



**IN THE HIGH COURT OF SOUTH AFRICA
FREE STATE DIVISION, BLOEMFONTEIN**

Not Reportable / Reportable

Case No: 5750/2021

In the matter between:

VENTER: RUBEN

APPLICANT

And

THE ROAD ACCIDENT FUND

RESPONDENT

JUDGMENT: APPLICATION FOR LEAVE TO APPEAL

DELIVERED: The judgment was delivered by email to the parties and release to SAFLII. It shall be deemed to have been delivered at 14h00 on 14 April 2025

Daniso, J

[1] The applicant seeks leave to appeal against the judgment and order of this court delivered on 12 December 2024 revised on 15 January 2025.

[2] In terms of the order, judgment was granted in favour of the applicant on the following terms:

"1. ...

2. The Defendant shall pay to the Plaintiff the sum of **R3 586 820.69** (*Three Million Five Hundred and Eighty Six Thousand Eight Hundred and Twenty Rand and Sixty Nine Cents*) within 180 (one hundred and eighty) days hereof, in respect of the Plaintiff's claim against the Defendant for the following heads of damages:

2.1.	Past Hospital and Medical Expenses	<u>R413 708.99</u>
	which amount is calculated as follows:	
2.1.1.	R551 611.00	
2.1.2.	Less 25% liability apportionment:	(R137 903.00)
2.1.3.	=	R413 708.99
2.2.	Loss of Earnings/Earning Capacity	<u>R 3 173 111.70</u>
	which amount is calculated as follows:	
2.2.1.	Agreed nett value of past loss of earnings:	(R59 716.00)
2.2.2.	Gross value of pre-morbid future income:	R14 892 875.00
2.2.3.	Less 40% contingency deduction:	(R5 957 150.00)
2.2.4.	= Nett value of pre-morbid future income:	R8 935 725.00
2.2.5.	Gross value of post-morbid future income:	R7 741 989.00
2.2.6.	Less 40% contingency deduction:	(R3 096 796.60)
2.2.7.	= Nett value of post-morbid future income:	R4 645 193.40
2.2.8.	Total Loss =	R3 173 111.70

2.2.8.1.	<i>Nett value of past loss of income: (R59 716.00)</i>
2.2.8.2.	<i>Plus: Nett value of pre-morbid future income: R8 935 725.00.00</i>
2.2.8.3.	<i>Less: Nett value of post-morbid future income: R4 645 193.40</i>
2.2.8.4.	<i>= R4 230 815.60</i>
2.2.8.5.	<i>Less 25% liability apportionment: (R1 057 703.90)</i>
2.2.8.6.	<i>= R3 173 111.70..."</i>

[3] The application is unopposed and is, by consent of the applicant, determined on the basis of written heads of argument.

[4] In the grounds of appeal, including the heads of argument, the applicant directs this application at a portion of the order, paragraphs: 2.1.3; 2.1.4; 2.1.5; 2.1.9.2 and 2.1.9.6 as well as paragraphs 12 and 13 of the judgment.

[5] It is the applicant's case that this court erred in its conclusions as deliberated in paragraphs 12 and 13 of the judgment which resulted in its application of a 40% contingency deduction in respect of the applicant's pre-morbid future income scenario instead of the standard or accepted 20% contingency deduction. Based on these reasons, the applicant contends that the full bench of this division "*will probably only apply a pre-morbid future income contingency deduction of 20% or alternatively, will probably not apply as high of a pre-morbid contingency deduction (i.e. 40%) ...*"

[6] The principles governing applications of this nature are trite: I am only enjoined to grant leave to appeal if the applicant sets out facts which establish not just a mere possibility of success in the appeal but a measure of certainty that another court would

render a different judgment than the one impugned or the existence of some or other compelling reason why the appeal should be heard.¹

[7] I am not persuaded that the applicant has set out proper grounds for the relief he seeks. Inexplicably, in respect of paragraph 2.1.3 the applicant seeks leave to appeal the order that he sought (see para 19 of the judgment).

[8] There are no paragraphs 2.1.4; 2.1.5; 2.1.9.2 and 2.1.9.6 in the impugned order that aside, I am of the view that in my judgment I have fully addressed the reasons for my findings pertaining to the percentage of the contingencies to be applied in this matter.

[9] With regard to the grievance against what is deliberated in paragraphs 12 and 13 of the judgment, it is tested law that an appeal can only be noted against the substantive order made by a Court and not against the reasons for judgment.²

[10] I am also not persuaded that there is any other reason warranting a hearing of this appeal. In the result, I make the following order:

ORDER

1. The application for leave to appeal is dismissed.

The Honourable Justice
2025-04-14
N.S. Daniso
RS DANISO, J

¹ s17(1)(a) (i) or (ii) of the Superior Courts Act 10 of 2013; *Ramakatsa and Others v African Congress and Another* (742/2019) [2021] ZASCA 31 (31 March 2021).

² *Western Johannesburg Rent Board and Another v Ursula Mansions (Pty) Ltd* 1948 (3) SA 353 (A) at 355.

On behalf of the applicant:
Instructed by:

Adv. HJ Cilliers SC
A Wolmarans INC
BLOEMFONTEIN

On behalf of the respondent:
Instructed by:

Ms. C. Bornman
THE STATE ATTORNEY
BLOEMFONTEIN