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

Not reportable
Case no: 310/2019

In the matter between:

RN RALIE **PLAINTIFF**

and

THE ROAD ACCIDENT FUND **DEFENDANT**

Neutral citation: *Ralie v RAF* (310/2019) [2025] ZAFSHC 204 (3 July 2025)
Coram: Ntanga AJ
Heard: 29 April 2025
Delivered: 3 July 2025
Summary: Civil procedure – motor vehicle accident claim – determination of quantum of general damages and past medical expenses.

ORDER

1.1 The defendant is liable to pay 100% (one hundred percent) of the plaintiff's proven or agreed damages;
The defendant shall pay the plaintiff the sum of R864 756.13 in respect of past medical expenses and general damages, set out as follows:

Past Medical Expenses:	R264 756.13
General Damages:	R600 000.00
Total:	R864 756.13

1.2 The defendant shall pay the abovementioned amount into the plaintiff's attorneys trust account.

The plaintiff's attorney's trust account details are as follows:

ACCOUNT HOLDER:	VZLR INC
BRANCH:	ABSA BUSINESS BANK HILLCREST
BRANCH CODE:	632005
TYPE OF ACCOUNT:	TRUST ACCOUNT
ACCOUNT NUMBER:	3[…]
REFERENCE:	MAT147900

1.3 The defendant shall furnish the plaintiff with an undertaking in terms of section 17(4)*(a)* of the Road Accident Fund Act 56 of 1996, in respect of future accommodation of the plaintiff in a hospital or nursing home or treatment of or the rendering of a service or supplying of goods of a medical and non-medical nature to the plaintiff (and after the costs have been incurred and upon submission of proof thereof) arising out of the injuries sustained in the collision which occurred on 28 November 2015.

1.4 In the event that the defendant does not, within 180 (one hundred and eighty) days from the date on which this order is handed down, make payment of the capital amount, the defendant will be liable for payment of interest on such amount at 11.75% (the statutory rate per annum) calculated fourteen days from date of this order.

1.5 The defendant to pay the plaintiff's taxed or agreed party and party costs, for the trial dates of 29 April 2025 and including the date, when the order is made an order of court.

1.6 The reasonable qualification fees of all the plaintiff's experts of whose reports had been furnished to the defendant and / or its experts:

1.6.1	Dr LF Oelofse	-	Orthopaedic Surgeon
1.6.2	Rita van Biljon	-	Occupational Therapist
1.6.3	Mr Ben Moodie	-	Industrial Psychologist
1.6.4	Claire Hearne	-	Clinical Psychologist
1.6.5	Dr D Hoffmann	-	Plastic, Reconstructive & Cosmetic Surgeon
1.6.6	Dr DK Mutyaba	-	Neurosurgeon
1.6.7	Mr J Sauer	-	Actuary

1.7 The fees of counsel in terms of amended Uniform Rule 67A(3)(a) read with rule 69(7) on scale B, which costs shall include but not be limited to, and his fees of the trial dates of 29 April 2025.

1.8 In the event of default on the costs payment, interest shall accrue on such outstanding amount at the statutory more rate on the date of taxation/settlement of the bill of cost, as per the Prescribed Rate of Interest Act 55 of 1975, as amended, per annum, calculated from due date until the date of payment.

JUDGMENT

Ntanga AJ

Introduction

[1] The plaintiff instituted an action against the Road Accident Fund (the defendant) for damages suffered as a result of injuries to which he sustained in a motor vehicle accident which occurred on 28 November 2015, at the R30 road near Welkom, Free State Province involving a motor vehicle with registration number DWG[…], driven by T Kashe, the first insured vehicle, and another motor vehicle with registration number BDG[…], driven by plaintiff. The plaintiff avers that a collision occurred when the insured vehicle collided with the vehicle of which the plaintiff was the driver.

[2] At commencement of trial, the defendant's legal representative withdrew as the defendant's attorney of record in chambers due to lack of instructions. The matter proceeded by default as the defendant was unrepresented. The defendant's legal representative confirmed before withdrawal that merits have been disposed of together with loss of earnings. The plaintiff's legal representative confirmed this agreement when the matter went on record. It was submitted that the main issue to be determined is past medical expenses and general damages. The court was presented with a copy of a letter from the defendant in terms whereof the defendant formally accepted the claim for general damages. The letter from the defendant was accepted by the court as Exhibit "A". On the basis of Exhibit "A", the court was satisfied that it has jurisdiction to adjudicate the claim for general damages.

[3] The plaintiff moved for an order in terms of rule 38(2) as set out in the notice of motion. After due consideration I then granted an order as follows:

'(a) An order granted in terms of rule 38(2) in respect of prayers 1, 2, and 3 of the notice of motion.'

