



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

Case No. 1886/2018

- (1) REPORTABLE: YES/NO  
(2) OF INTEREST TO OTHERS JUDGES: YES/NO  
(3) REVISED

SIGNATURE

DATE

In the matter between:

**NTAHOMPAGAZE ABDUL**

Plaintiff

and

**THE MINISTER OF HOME AFFAIRS**

First Defendant

**THE MINISTER OF POLICE**

Second Defendant

*This matter was heard in open court and disposed of in terms of the directives issued by the Judge President of this Division. The judgment and order are accordingly published and distributed electronically.*

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## JUDGMENT

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KUBUSHI J

### INTRODUCTION

[1] On 7 June 2017, and at the Department of Home Affairs' office in Marabastad, Pretoria, the plaintiff was arrested without a warrant on a charge of being an illegal immigrant. The plaintiff had gone to the office to apply for re-issue of his refugee papers after he lost the original documents during a robbery three days earlier. The arrest was effected by members of the Department of Home Affairs whose names were not known to the plaintiff. Subsequent to the arrest, the plaintiff was handed over to members of the South African Police Service at the Pretoria Central Police Station where he was detained until 20 June 2017. He was released when it was discovered that he was mistakenly arrested. The period of detention amounted to thirteen (13) days. As a result of such arrest and detention the plaintiff is said to have suffered infringement of his right to physical and psychological integrity and physical liberty. The plaintiff has consequently, instituted action for unlawful arrest and detention against the Minister of Home Affairs and the Minister of Police ("the Defendants"). The matter is defended.

[2] The matter was initially set down for trial on 5 May 2020 whereat it was partially settled between the parties. Amongst others, the following was by agreement between the parties made an order of court, namely, that (a) the defendant concedes liability in respect of the plaintiff's 100% proven or agreed damages; (b) the claim against the Minister of Police is withdrawn; and (c) the *quantum* is postponed *sine die*. What remained to be determined by this court is the issue of *quantum*, then, only against the Minister of Home Affairs.

[3] In accordance with the particulars of claim, the plaintiff is claiming the following heads of damages, namely loss of income in the amount of R13 000;

general damages in the amount of R400 000. The amount claimed for general damages was later amended and increased to R600 000. During oral argument, the plaintiff's counsel included a further claim for future medical expenses and related expenses in respect of the treatment of depression and anxiety. The heads of damages will be dealt with sequentially hereunder.

[4] The parties agreed that the matter be argued on the papers as uploaded on Caselines. Medical reports have been filed in relation to the *quantum* claim. The specialist psychiatrists and clinical psychologists have compiled joint minutes. The matter is in essence, argued on these joint minutes.

## JOINT MINUTES

### Joint Minutes of Specialist Psychiatrists

[5] Both specialist psychiatrists, Dr M Molokomme and Dr L A Fine who independently examined the plaintiff on different occasions and without having had sight of each other's reports, are in agreement that due to the arrest and subsequent incidents, the plaintiff suffers from major depressive disorder and post-traumatic stress disorder. The psychiatrists agree that the plaintiff requires psychiatric treatment and management. They also agree that the plaintiff suffered trauma physically, emotionally and economically but does not require protection on psychiatric grounds. They together deferred to appropriate opinions concerning occupational and earning capacity.

### Joint Minutes of the Clinical Psychologists

[6] Both clinical psychologists, Mr Modipane and Ms Nagel, agree that following the plaintiff's unlawful arrest and incarceration he has been left with a range of physical, emotional, and psychological difficulties directly occasioned by the trauma of the experience in custody. Among others, both experts noted heightened symptoms of anxiety, depression and post-traumatic stress disorder. They, also, agree that the plaintiff suffered deterioration in health following the denial to access to his chronic medication while he was incarcerated, loss of self-

employment opportunity and earnings for some time as the result of his incarceration. Whilst the plaintiff has returned to his work as hairdresser, his business has not recovered to the pre-incarceration levels. Overall, the experts' opinion is that the plaintiff's quality and enjoyment of life has been adversely affected by the experience of the unlawful arrest and incarceration in 2017. They, as a result, recommended that the plaintiff would benefit from psychotherapeutic intervention with a clinical psychologist to facilitate resolution of his post-traumatic stress disorder symptoms and depressive symptoms. They further recommended between 20-30 sessions of psychotherapy.

