/or the documentation received and/or clinical findings and radiographic studies, Ms Mnguni sustained the following orthopaedic injuries: Bruising over her left shoulder; bruising over her chest, which was painful for two weeks and an injury to her cervical spine. She was taken to Mamelodi Hospital where she was evaluated, stabilised and admitted for one day. X-rays were processed. She was treated conservatively. A neck collar was fitted for one week. Her neck was painful for two days whereafter she removed the collar.

[14] On clinical examination on 29 March 2018 he found the following: a small scar measuring 2,2 cm x 1 cm over the left shoulder with keloid formulation.

[15] Dr H B Enslin further states that according to the hospital notes, Ms Nguni was awake when she was evaluated at Mamelodi Hospital. She has completely recovered from her injury to her neck and chest. She has intermittent pain in her left shoulder and a minor scar over the left shoulder, which is not of cosmetic significance. She uses rubbing lotion on her left shoulder once a month. There are no radiological signs of damage to the left shoulder. He believes that Ms Mnguni has minor subacromial bursitis related to the accident. Ms Mnguni has reached Maximum Medical Improvement. Her disability for her present work, namely filing and cleaning is assessed at 10%.

[16] According to Dr H B Enslin, Ms Mnguni should be able to continue with her present work until she reaches her normal age of retirement. She has passed matric and she is computer literate. He was unable to state that the plaintiff will become disabled for work due to the intermittent pain in her left shoulder. He deferred to a clinical psychologist for an evaluation of the plaintiff's actual disability and impairment related to her Post-Traumatic Stress Disorder and depression. The plaintiff sustained soft tissue injuries and serious complications have not occurred.

[17] The plaintiff was evaluated by Dr T J Enslin for completion of the RAF 4 Form on 7 March 2017. Dr T J Enslin found that she had 10% whole person impairment which related to psychological symptoms following the accident. She has loss of memory and a Post-Traumatic Stress Disorder which was included in the causation of her depressed mood. Her sister and her sister's daughter were fatally injured in the accident, which she found very traumatic.

Dr T J Enslin mentioned scarring on the left shoulder. He qualified her for an award for general damages under the Narrative Test. His view was that Ms Mnguni should be evaluated by a clinical psychologist for treatment of her Post-Traumatic Stress Disorder and depression.

[18] Dr G Marus, the plaintiff's Neurosurgeon, who saw the plaintiff on 4 April 2019 concluded that she sustained a mild to moderate concussive brain injury. He further stated that the outcome after this severity and type of brain injury is variable, some patients can retain some cognitive related symptoms in the longer term.

[19] Dr J A Ntimbani, the defendant's Neurosurgeon agrees that the plaintiff sustained a mild head injury (concussion).

[20] On 23 August 2018 the plaintiff was assessed by Dr M Mazabow, a Neuropsychologist. The plaintiff reported to him that she does not recall the accident. The accident happened on 30 January 2016 at approximately 17:00/17:30. Her last memory before the accident was of approaching a stop-sign which would have been a few seconds before the impact. She did not recall being at the scene of the accident nor being transported to the hospital. She did not recall being at the hospital and being discharged approximately 14 hours post-accident. She also did not recall arriving home at her sister's house thereafter. Her first post-accident memory was of finding herself in her sister's house and being told to bath, prior to travelling by taxi to her workplace in order to complete certain forms.

[21] She mentioned that she was disorientated and did not know what was happening around her at the time. Her sister reported that that happened on

Monday at approximately 07:00, some 40 hours post-accident. The plaintiff recalled being taken to a private doctor later on the same day and her memory was continuous subsequent thereto. This, according to him, indicates a period of dense/total post-traumatic amnesia of nearly 40 hours.

[22] The plaintiff's sister reported that she saw her at approximately 19:00 on the night of the accident, two hours post-accident. The plaintiff did not recognise her and did not know her name. She did not understand that she was involved in an accident. However, she was complaining about the pain on her left shoulder. She was discharged the following morning, 16 hours post-accident. Her sister reported that she slept a lot a few days following her discharge from the hospital. She was quiet, confused and traumatised. She was only informed about her sister's death and her child four days after the accident.

