

FREE STATE HIGH COURT, BLOEMFONTEIN
REPUBLIC OF SOUTH AFRICA

Case No.: 2663/2009

In the matter between:

KARL MEINERT PFISTER

Applicant

and

ROAD ACCIDENT FUND

Respondent

JUDGMENT: HANCKE, AJP

HEARD ON: IN CHAMBERS

DELIVERED ON: 23 AUGUST 2012

[1] The applicant applies for leave to appeal against certain parts of a judgment of this court handed down on the 15th December 2011.

[2] This court awarded the following damages in favour of the applicant:

Lost of earnings	R 354 676,00
Future loss of earnings	2 868 173,00
General damages	<u>450 000,00</u>
TOTAL	<u>R3 672 849,00</u>

- [3] The parts of the judgment in respect of which leave to appeal is sought against are the award of R450 000,00 in respect of the general damages as well as the amount awarded to the applicant in respect of his claim for loss of earnings, more particularly what constitutes the applicant's post accident residual earnings and earning capacity.
- [4] It is submitted on behalf of the applicant that another court may reasonably well give substantially more weight to the wholly uncontested factual evidence produced on behalf of the applicant. It is also argued on behalf of the applicant that another court may give a different interpretation to the agreements reached between the industrial psychologists in the joint minute and as contended for by the applicant, bearing in mind the uncontested evidence of Mrs Van Jaarsveld, qualifying their agreements.
- [5] As far as general damages is concerned and relying on the judgment of **DE JONGH v DU PISANIE N.O.** 2005 (5) SA 475 (SCA) the applicant submitted that another court, taking into account the nature and extent of the applicant's

injuries, may reasonably well arrive at a different conclusion by increasing the award for general damages. In this regard it is submitted that an award between R800 000,00 and R1 000 000,00 will be more appropriate.

[6] Having regard to the facts and circumstances of the case I am of the view that there exist a reasonable prospect of success on appeal. See **BOTES v NEDBANK** 1983 (3) SA 27 (A) at 28C-D. It also appears that there is difference of opinion amongst the Provincial Divisions as far as the calculation of the aforesaid awards are concerned. I am of the view that leave should therefore be granted to the Supreme Court of Appeal.

[7] Accordingly, the following orders are issued:

1. Leave is granted to the applicant to appeal to the Supreme Court of Appeal.
2. Costs of this application will be costs in the appeal.

S. P. B. HANCKE, AJP

On behalf of the applicant: Adv. G. J. Strydom SC
Instructed by:
Schoeman Maree Inc.
BLOEMFONTEIN

On behalf of the respondent: Adv. P. J. J. Zietsman
Instructed by:
Honey Attorneys
BLOEMFONTEIN

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