#### CLAIM FOR LOSS OF INCOME

[7] In the plaintiff's particulars of claim it is alleged that at the time of his arrest and detention, the plaintiff was employed as a hairdresser earning a salary of R1 000 *per* month. This amount was subsequently altered to R1 500 *per* month during oral argument in court. The argument, thus, is that during his incarceration the plaintiff was unable to work for thirteen (13) days and, therefore, unable to earn an income during that time, and is consequently, entitled to an amount of R19 500 as damages for lost income. The plaintiff relies on several affidavits deposed to by what is purported to be his clients to proof the income he earned on a monthly basis.

[8] It was argued on behalf of the defendant that the claim for loss of income was abandoned during previous negotiations with the plaintiff's prior counsel. The contention was that the plaintiff is now bringing the claim through the back door. Counsel for the defendant in support of this submission, referred to the entire heads of argument, that is, the plaintiff's heads of argument that was prepared by the previous counsel which the current counsel is presently using, together with the defendant's heads of argument, which do not contain any argument on a claim for loss of income. The heads of argument deal only with general damages. This, counsel submits, is in line with the undertaking of the previous counsel and is proof that the claim for loss of income had been previously abandoned.

[9] This argument by the defendant's counsel seems convincing when account is taken of a statement titled '*The Plaintiff's Opening Statement*' uploaded on Caselines on 22 October 2021. The following is, amongst others, stated in that statement:

**“[A] THE PLAINTIFF'S CLAIM**

1. The Plaintiff claims general damages and special damages consequent upon his arrest, and detention.
2. The Plaintiff has elected to abandon the claim in respect of the special damages and only pursue general damages.”

[10] There is, therefore, no doubt that by specifically stating in the statement that '*the Plaintiff has elected to abandon the claim in respect of the special damages and only pursue general damages*', that the claim for loss of income, which constitutes special damages, has been abandoned. This submission is further fortified by the fact that the heads of argument, specifically those prepared by the plaintiff's previous counsel, makes no reference to the claim for loss of income.

[11] In any event, the defendant's argument that this claim is not sustainable, has merit. The affidavits cannot serve as proof of the plaintiff's monthly income. There are nine (9) affidavits in all. The first affidavit is deposed to by one Getrude Nare who attest to the fact that she was employed by the plaintiff during 14 September 2017 for cut and colour of hair, and charged R150 for the work. The second affidavit is that of Siyathemba who attest to the fact that she/he was employed by the plaintiff during 29 August 2017 for hair cut, and charged R50 for that work. The third affidavit is by Eugene who was employed by the plaintiff during 29 August 2017 for hair cut, and charged R50 for such work. The fourth affidavit is that of John Pierre who was employed by the plaintiff during 29 August 2017 for cut and style, and charged R50 for such work. The fifth affidavit is that of Courage who was employed by the plaintiff during 14 September 2017 for cut and style, and charged R50 for the work. The sixth affidavit is that of Siyandema Juma who confirms that she/he was employed by the plaintiff during

14 September 2017 for cut, and charged R50 for that work. The seventh is that of Innocent who confirms that he was employed by the plaintiff and paid R50 for the work – the other information is not legible. The eighth affidavit is of one Wayne Likotla confirming that he was employed by the plaintiff during 29 August 2017 for cut, and charged R50 for that work. The last affidavit is by Abiodun Olawale confirming that he was employed by the plaintiff during 14 September 2017 for hair cutting, hair scale and hair dyeing, and he charged R200 for the work.

[12] On behalf of the plaintiff, it was argued that the affidavits serve to indicate that the plaintiff was a hair stylist and that he was making an income as a result of that. The affidavits, in that sense, do not confirm how much income he was making or how much he earned *per* month. The affidavits do not even indicate the period over which the deponents thereof were working for the plaintiff in order to can confirm the monthly income. The affidavits show that the employment was only for a day. The affidavits do not show the income that was received by the plaintiff for instance on a daily basis because the deponents do not indicate how many customers they attended to *per* day that they charged the R50, R150 or R200 as shown in their respective affidavits to be able to make up the plaintiff's monthly income. What is confusing, as well, is that it is not clear whether the loss of income is for the hair salon business of the plaintiff or the plaintiff's monthly earnings.