[23] Dr Mazabow notes that the casualty notes have not been available. The hospital records from 30 January 2016 at 21:40 (four hours post-accident) state that the plaintiff was received from day staff and was fully conscious, but was "*having an episode of confusion*". The neuropsychologist remarked that the statement is contradictory in that the episode of confusion would preclude full consciousness. It was further recorded that she was complaining of body pains. There were no further clinical or nursing notes present save for a note from 23:10 which gives a diagnosis of a soft tissue injury with no fractures identified on X-ray and the plaintiff was said to be discharged.

[24] The neuropsychologist further states that the plaintiff returned to work at Jaco Roos Attorneys two weeks after the accident. She resumed her duties as a general worker with cleaning and filing duties. However, she reported that at that time she fatigued rapidly, had pain on her left arm/shoulder when reaching for documents and files and had poor concentration with consequent errors. She stated that she received no complaints as her employer was sympathetic to her circumstances. She says her difficulties improved during the course of 2016. She had no problems in 2017 and has had no problems at work in 2018 thus far. She says she becomes tired easily when carrying out cleaning duties. She is short-tempered in relation to her colleagues at work. Dr Mazabow recommended that the plaintiff's level of work functioning should be investigated by an industrial psychologist.

[25] With regard to her studies, the plaintiff reported that she began to study for a BA degree in Psychology through Unisa via correspondence in 2017. She had to spend high levels of effort and time studying because she tends to become fatigued easily when studying. However, she said she performed very well in her studies passing all the modules in both semesters. At the time of the assessment she was in her second year of her studies and her performance was still good.

[26] The plaintiff reported that she has become forgetful. She thinks that is only in the last few months, since she became pregnant and denied any problems previously. Her sister was not aware of her memory problem. Her concentration was very poor in the initial period following the accident but it has improved over time. However, she says her fatigability at work and while

studying affect her concentration requiring her to spend more time and effort on the task. She further reported that she had been prone to episodes of sadness since the accident, and she attributes this to her ongoing grief about the deaths of her sister and her 13 years old niece in the accident. She was intensely depressed in the period following the accident and underwent counselling with a social worker, but for only one session. She continues to become sad when thinking about these losses. The test conducted at evaluation (Beck's Depression Inventory (BDI-II) revealed a score of 26 which is the average range of depression. On this inventory the plaintiff reported anhedonia (reduced capacity to experience pleasure), guilt and expectation of punishment, tearfulness, a feeling of restlessness lowered energy, decreased need for sleep, irritability, appetite disturbance, fatigue, distractibility and reduced sexual interest. She further reported that she is fearful when travelling in motor vehicles, especially in buses and that has been confirmed by her sister. She has no other post-traumatic anxiety symptoms.

[27] Dr Mazabow opined that in the absence of an incidental/unrelated neurological disorder, Ms Mnguni's current neurocognitive profile (which includes areas of significant impairment, together with several preserved cognitive functions), and her reported behavioural changes, would be attributed predominantly to a moderate diffuse concussive brain injury sustained in the accident, compounded by a chronic, moderate mood disorder. His prognosis was that at more than 2½ years post-accident, the plaintiff's neuropsychological status is permanent.

[28] As regards the plaintiff's academic performance, the neuropsychologist said the following:

"6.2.3 If her performance has indeed been good during 2017 and 2018, then the indication would be that her level of compensation has been fairly successful thus far (at least at the level of undergraduate correspondence studies). However, given her areas of cognitive impairment evident on testing, Ms Mnguni is not likely to manage to perform optimally at the higher levels of study required for qualification in this field (in particular at Honours and Master's level studies) and she may also struggle with the 3rd year level subjects which makes greater demands on aspects that are impaired (including concept formation, planning, rote verbal memory). Further comment in that regard would be useful from an educational psychologist."

