

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

Case No: 31148/19

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

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

(3) REVISED: ~~YES~~/NO

DATE: 6/5/25

SIGNATURE

In the matter between:

M[...] G[...] N[...]

PLAINTIFF

and

THE ROAD ACCIDENT FUND

DEFENDANT

JUDGMENT

FRANCIS-SUBBIAH J:

[1] This is a claim for future loss of income. The Plaintiff sustained an injury at the time of the motor vehicle accident when she was thirteen (13) years old and in grade 8. She is currently twenty (20) years old. The motor vehicle accident took place on the 26th of March 2018.

[2] The Plaintiff testified that she was in a Quantum vehicle that was transporting her to school. At the time of the accident, the vehicle was stationary and was waiting for other school children to enter it. While she sat in the motor vehicle, it was hit by

another motor vehicle from the back. As a result, her knees were injured, as she was seated in the back of the quantum.

[3] Her parents arrived at the scene of the accident and took her home. Later she went to a clinic for treatment. She was examined and was fitted with the 'Plaster of Paris' on her right leg. She was given two (2) crutches to use to assist her to walk and the 'Plaster of Paris' was on for approximately four (4) months. The injuries suffered in the accident are pleaded as the left knee injury, right leg injury, PTSD, anxiety and depression.

[4] According to the medico legal report of Dr M Bongobi, the orthopedic surgeon, he stated that the plaintiff was transported to the Turton Hospital by ambulance. (It is noted that this version varies with the plaintiff's version.) She sustained soft tissue injuries in both knees as a result of the motor vehicle accident while she was still a minor. The X-rays of the knees did not reveal any fractures. The left knee had a strain, with occasional pain. The injuries were treated conservatively and have since healed. She reported that she still suffers from pain and discomfort from the left knee. It was observed that her Whole Person Impairment rating was 1% WPI.

[5] She completed grade 12 and at the time of the examination was currently studying a diploma in law. The accident did not have a negative impact on her schooling. He further reports that the accident has a mild impact on her future employability, as she is studying for a professional qualification that would not have been impacted by the accident.

[6] The medico-legal reports explain that the plaintiff's injuries have not affected her life expectancy. The prognosis in the clinic records with respect to the left knee was good and full recovery was expected. Full recovery is confirmed by Dr M Bongobi. He explains that occasional pain can be treated with analgesics and anti-inflammatories. She is able to perform all activities of daily living.

[7] It was recorded on the Serious Injury Assessment Report that the Plaintiff sustained bilateral knee injuries. X-rays did not reveal any fractures. The right knee was bandaged, and she was released from the medical facility. She was reviewed

once after four weeks. She had no complaints related to the right knee pain and the left knee pain is exacerbated by cold weather. She can still ascend or descend stairs with no restrictions, physical exertion like walking long distance, standing for external periods or walking on uneven surfaces may exhibit the pain.

[8] The conclusion regarding the physical examination is she has a normal gait. She has no scars. There's no swelling. There is full range of motion of the knee with no sepsis. There is no tenderness, there is no loss of sensation or nerve impairment and there are no injuries or pathologies dictated from the X-ray. And further, as a grade eight (8) student at the time of the accident, it did not have any negative impact on her schooling.

[9] A psycho-legal report completed by educational psychologist Zenzele Khubeka, says the following information submitted is based on the information made available during the interview, collateral information, assessment results and other expert reports. The report states the following:

“that Miss Ngcobo reported that she was a passenger at the time of the accident. She was knocked down by a van while waiting for transport due to the accident miss Ngcobo sustained injuries to both her knees. She was transported to Turton Community Health Centre by private vehicle, it was noted from the reports that her right knee was mildly swollen.”

The Court cannot accept the report of the educational psychologist, when he incorrectly records basic facts of the accident. His report remains questionable.

[10] The industrial psychologist refers to compensation for a *likely* loss of potential future earnings. No case has been made for the claim of R8 000 000 for this category of loss. The plaintiff is studying toward a diploma in law. The clinical psychologist Naledi M Mqhayi opines that the plaintiff will benefit from individual psychotherapy for any emotional challenges she may encounter. The counselling recommended has not established any impact on her earning capacity. For this reason, the court is of the view that an appropriate section 17(4)(a) undertaking of the Road Accident Fund Act 56 of 1996 be provided to the plaintiff for counselling and pain medication that she may require. In respect of future loss of earnings, no

loss of earning capacity has been established flowing from the accident. Therefore, the claim of R8 000 000 for loss of earning is dismissed.

[11] As a result the Court Orders as follows:

- (a) Merits are awarded 100% in favour of the Plaintiff.
- (b) The Defendant shall furnish the Plaintiff with an undertaking in terms of Section 17(4)(a) of Act 56 of 1996 in respect of their claim for the costs of the Plaintiff's treatment or rendering of a medical service, or supply of goods to them arising out of the injuries sustained by her on 26 March 2016, after the costs have been incurred and upon proof thereof.
- (c) The Defendant shall pay the taxed or agreed costs of the Plaintiff.

R FRANCIS-SUBBIAH
JUDGE OF THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA

DATE HEARD:

29 APRIL 2025

DATE DELIVERED:

06 MAY 2025

APPEARANCES

For the Applicant: Adv A Masombuka

Instructed by: Kotlolo Attorneys

For the Respondent: No appearance

Delivered: This judgment is handed down electronically by circulation to the Parties/their legal representatives by email and by uploading to Caselines. The date and time of hand-down is deemed to be 16H00 on 06 MAY 2025