[13] Additionally, as correctly argued by the defendant, an affidavit by the plaintiff is required to confirm his monthly income. It is the plaintiff who can positively prove that he earns a monthly income of R1 500. The nine affidavits serve only as secondary evidence. Without evidence from the plaintiff to prove his income, the claim for loss of earnings is unsustainable. Plaintiff's counsel during oral argument referred to the deponents of the affidavits as plaintiff's erstwhile clients. This may have been an error on his part but if the affidavits are indeed those of the plaintiff's erstwhile customers, they make the claim even more ridiculous.

[14] Furthermore, the amount claimed for loss of income in the particulars of claim is not R1 500 *per* month as contended for by the plaintiff in oral argument, but R1 000 *per* month. No amendment has been made to increase the amount to R1 500 *per* month. On that score, again, the plaintiff's claim for loss of income cannot succeed.

#### CLAIM FOR FUTURE MEDICAL EXPENSES

[15] The plaintiff based the claim for future medical expenses and related expenses on the joint minutes of the experts wherein they all agree that the plaintiff requires further treatment for post-traumatic stress disorder and the depressive disorder occasioned by his incarceration. It was, further, conceded on behalf of the plaintiff, in oral argument, that apportionment or contingency deductions should apply because the plaintiff was displaced by violence from his native home.

[16] The amount claimed for the future treatment, as was argued, would factor in the probability of the pre-existing ailments caused by the plaintiff's exposure to civil war in his home country, but because he was already in the country for a long time – fifteen (15) years, already established, and was operating a business at the time of his arrest, apportionment and/or applicable contingencies in the region of 20% should be factored in. The further submission was that the amount claimable in relation to the plaintiff's post-traumatic stress disorder and depression was based on the calculations in the joint minutes of the experts.

[17] To the contrary, the defendant submitted that there was no pleaded case in the particulars of claim for the head of damages in relation to future medical expenses, and that, as a result, there was no need for the court to consider the claim, let alone the contingencies. In response thereto, it was submitted on behalf of the plaintiff that although this head of damage is not categorically pleaded in the particulars of claim, the experts have in their joint minutes stated the need for future medical care for the plaintiff. Counsel for the plaintiff moved for the amendment of the particulars of claim for the inclusion of the claim for future medical expenses. The defendant in response argued for the postponement of

the application for amendment which counsel for the plaintiff was not opposed to. Consequently, the head of damages for loss of future medical expenses ought to be postponed.

#### CLAIM FOR GENERAL DAMAGES

[18] Emanating from the medical reports it can be determined that during his detention, the plaintiff could not make a phone call to inform anyone that he was incarcerated and that made him anxious; he is HIV positive and needed to take medication for that medical condition, but because he could not make a call to his friends, he spent about nine (9) days without taking his medication. During the time he could not take his medication, he developed rashes on certain parts of the body. He was extremely anxious and worried about his hopes to be released.

[19] The plaintiff informed the experts that he was locked up with other inmates in an unhygienic, dirty, stinking holding cell with only one open toilet wherein, when any person wants to relieve himself, would have to do it in full view of others. The blankets were not thick enough to keep him warm and were dirty and filthy. There was no soap for him to bath with, and his health condition worsened when he heard an inmate in another holding cell fell sick and died.

[120] The plaintiff worked as a hair stylist at the time of his arrest, as a result of the detention, the plaintiff lost some clients who had utilised his services as they could not locate him whilst in detention and some were told he had been deported from the country.

[21] In an attempt to assist the court to arrive at a fair and just compensation, the plaintiff referred to a number of comparable judgments, namely.

*Minister of Safety and Security v Seymour*,<sup>1</sup> whereat a 63-year-old man had been unlawfully arrested and imprisoned by the State for a period of fifteen (15) days. The Court held that an appropriate award was the sum of R 90 000. He had had free access to his family and a doctor throughout

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<sup>1</sup> 2006 (6) SA 320 (SCA).

his detention. He had suffered no degradation beyond that which is inherent in being arrested and detained and after 24 hours he had spent the remainder of this detention in a hospital bed. Calculated according to the Consumer Price Index, the present-day value of the award is R232, 552 (approximately R233, 000).

*Duma v Minister of Police and Another*,<sup>2</sup> where the plaintiff, Ms Thandeka Duma, claimed damages from the first defendant (the Minister of Police) and second defendant (the Minister of Home affairs) for her unlawful arrest and unlawful detention. The plaintiff was arrested on 27 October 2010. After her arrest, the plaintiff was further detained until her release on 4 November 2010. The charges against her were withdrawn in February 2011. The plaintiff remained in detention for approximately nine (9) days. The plaintiff was awarded R300 000 in 2016. Calculated according to the Consumer Price Index, the present-day value of the award is R419 830 (approximately R420 000).