[29] The plaintiff was also assessed by Ms Sunette van den Heever, the Educational Psychologist who saw her on 16 April 2019. Her report states that the plaintiff successfully completed Grade 1 to 12 without repeating any grades. Having perused the school report for Grade 6 attached to her report, she states that the plaintiff seems to have been an average to a high average learner. She matriculated in 2007 and obtained an endorsement for admission to a Bachelor's degree. Her marks were between 50 to 59 percentage for English, Economics, Business Economics, 60 to 69 percent in Ndebele and Accounting and between 40 and 40 for Biology.

[30] In 2012 she enrolled for an International Computer Driver License at the ICDL South Africa which she completed. She aspired to become a Social Worker. However, she was required to complete a bridging course in order to improve her matric results and obtain a higher M-score before she was allowed to register for a Bachelor of Social Work. She enrolled for an extended programme for degree studies at Unisa in the second half of 2013. She passed English Proficiency for university studies with 50 percent and Introduction to Law for Social Work 11B with 58 percent, however, she failed English for Academic Purposes and Introduction to Law for Social Work 11A with 24 and 34 percent.

[31] In 2014 she repeated English for Academic Purposes but failed in May and October. She managed to pass Introduction to Law for Social Work 11A in May 2014 with 59 percent. In 2015 she managed to pass English for Academic Purposes with 50 percent and successfully completed the course. The Educational Psychologist mentions that the plaintiff informed her that she was informed that she would be allowed to register for a Bachelor of Social Work. Attempts to confirm the information were not successful at the time of writing the report.

[32] The accident happened in January 2016. She was unable to resume her further studies in 2016.

[33] In 2017 she enrolled for a Bachelor of Arts (Health Sciences and Social Services) degree at Unisa on a part-time basis while working as a cleaner and filing clerk. She enrolled for eight modules and passed 7 of them with marks ranging from 50 to 75 percent. This excludes her failure in Personality

Theories and supplementary examination for Critical Reasoning which were 32 and 41 percent respectively. In 2018 she enrolled for the first year subject which she had failed and nine other second year modules. She passed the first year subject with 55 percent and seven second year modules obtaining two distinctions. However, she failed Foundations of English Literacy and made it into the supplementary examinations for Research in Social Sciences 2019. In 2019 she rewrote the supplementary exam but failed. In 2019 she enrolled for four third year modules and obtained the following results: 50 percent, 61 percent, 53 and 55 percent.

[34] She indicated to her in a telephonic conversation in March 2020 that she had eight modules outstanding. She registered for five modules and would register the next three modules in the second semester of 2020. She has until 2022 to complete her degree.

[35] Her work history was that after completion of her matric, she worked as a waitress at Villa Paulo Restaurant in 2009. In 2011 she accepted a position at Jaco Roos Attorneys as a cleaner and filing clerk. She is still employed in that capacity.

[36] The above information is at variance with the information that is on the Certificate of Service that forms part of the record. In the Certificate of Service it is stated that the plaintiff was employed on 5 January 2011 as a domestic worker initially and at date of accident she was still employed as a domestic worker. She works five days per week at eight hours per day and earns a salary of R2 720,00 per month. The Certificate is not completed in full. There is no indication as to when she resumed her duties after the accident. It has

not been signed and stamped. The name of the employer has also not been completed save for the address. It is not known when the certificate was completed and by who.

[37] The plaintiff's *curriculum vitae* has also been attached. She states in her CV that she works as a filing clerk/cleaner at Jaco Roos Attorneys. On Monday, Wednesday and Friday she does cleaning work. On Tuesday she does cleaning at Lize-Marie Roos and on Thursday she does filing for Mariza Labuschagne.

[38] With the above information in mind the educational psychologist concluded that in terms of her pre-morbid educability and considering all available information as well as her perseverance and determination to complete her tertiary studies despite her challenges, the plaintiff would have had the cognitive and academic potential to complete a Bachelor of Social Work degree as aspired to do. This would have allowed her career opportunities as a social worker and she would have obtained a NQF 8 level qualification.

