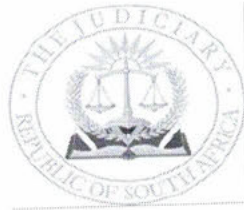


THE REPUBLIC OF SOUTH AFRICA



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

Case no: 3655/2022

(1) REPORTABLE: NO
(2) OF INTEREST TO OTHER JUDGES: NO
(3) REVISED. [REDACTED]
03 OCTOBER 2024

DATE

SIGNATURE

In the matter between:

H A MATIMBA

Plaintiff

And

ROAD ACCIDENT FUND

Defendant

JUDGMENT

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 28 July 2019
- [2] The court found 100% in favour of the plaintiff in respect of merits. The only issue before court by the plaintiff is future loss of income. The amount claimed is R 1 571 270.00 and undertaking in terms of section 17(4) (a), damages to be postponed *sine die*
- [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. She addressed the court. The court asked her to address it on proof of employment by the plaintiff.
- [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] Counsel for the plaintiff submitted that, the plaintiff at the time of the accident worked for Mr H. Hlabangwane from 2015 to 2020 earning R8250.00 per month (CaseLines 09-8) He has only Grade 9.

[8] In paragraph 8 of his heads of argument, Counsel submit as follows "The plaintiff was unable to provide proof of income and contact details for his collateral" (CaseLines 09-8).

[9] It is trite that the onus rests on the plaintiff to prove his case on balance of probabilities see *Pillay v Krishna*, 1946 SA 946. Thus, the duty is on the plaintiff to produce evidence that because of the injury, she has suffered loss of income.

[10] I am called upon to perform the delicate judicial duty in that I must decide what is the reasonable amount the plaintiff would have earned but for the injuries and the consequent disability.

[11] I am therefore of the view that the plaintiff failed to show the following to enable me to accede to his request for loss of earnings.

11.1 He failed to file any salary advice or proof that he was employed.

11.2 There is no address or contact details of the employer. Neither does he have any qualification.

[12] In my view the plaintiff has failed in her duty to satisfy the court that she has lost any earnings or stands to lose any earnings as a consequence of the motor vehicle accident in question.

[13] I make the following order:

13.1 The plaintiff's claim for loss of earnings is dismissed.

13.2 General damages postponed *sine die*.

13.3 The defendant must furnish the plaintiff with an undertaking in terms of Section 17 (4) (a) of the Road Accident Fund Act 56 of 1996.

13.4 The defendant to pay plaintiff's costs on scale "A".



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

HEARD AND RESERVED JUDGMENT: 16 AUGUST 2024

JUDGMENT HANDED DOWN ON: 03 OCTOBER 2024

Appearances:

For the Applicant: Adv T E Hlokwe (instructed by) Mashamba Incorporated

For the Respondent: Adv N/A.