*Scheepers v Minister of Police and Others*,<sup>3</sup> in the case where the plaintiff issued summons against the defendant for unlawful arrest and detention. The plaintiff was arrested without a warrant of arrest on 14 December 2009 at or near his place of residence. He was then detained and kept at Roodepoort Police Station from 14 December 2009 until 17 December 2009, whereon he was subsequently transferred to John Vorster Police Station, and was further detained there until 20 December 2009. The plaintiff was transferred to Diepkloof Prison (Sun City Prison) on 20 December 2009 whereon he was kept and detained until 6 January 2010, whereat the charges against him were withdrawn. The plaintiff was arrested and detained for a period of twenty-one (21) days. The plaintiff

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<sup>2</sup> (41429/2011) [2016] ZAGPPHC 428 (13 JUNE 2016) an unreported judgment by AC Basson J, dated 13 June 2016, under Gauteng Division, Pretoria.

<sup>3</sup> (36536/2011) [2022] ZAGPPHC 308 (10 MAY 2022). Unreported judgment by Maubane AJ, under Gauteng Division, Pretoria.

was awarded R525 000 in 2022. This amount is currently worth R556 452 (approximately R 557 000).

*Sibuta and Another v Minister of Police and Another*,<sup>4</sup> wherein the plaintiffs sought payment for damages they allegedly suffered consequent upon their unlawful arrest and detention by members of the South African Police Service. The plaintiffs were arrested on 30 July 2013 and kept in police detention until they were released on 15 August 2013. They spent sixteen (16) days in police custody. Their prosecution commenced on 1 August 2013 when they appeared for the first time before a magistrate who kept on remanding their case until charges were withdrawn against them on 22 November 2013. The plaintiffs were each awarded an amount of R470 000 in 2020. This amount is currently worth R555 375 (approximately R555 400).

[22] On the basis of the case law referred to, the plaintiff's counsel submitted that an amount R600 000 would be a fair and reasonable award to be granted to the plaintiff for general damages.

[23] According to the defendant's counsel, the only claim before court is for general damages. Counsel contended that it is common cause that the plaintiff was detained for a period of thirteen (13) days. Counsel, however, argued that the plaintiff informed the experts that during his detention, he was kept at the police station with other foreigners who were awaiting deportation, the contention being that the plaintiff was not sent to prison where he would have encountered violent prisoners.

[24] Counsel further submitted that there is no doubt that the post-traumatic stress disorder, anxiety disorder and major depressive disorder and other conclusions in the joint minutes of the experts cannot solely be as a result of the arrest and detention, particularly when regard is had to the fact that the plaintiff

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<sup>4</sup> (3709/2016;3710/2016) [2020] ZAECGHC 6 (15 JANUARY 2020) an unreported judgment by Toni AJ, under Eastern Cape Division, Grahamstown (a decision from the Eastern Cape Division).

is from a country that experienced war in the past, which caused his parents to flee to this country.

[25] In reinforcing his submission for an award which the court should consider as fair and reasonable, counsel for the defendant relied on the following case law:

*Minister of Police and Another v du Plessis*,<sup>5</sup> where the plaintiff in that matter was awarded R220 000 for unlawful arrest and detention of about ten (10) days. The present-day value calculated according to the consumer price index referred to in Robert Koch, The Quantum Yearbook (2020) is R350 000.

*Duma v Minister of Police and Another*,<sup>6</sup> whereat the Plaintiff spend nine (9) days in detention following an unlawful arrest. An amount of R300 000 was awarded. Calculated according to the Consumer Price Index, the present-day value of the award is R419 830 (approximately R420 000).

In 2019 and in the matter of *De Klerk v Minister of Police*,<sup>7</sup> the Constitutional Court awarded R300 000 to the Plaintiff for a period of eight (8) days in detention.

In *Ndlovu v Minister of Safety and Security*,<sup>8</sup> the Plaintiff was arrested and detained unlawfully for seven (7) days. The court awarded damages of R230 000. The present-day value calculated according to the Consumer Price Index referred to in Robert Koch, The Quantum Yearbook (2020) is R366 000.