[39] Post-morbidly she managed to pass her first and second year of studies for the Bachelor of Arts in Health Sciences and Social Services degree she enrolled but a decline in performance is noted in her third year. In light of this together with her cognitive profile and her emotional vulnerabilities and distress, in the absence of any psychological intervention her ability to cope within her academic environment is declining and is affecting her cognitive functioning. While she may manage to complete the degree course she enrolled for if given the necessary interventions, it is evident that she now

has to exert a greater amount of effort and has experienced a delay in completing her studies.

[40] Ms Sunette van den Heever is of the view that available information suggest that the plaintiff's academic career has been significantly compromised by the accident. She did not enrol for a Bachelor of Social Work (NQF 8) degree and instead registered for a BA Health Sciences and Social Services degree which is a NQF 7 level and less demanding in terms of academic challenges. Her ultimate career prospects were also negatively affected and deference is given to the findings of the industrial psychologist.

[41] Ms Van den Heever also referred to the feedback of the plaintiff's employer that suggests a decline in the quality of her work and a decrease in her functionality. The fact that she displays an aloof attitude towards her expectations and surrounding people at work. Further that she has an attitude which causes friction at work as she does not concentrate and is prone to errors.

[42] In the educational psychologist's opinion if the plaintiff's emotional problems are left unaddressed, the likelihood of completing her studies will decline leaving her with an NQF 4 qualification. At the age of 29 years old, the plaintiff will probably not enrol for further studies and her cognitive difficulties will continue to interfere with the academic progression prohibiting any advancement in educability.

[43] The opinion of the educational psychologist which will ultimately together with the opinions of other experts inform the opinion of the industrial psychologist, is not consistent with the educational information provided.

Although the plaintiff obtained an aggregate symbol that enabled her to register at a university, she passed Biology which she registered in standard grade with an E symbol. Her June 2007 school report shows that her English and Biology marks were relatively low with 35 and 25 percent compared to the other subjects which ranged from 52 to 62 percent. I must say that the plaintiff has been selective in providing information relating to her performance at school. The only progress reports provided are for Grade 6 and Grade 12. All we know is that she was in Grade 6 in 2001 and in Grade 12 in 2007. She never failed any grade in high school. There is no proof of her performance in the other grades.

[44] In 2013 she enrolled for an extended programme for a university degree to improve her marks to qualify her for enrolment for a Bachelor of Social Work degree. These extended programmes are normally done in one year. The plaintiff failed some modules in 2013 and 2014 and only completed the programme in 2015. It is significant to underscore the fact that this was a bridging course. All this happened prior to the accident. The plaintiff aspired to study for a Bachelor of Social Work degree.

[45] Post-accident the plaintiff enrolled for a BA degree in Health Sciences and Social Services which the educational psychologist regards as less challenging academically than the Bachelor of Social Work degree. This assertion is moot. Although it can be said that she did well in her studies in 2017 and 2018 passing certain modules with distinctions, this was not a smooth journey as she had to repeat one to two courses and this pattern continued in the third year. Having regard to her academic progress pre-

accident, it cannot be concluded that her decline in her academic performance in her third year of study was related to the accident. This pattern existed pre-accident. It attests to a fairly average student.

[46] Ms Franja Burger, an Occupational Therapist at Alison Crosbie Inc (the plaintiff's occupational therapist) states in her report that the plaintiff is employed at Jaco Roos Attorneys where she started in 2011 as a cleaner. In 2017 she started to do filing. This information contradicts the information recorded in other experts' reports which says the plaintiff was employed as a cleaner and filing clerk with effect from 2011. See the report of the neuropsychologist. Furthermore, it also contradicts the information provided on the Certificate of Employment which states that she has been employed as a domestic worker and the information on her CV as discussed above.

[47] In Ms Burger's opinion, the plaintiff's pre- and post-accident work as a cleaner/filing clerk falls within the light work category. According to the assessment results, her lifting ability tested to fall within the light work category. Her lifting ability was influenced by the left shoulder injury which resulted in lost of control and asymmetrical handling of the load with minimal increase in weight. From a lifting point of view only, the plaintiff should be able to continue with her pre-accident work as a cleaner and filing clerk. However, her productivity will be reduced and she will require reasonable accommodation and also receive physiotherapy.

