

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

Case no: 28808/2022

(1) REPORTABLE: NO

(2) OF INTEREST TO OTHER JUDGES: NO

(3) REVISED.

DATE: 3 October 2024

SIGNATURE

In the matter between:

J[...] L[...] T[...]

Plaintiff

And

ROAD ACCIDENT FUND

Defendant

J U D G M E N T

MAKHOBHA, J

[1] The plaintiff instituted an action against the defendant for damages suffered as the result of injuries sustained in a motor vehicle accident that occurred on 30 August 2021.

[2] The merits of the matter have been conceded by the defendant 100% in favour of the plaintiff. The only issue before court by the plaintiff is future loss of income. The amount claimed is R 3 590 866.00

- [3] On the date of trial, the defendant was not represented and attempt to settle the matter did not yield any results. Counsel for the plaintiff asked the court for default judgment in favour of the plaintiff. He addressed the court. The court asked him to address it on proof of employment by the plaintiff. Counsel conceded that the plaintiff was unemployed at the time of the accident. No oral evidence was led.
- [4] The issue in this matter is whether after hearing counsel this court should grant the amount as requested on behalf of the plaintiff.
- [5] It is indeed so that even though defendant is not represented in the proceedings the court cannot simply grant the order as requested, the court must see to it that the requested order is in accordance with justice.
- [6] The evaluation of the amount to be awarded for loss does not involve proof on a balance of probabilities.
- [7] The plaintiff at the time of the accident was 9 years and 10 months old. The injuries sustained are described as follows by the neurosurgeon (CaseLines 008-11) paragraph 10.1 "The claimant probably sustained a mild head injury".
- [8] In paragraph 14 (CaseLines 008 – 12) the neurosurgeon says "From a neurosurgical perspective, the injuries sustained by the claimant from the accident will not affect his life expectancy".
- [9] In my view of the calculation by the actuary and the amount claimed by the plaintiff is excessive because the plaintiff sustained only a mild head injury which will not drastically affect his life.
- [10] I make the following order.

10.1 Merits awarded in favour of plaintiff 100%.

10.2 Future loss of earning awarded in the amount of R 1 500 00 (One million five hundred thousand rands only).

10.3 General damages postponed sine die.

10.4 Cost on scale "A".

MAKHOB A J
JUDGE OF THE HIGH COURT
GAUTENG DIVISION, PRETORIA

HEARD AND RESERVED JUDGMENT: 30 AUGUST 2024

JUDGMENT HANDED DOWN ON: 03 OCTOBER 2024

Appearances:

For the Applicant: Adv D A Maswamganyi (instructed by) Tshuketana Attorneys Inc

For the Respondent: N/A.