

IN THE HIGH COURT OF SOUTH AFRICA

GAUTENG LOCAL DIVISION, JOHANNESBURG

CASE NO: 012971/2023

DATE: 2025-02-25

DELETE WHICHEVER IS NOT APPLICABLE

(1) REPORTABLE: NO.

(2) OF INTEREST TO OTHER JUDGES: NO.

(3) REVISED.

DATE 25/2/2025

SIGNATURE [Redacted Signature]

10 In the matter between

SIBUSISO KONZA

Plaintiff

and

ROAD ACCIDENT FUND

Defendant

J U D G M E N T

WEIDEMAN, AJ:

20 In respect of this matter counsel indicated that there would be a request in terms of Rule 33(4) to separate the aspects of liability and quantum and that the matter will proceed in respect of liability only. Counsel further indicated that the plaintiff would testify.

Mr Konza testified in Zulu. He confirmed that the accident

occurred on 26 September 2021 when he was the driver of a vehicle. He confirmed his age as 32 which is consistent with his date of birth as recorded, 3 October 1992. Mr Konza indicated that at the time of the accident he was employed, but that he is currently unemployed.

In his evidence, Mr Konza indicated that he was travelling on the Golden Highway with the intention to execute a right-hand turn where it intersects with Vlakfontein Road. This
10 intersection is a four-way stop, controlled by stop signs.

At the point of impact, the Golden Highway had two lanes travelling in each direction, whereas Vlakfontein Road had one lane in each direction. Mr Konza indicated that he approached and stopped at the stop sign with the intention to turn right, he looked left and right in Vlakfontein Road and confirmed in his evidence that there were no vehicles in either direction on Vlakfontein Road.

20 He indicated further that there was a vehicle approaching from ahead in the Golden Highway. In his opinion, the vehicle was still far, albeit that his evidence further also suggested that the vehicle was travelling at high speed. He commenced his right turning manoeuvre and the next moment impact occurred on the left-hand side of his

vehicle.

Mr Konza (the plaintiff) could not give an explanation of what happened to the other vehicle after the impact as he was removed from the scene by ambulance. He indicated at first that he did not see this vehicle approaching and later indicated that he did see the vehicle approach but that it was at some distance but travelling at speed.

- 10 The court asked counsel to confirm the date and time of the incident, and the plaintiff indicated that it occurred at approximately 16:00. He could recall the date being 26 September 2021 but not the day of the week. The Officer's Accident Report Form (OAR) suggests that the accident occurred on a Sunday.

The difficulty arises from the version as contained in the OAR and which is to be found on CaseLines 25-22 and further. This version was given to the SAPS by the plaintiff
20 as his details are the only details contained on the OAR.

This version indicates that the unknown insured vehicle collided with the right-hand side of his vehicle and the vehicle damages on the OAR on CaseLines 25-23 indicates damage to the right front door pillar and right rear door.

This was not possible if the vehicle approached from the front whilst the driver was executing a right hand turn as impact, in these circumstances, would have been on the left-hand side.

Counsel for the plaintiff attempted to persuade me that this version should be ignored as it clearly is an incorrect reflection of the accident. I agreed with counsel for two reasons.

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The first was that this document was created approximately a year after the accident on 18 August 2022 and at which stage a number of the issues relating to the accident might not have been that clear to the plaintiff anymore, given the fact that he has sustained multiple spinal fractures in the accident.

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The second, and much more obvious reason is that if impact was on the right-hand side as is suggested on the OAR, then there must have been some injuries to the right-hand side of plaintiff's body. When asked by counsel what injuries plaintiff sustained in the accident, he pointed to his left arm. It is more consistent for the left arm to have been injured with impact from the left than it would be if impact had occurred from the right.

An impact from the right in a high speed, high velocity collision would have caused some damage to the right-hand side of his body, but he had no injuries on his right hand side. On that basis I accepted the plaintiff's evidence given today and that is, that the vehicle approached from the front and whilst executing his turn to the right, the oncoming vehicle collided in a T-bone fashion with the left-hand side of his vehicle.

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It is fundamentally true that every driver is required to observe all road traffic signals. It is also true that in a situation such as this, where the plaintiff observed a vehicle approaching and which on his version was travelling at high speed, he had an obligation to keep that vehicle, at the very least, in his peripheral view until such time as he was certain that it would slow down and heed the stop sign.

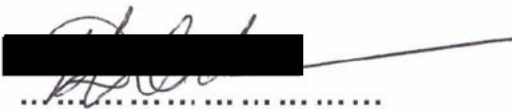
By not keeping that vehicle in his vision and not ensuring
20 that that vehicle, which on his version approached at speed was going to stop, he was negligent. There is a large body of case law which deals with right hand turn situations and this matter is no different from most right-hand turn scenarios. This court finds that the plaintiff contributed 25% to his own damages and the apportionment will be 75%/25%

in favour of the plaintiff. My order is therefore as follows:

1. The plaintiff's application to lead evidence on affidavit is granted;
2. The plaintiff's application in terms of Rule 33(4) to separate the aspects of liability and quantum and for the aspect of quantum to be postponed *sine die* is granted;
3. Quantum is postponed *sine die*;
- 10 4. In respect of negligence the defendant shall be liable to pay the plaintiff 75% of such damages as the plaintiff may be able to substantiate in due course.
5. As far as costs are concerned, the plaintiff is entitled to his party and part costs as taxed or agreed in so far as it relates to the aspect of liability. Counsel's fees to be on scale B.

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WEIDEMAN, AJ

JUDGE OF THE HIGH COURT

DATE: 25/2/2025

CASE NUMBER-initials
YEAR-MONTH-DAY

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JUDGMENT