[48] The occupational therapist agrees with Dr Mazabow's opinion that the plaintiff will most likely struggle to complete the psychology degree taking into consideration her fatigue and neurocognitive deficits. In her view the plaintiff

should have career counselling in order to receive guidance to consider alternative qualifications such as shorter and more practical diploma courses that are still related to counselling within the field of psychology. She has a residual work capacity that is at a lower level than her capacity pre-accident. She requires reasonable accommodation in the workplace due to the injury to her left shoulder and her employer would have to be sympathetic with regards to her neurocognitive deficits, executive dysfunction and psychological deficits.

[49] Ms Burger's opinion is that the plaintiff has psychological fallout as a result of the accident. This will affect her motivation and drive should she pursue a career with high demands on productivity and efficiency. The occupational therapist deferred to the industrial psychologist for further comment on her pre- and post-accident earning capacity.

[50] Dr J A Watts (the plaintiff's Clinical Psychologist) who saw the plaintiff on 29 June 2020 and whose report is dated 18 July 2020 is of the opinion that but for the accident the plaintiff would have continued to enjoy the same quality of occupational, familial, social and recreational fulfilment as characterised by her pre-morbid functioning. Her pre-morbid history suggests good-enough engagement with these dimensions of her personal worlds. There were no psychological indices to suggest that her future functioning within these dimensions was at risk. As a result of the accident, the plaintiff was injured. She sustained a diffuse concussive head injury. She suffered from bereavement due to the deaths of her sister and niece. The head injury exacerbated her psychic fragility, leading to a complicated bereavement. She

lacks the cognitive capacities to process her bereavement. The death of her father further contributed to exacerbate her bereavement. She developed a Major Depressive Episode which became chronic and she suffers chronic pain.

[51] Dr Leslie Berkowitz, Plastic and Reconstructive Surgeon noted that the plaintiff sustained an impact injury to the left shoulder with associated overlying lacerations and a soft tissue injury of the neck. She has scars on the left shoulder, two superficial scars extending distally from the distal end of scar 1 and one lying proximal to scar 1. She will require surgical revision for scar 1. She has reached Maximum Medical Improvement and has been left with serious permanent disfigurement of her left shoulder as a result of the accident.

[52] The plaintiff's psychiatrist, Dr Shevel also evaluated her and reported as follows:

"7.23 From the information available, the history obtained from Ms Mnguni and her mental state at the time of examination, the psychiatric diagnosis is most likely as follows:

7.23.1 Complicated bereavement with associated depressive features (currently largely in remission) and complicated by a concussive head injury."

[53] Messrs Linde & Jooste (the plaintiff's Industrial Psychologists) stated the basis for calculation of the plaintiff's loss of earnings as follows:

“9 *Loss of earnings*

Ms Mnguni has suffered a potential future loss of earnings and earning potential as a result of the accident in question. But for the accident Ms Mnguni would have continued working as a cleaner/filing clerk as she had pre-accident, earning R2 700,00 per month in 2016 terms.

She would additionally have started studying towards her degree in 2016 on a part-time basis had the accident not occurred. Five years should be allowed for studies, therefore Ms Mnguni would have entered the open labour market in 2021 as a Social Worker.

With a degree in social work, Ms Mnguni would have been able to enter the position of Social Worker Grade 1, progressing to the positions of Social Worker Grades 2 and 3. By the age of 40 to 45 years, following the straight line approach. Ms Mnguni would have reached the position of Social Worker Supervisor Grade 1. After a further five years she would have reached her career ceiling in the position of Social Worker Supervisor Grade 2. For the purposes of quantification, the applicable salary information as per Appendix D to DPSA Circular 10 of 2019, OSD for Social Services Professions: 1 April 2019, are provided in the loss of earnings below. Ms Mnguni would have received notch and salary inflationary increases until her retirement at the age of 65 years ...