[26] According to the defendant's counsel, when these four cases referred to are taken into account, an amount of R400 000 would be an appropriate, fair and reasonable compensation for the plaintiff in respect of the unlawful arrest and

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<sup>5</sup> 2014 (7K6) QOD 1 (SCA).

<sup>6</sup> (41429/2011) [2016] ZAGPPHC 428 (13 JUNE 2016).

<sup>7</sup> 2021 (4) SA 585 (CC).

<sup>8</sup> 2014 (7K6) QOD 38 (ECG).

detention. Particularly, when considering that the Constitutional Court awarded R300 000 for eight (8) days in the matter of *De Klerk* referred to above.

[27] Although the parties referred to a number of cases which they argued should be compared to the current case, the only comparator they used between those cases and the current matter is the number of days the respective plaintiffs spent in detention. For instance, in the cases upon which the plaintiff relied for that comparison, the number of days in detention range from nine (9) days to twenty-one (21) days, whilst in the cases of the defendant, the number of days in detention range from seven (7) days to ten (10) days. These as against the thirteen (13) days spent in detention by the plaintiff in the current matter.

[28] Of great concern, however, is that in their respective comparisons, the parties in the current matter, failed to consider that each case is unique and should be considered on its own facts. What really makes each case unique are the circumstances of each case. The number of days spent in detention is only just one of the factors that should be considered and should be considered together with the other factors.

[29] When considering the comparison between cases the court in *Seymour*, remarked as follows:

“[18] The dangers of relying excessively on earlier awards are well illustrated by comparing the award in *May* to the award that was made in *Maphalala v Minister of Law and Order*. In *Maphalala* the plaintiff was arrested on 23 June 1992 and released in consequence of an order of court on 16 September 1992. He was immediately arrested again and released only on 19 November 1992. During the period that he was detained the plaintiff was held in solitary confinement, mostly incommunicado, for 150 days. While in detention he was also tortured. In a comprehensive and closely reasoned judgment, and after referring to the decisions in *Ramakulukusha v Commander, Venda National Force*, and *Minister of Justice v Hofmeyr* (both of which the court considered to be less serious) Coetzee J awarded the plaintiff R145 000 (R300 000) for his unlawful arrest and detention. (He was awarded an additional R35 000 for assault.) Needless to say, the circumstances in that case were gross compared to those in *May*. Whether the award in *May* was excessive, or the award in *Maphalala* was niggardly, is

beside the point. I use them only to illustrate that the gross disparity of the facts in each case is not reflected in the respective awards and neither is in those circumstances a safe guide to what is appropriate". (own emphasis)  
(citations omitted)

[30] In the current matter, the plaintiff's counsel sought to show the disparities when he referred to the conditions under which the plaintiff was detained as well as the consequent results of his medical health. Similarly, for the defendant, its counsel argued that the conditions under which the plaintiff was detained were not as bad as alluded to by the plaintiff because he was not taken to prison where he could have been worse off. The parties, however, failed to set out the disparity of facts in each of the cases they relied on for comparison.

[31] Thus, except for *Seymour*, which was used as a comparison by the plaintiff, the reliance by both counsel on all the other cases is of no consequence as the disparity of the facts in each case is not reflected in the respective awards. As such, it is only *Seymour* that could be compared with the current case. The challenge, however, is that the two cases are not comparable. In *Seymour*, the plaintiff had had free access to his family and a doctor throughout his detention. He had suffered no degradation beyond that which is inherent in being arrested and detained, and after 24 hours he had spent the remainder of this detention in a hospital bed. And, was awarded compensatory damages of R233, 000 in the present-day value. Whilst in the current matter it is alleged that the plaintiff could not make a phone call to his friends and did not have access to his medication and spent the remainder of his detention in a police cell.

[32] In the current case, the plaintiff seeks compensation for general damages in the amount of R600 000. The amount is contended for on the grounds that the plaintiff spent thirteen (13) days in detention and that such detention was spent in an unhygienic, dirty, stinking holding cell with only one open toilet wherein, when any person wants to relieve himself, would have to do it in full view of others. And, that the blankets were not thick enough to keep the plaintiff warm and were dirty and filthy. There was no soap for him to bath with, and his health condition worsened when he heard that an inmate in another holding cell fell sick and died.

He could not access his medication that he required for his chronic medical condition he, as a result, developed rashes on certain parts of the body. He was extremely anxious and worried about his hopes to be released. Post-detention, the doctors diagnosed him with heightened symptoms of anxiety, depression and post-traumatic stress disorder. On the other hand, the defendant contends that a fair and reasonable amount in the circumstances of this matter is R400 000. In this instance, the court is asked to consider that the heightened symptoms of anxiety, depression and post-traumatic stress disorder could not be attributed solely to the arrest and detention.

