

IN THE HIGH COURT OF SOUTH AFRICA

GAUTENG LOCAL DIVISION, JOHANNESBURG

CASE NO: 015520/2022

DATE: 04-02-2025

DELETE WHICHEVER IS NOT APPLICABLE

(1) REPORTABLE: ~~YES~~ / NO.

(2) OF INTEREST TO OTHER JUDGES: ~~YES~~ / NO.

(3) REVISED.

DATE 4/2/2025

SIGNATURE [REDACTED]

10 In the matter between

PT RUKANDA

Plaintiff

and

THE ROAD ACCIDENT FUND

Defendant

J U D G M E N T

WEIDEMAN, AJ:

- - - - -

20 This is matter number 42 on this week's roll, case number 015520 of 2022, the matter of PT Rukanda and the Road Accident Fund. In this matter counsel proceeded with two applications, the first being an application in terms of Rule 38(2) to enable evidence to be presented on affidavit and a further application in terms of Rule 33(4) to separate the

aspects of liability and quantum, allowing the matter to proceed in respect of liability only.

When counsel called the matter, the Court indicated that, irrespective of the conduct and actions or lack thereof on behalf of the defendant, the plaintiff's negligence in colliding with a vehicle from behind is inferred in terms of the doctrine of *res ipsa loquitur*, requiring an explanation from the plaintiff about what occurred. After debating the
10 matter for a short while it was agreed that the Court's concerns would be best addressed if the plaintiff testified.

Following the plaintiff's evidence the Court found no reason to doubt his honesty or earnestness.

The plaintiff testified that the accident occurred on the 19th of December 2019 at approximately 19:00pm. He indicated that it occurred not long after a rain shower and that the road was wet. Despite it being December, he indicated that
20 it was already turning dark. He was on the M2 West travelling the direction of the N1.

An easy test of the memory of the plaintiff is to compare the date and time of the accident as per the OAR with the time given by him in his oral evidence. According to the OAR the

accident occurred at 18:50, and that OAR was completed a day after the accident.

The other aspect which does not appear from either of the affidavits which the plaintiff attested to or from the OAR, was that the plaintiff was not travelling in an ordinary sedan motor vehicle and which would be easy to manoeuvre even after braking sharply, but that he was in fact driving a 6 cubic metre tipper truck, which is a significantly more
10 difficult vehicle to manoeuvre.

Given the plaintiff's description of the events immediately preceding the accident and the actions taken by him, including having the foresight to wait for a vehicle in the left-hand lane to pass before attempting to move out, it appears that he acted reasonably in the circumstances. I am satisfied that the plaintiff should be entitled to 100% of such damages as he may be able to substantiate in due course.

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After having heard counsel for the plaintiff and having considered the evidence / documents presented the Court orders that:

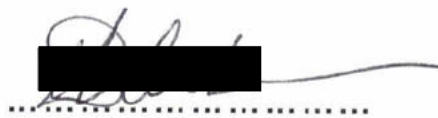
- 1 The plaintiff may produce evidence in terms of Rule 18(2) of the Uniform Rules of Court.

2 Merits and quantum is hereby separated in terms
of Rule 33(4) if the Uniform Rules of Court.

3 The defendant is ordered to pay 100 percent of
the plaintiff's proven or agreed damages.

4 The defendant shall pay the plaintiff's taxed or
agreed party and party costs on the high court
scale, including but not limited to the default trial
costs of the 4th of February 2025, subject to the
discretion of the taxing master.

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WEIDEMAN, AJ

JUDGE OF THE HIGH COURT

DATE: ..4/2/2025