Now, as a result of the accident, Ms Mnguni's academic studies were delayed and she therefore has suffered a delay in entrance in the open labour market.

The present writers are of the view that a position as a Social Auxillary Worker would probably suit Ms Mnguni well and provide her with a sense of purpose. She will be able to apply for this position with either qualification once she secures a learnership as a Social Auxillary Worker Grade 1. In this position she will be able to progress from a grade 1 to a grade 3 position with her earnings increasing proportionally with notch and level increases as reported in loss of earnings below. It is foreseen that she will probably apply for a learnership position in 2022."

[54] The plaintiff's industrial psychologist had sight of all the plaintiff's expert reports. As I had alluded to above the occupational therapist in her report stated that the plaintiff started working at Jaco Roos Attorneys as a cleaner in 2011. From 2017 (post-accident) she worked as a filing clerk. If the information is correct, the plaintiff only worked as a cleaner pre-accident. This information should also be read with the information referred to above as recorded in the plaintiff's CV and her Certificate of Employment which contradicts the information that she worked at Jaco Roos Attorneys as a cleaner/filing clerk.

[55] Furthermore, as I had highlighted above, there is no proof that the plaintiff was accepted for enrolment of a Bachelor of Social Work. The

plaintiff aspired to become a Social Worker. However, she did not qualify hence she had to enrol for the extended programme. There is no evidence that in 2016 she would have been allowed to register for a BA degree in Social Work had the accident not occurred. There is therefore no basis in my view to form an opinion that the plaintiff would have been able to obtain an NQF 8 qualification which would qualify her as a Social Worker pre-accident. A delay of a year in her studies following the accident is not in dispute.

[56] The Actuaries, Algorithm Consultants calculated the plaintiff's loss of earnings on the basis of the opinion of the plaintiff's industrial psychologists. It was submitted that basis 2 resulting in a total future loss of earnings in an amount of R4 739 003,00 would fairly and reasonably compensate the plaintiff.

[57] Having regard to the serious concerns I raised in this matter, I find that the opinions of the plaintiff's experts are at variance with evidence presented by the plaintiff. It follows that the plaintiff has not proved her case for future loss of earnings.

Costs

[58] There is no basis to deprive the specified plaintiff's experts of their costs. They performed their work and produced their reports in accordance with their instructions.

[59] In the result the following order is made:

1. Absolution from the instance is granted in respect of the plaintiff's claim for future loss of earnings.
2. The defendant is ordered to, on or before 31 May 2021, provide the plaintiff with a written undertaking in terms of section 17(4)(a) of the Road Accident Fund Act, 56 of 1996, 100% for the costs of the future accommodation of the plaintiff, in a hospital or nursing home or treatment of or rendering of a service to her or supplying of goods to her arising out of the injuries sustained by her in the motor vehicle collision that occurred on the 30th day of January 2016, in terms of which undertaking the defendant is obliged to compensate the plaintiff in respect of the said costs after the costs have been incurred and upon proof thereof.
3. The reasonable fees of the following experts will be paid directly by the RAF to such experts: Dr T Enslin; Dr H B Enslin; Alison Crosbie; Dr G Marus; Dr M Mazabow; Dr D A Shevel; Anthony Townsend; Dr J Watts; Dr L Berkowitz, Sunette van der Heever; Dr R Blumenfeld; Louis Linde and Algorithm.

M J TEFFO
JUDGE OF THE HIGH COURT
GAUTENG DIVISION, PRETORIA

Townsend; Dr J Watts; Dr L Berkowitz, Sunette van der Heever; Dr
R Blumenfeld; Louis Linde and Algorithm.


M J TEFFO
JUDGE OF THE HIGH COURT
GAUTENG DIVISION, PRETORIA

Appearances

For the plaintiff

M Fourie

Instructed by

Jaco Roos Attorneys Inc

For the defendant

No appearance

Date heard

13 November 2020

Date handed down

12 May 2021