[33] The point by the plaintiff's counsel that the cases that the defendant relied on for comparison that do not reflect the current adjusted value *per* the Consumer Price Index, cannot be of value to the court, was well taken. In *Seymour* the following was stated:

"[16] As pointed out by Botha AJA in *AA Onderlinge Assuransie Assosiasie Bpk v Sodoms*, it is generally undesirable to adhere slavishly to a consumer price index in adjusting earlier awards. But provided that stricture is borne in mind it is useful as a general guide to the devaluation of money. In the cases that follow I have added, in brackets, the value of the relevant award adjusted according to the indices in Koch. (citations omitted)

[34] In comparing the current award to awards granted previously, it would be of assistance to the court that the adjusted value of the relevant award be provided so that a proper comparison could be made. The court cannot make a comparison between the value of an award that was made some years back with a value of an award that it has to grant in the present day.

[35] In any event, the awarding of damages for unlawful arrest and detention is discretionary and remains in the domain of the trial court. Previous awards can only serve as guidelines. In *Seymour*,<sup>9</sup> Nugent JA stated as follows:

"The assessment of awards of general damages with reference to awards made in previous cases is fraught with difficulty. The facts of a particular case need to be looked

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<sup>9</sup> 2006 (6) SA 320 (SCA) paragraph [17].

at as a whole and few cases are directly comparable. They are a useful guide to what other courts have considered to be appropriate but they have no higher value than that."

[36] In the current matter, besides the fact that he had no access to his medication, the plaintiff suffered no degradation beyond that which is inherent in being arrested and detained in a police cell. It is also common cause that the post-traumatic stress disorder, anxiety disorder and major depressive disorder, diagnosed by the experts in their joint minutes, cannot solely be attributed to the arrest and detention. This was conceded on behalf of the plaintiff when his counsel prayed for the application of contingencies to the amount claimed. The effect consequent upon the plaintiff's failure to drink his medication for nine (9) days and the rash that developed as a result, are not alluded to in the experts' joint minutes. It is not indicated how the failure to take the medication resulted in the deterioration of the plaintiff's health nor how his quality and enjoyment of life were adversely affected.

[37] Erasmus J in *Ntshingana v Minister of Safety and Security and Another*,<sup>10</sup> summarised the approach to be adopted in assessing damages for unlawful arrest and detention, as follows.

"The satisfaction in damages to which the Plaintiff is entitled falls to be considered on the basis of the extent and nature of the violation of his personality (*corpus*, *fama* and *dignitas*). As no fixed or sliding scale exists for the computation of such damages, the Court is required to make an estimate *ex aequo et bono*".

[38] The amount of R600 000, claimed by the plaintiff as compensation for general damages is too excessive. A fair, reasonable and appropriate amount to compensate the plaintiff in the circumstances of this matter is R300 000.

## CONCLUSION

[39] During the process of drafting this judgment it was discovered that the plaintiff's counsel uploaded supplementary heads of argument dealing with some of the aspects that were raised during argument in court pertaining to the claims

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<sup>10</sup> ECD Case No1639/01 judgement delivered on 14 October 2003.

for loss of income and future medical expenses and related expenses. It is not clear whether these heads of argument were served on the defendant's counsel or not. Seemingly, there are no supplementary heads of argument uploaded on Caselines by the defendant's counsel in response. It need be stated that a request was not made during the proceedings of this matter nor was an order made by the court for the parties to provide heads of argument on any aspects raised during argument. The said supplementary heads of argument and annexures thereto will, therefore, not be considered for purposes of this judgment. As earlier indicated in this judgment, the amendment sought by the plaintiff ought to be postponed.

#### COSTS

[40] Costs should follow the results.

#### ORDER

[41] In the premises the following order is made:

1. The claim for loss of income is dismissed.
2. The plaintiff is awarded general damages in the amount of R300 000.
3. The claim for future medical expenses and related expenses is postponed *sine die*.
4. The Defendant is ordered to pay the cost of suit on a party and party scale B.



KUBUSHI J

Judge of the High Court

Gauteng Division

**Appearances:**

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Date of argument:

31 January 2024

Date of judgment:

06 May 2024