



**IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, JOHANNESBURG**

Case NO: 2019-26898

(1) REPORTABLE: No
(2) OF INTEREST TO OTHER JUDGES: No
(3) REVISED

23 MAY 2024

WRIGHT J

In the matter between:

BULBULIA, SULIMAN

Plaintiff

and

ROAD ACCIDENT FUND

Defendant

JUDGMENT

WRIGHT J

[1] This action has been settled. Only part of the question of costs is to be decided by me. The parties have agreed a draft order which I am to make an order of court, having decided the remaining questions of costs.

[2] Mr Z Khan appears for the plaintiff and Ms N Mhlongo appears for the Fund.

[3] The trial was set down for Tuesday, 21 May 2024. The merits and quantum were in issue. On 21 May, no judge was available. The parties used that day to talk to each other about settlement. They settled the merits at 90% in favour of the plaintiff. Negotiations on the quantum continued on Wednesday, 22 May. During the early afternoon of 22 May, the Fund made an offer. The offer was accepted by the plaintiff this morning, Thursday 23 May at 9am. The plaintiff agreed to take R2.9m for all heads of damages except past hospital and medical expenses, which issue is to be postponed by agreement.

[4] Ms Mhlongo concedes party and party costs. She says that, as from 12 April 2024 when the new Rule 67A came into operation, the plaintiff is entitled to costs on scale B. Mr Khan seeks costs on scale C, the higher scale.

[5] Mr Khan does not ask for costs for Tuesday, 21 May when the matter stood as no judge was available. He seeks costs for yesterday and for today. Ms Mhlongo concedes costs for yesterday, 22 May.

[6] Mr Khan says that his client needed a reasonable time, from yesterday afternoon until this morning, to consider the Fund's offer. He said that he needed to explain the matter in detail to his client. In my view, the time needed was reasonable in the circumstances. This case is an ordinary everyday matter for lawyers who deal with such cases. But it is a significant matter for the plaintiff, Mr Bulbulia. Mr Bulbulia was entitled to question Mr Khan about the case and the offer. Costs should include those for 22 and 23 May 2024.

[7] The amount settled, R2.9m is large but this case, from a lawyer's perspective, is not out of the ordinary. Scale B is fair for costs as from 12 April 2024 onwards.

Order

[1] X



GC Wright

Judge of the High Court

Gauteng Division, Johannesburg

HEARD : 23 May 2024

DELIVERED : 23 May 2024

APPEARANCES :

Plaintiff Adv Z Khan

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