Issues for determination

[4] This court is called upon to determine quantum on: (a) general damages; and (b) past medical expenses.

Background

[5] In his particulars of claim, the plaintiff avers that, as a result of the collision, he suffered *inter alia* the following injuries:

(a) Multiple rib fractures;
(b) dislocation of right hip;
(c) fracture of right acetabulum;
(d) laceration scalp; and
(e) fracture sternum.

[6] The plaintiff further averred that, as a result of the injuries, he suffers, inter alia, the following *sequelae*:

(a) pain and discomfort;
(b) loss of amenities of life;
(c) he had to undergo medical treatment; and
(d) may have a loss of earnings/earning capacity in the future.

The plaintiff's case

[7] It was submitted that, at the time of the motor vehicle collision, the plaintiff was 46 years old. He is presently 55 years old. The merits have been finalised with a court order confirming that the defendant is liable for 100% of the plaintiff's agreed or proven damages. The parties have aleady settled loss of earnings and the defendant has also

provided the plaintiff with an undertaking in terms of s 17(4) of the Road Accident Fund Act 56 of 1996 (the RAF Act) for payment of future medical and related expenses.

[8] The plaintiff argued that the determination of an award for general damages involves a consideration of the plaintiff's pain and suffering, nature and extent of the injuries as borne out by hospital records, expert reports and comparable decided cases on similar injuries.

[9] The orthopaedic surgeons, Dr Oelofse and Dr Deacon, reported that:

(a) The plaintiff suffered facial scarring noted on inspection and missing two upper teeth. He has head injury with residual headaches, cognitive changes, decreased hearing of the right ear. The plaintiff has united rib fractures with residual pain and scaring and chest injury which will be treated simoultaneously with the conservative treatment recommended for the orthopaedic injuries.
(b) The plaintiff suffered lumbar spine injury with acceleration of pre-existing spondylosis resulting in chronic back pain and right leg radiculopathy. Right hip fracturdislocation resulting in post traumatic osteoarthritis of the hip joint. The orthopaedic surgeons reported that the right hip osteo osteoarthritis is 100% accident related. They gave an apportionment of the lumbar spine pathology 50% to pre-existing condition and 50% accident related. The orthopaedic surgeons opined that, regardless of successful treament, the plaintiff will always have a permanent deficit.

[10] The clinical psychologist, Ms Hearne, reported that:

(a) The plaintiff was reportedly in good physical health condition pre-accident and had never sustained serious injury nor suffered serious illness. The plaintiff experienced a traumatic event which involved emotional and reported physical injury. He continues to experience pain and discomfort as a result of the injuries which impact on activities of daily living and serve as a constant reminder of trauma. The plaintiff experiences symptoms of major depression.

[11] The plastic, reconstructive and cosmetic surgeon, Dr Hoffman reported that:

(a) The effects of scarring are not merely physical, but has a psychological component as well. Not only is damage caused to the body's largest organ, but also the patient's self-image. The plaintiff finds the scars on the scalp, face and chest troublesome as it is very visible and unsightly.

[12] The neurosurgeon, Dr Mutyaba, reported that:

(a) The plaintiff suffered a mild traumatic brain injury (TBI)/concussion in the accident. His current complaints of headaches, poor memory and shord-temperedness can be classified as post-concussion syndrome. Literature shows that ± 20% of post-concussion sufferers are left with permanent sequelae and plaintiff falls in this group.

[13] The plaintiff further argued that, considering the circumstances of his case and applicable case law in assessing an award for general damages, an amount of R600 000 will be fair and reasonable.

[14] The plaintiff argued that, as a result of injuries he sustained in the accident, he received medical treatment and incurred expenses in respect thereof in the sum of R264 756.13. He averred that details of medical expenses, as set out in the supporting vouchers, constitute proof of the fact that the expenses were incured by him as a result of the accident in question. The plaintiff argued that the expenses constitute a reasonable and necessary expense incurred by the plaintiff as a result of the accident.

[15] There was no opposition from the defendant against the plaintiff's claim for medical expenses. The plaintiff submitted a schedule of vouchers in support of his claim for medical expenses. He submitted that the schedule of vouchers submitted in support of his claim for medical expenses are a prima facie proof of the fact that such medical expenses were incurred by him as a result of the accident. I see no reason to deny the plaintiff's claim for past medical expenses.[1]

Legal framework and evaluation of evidence

[1] See also *Moss v Road Accident Fund* [2025] JOL 68686 (WCC).

[16] The Road Accident Fund has a statutory duty in terms of the Road Accident Fund Act to compensate a person who suffered injury caused by the negligent driving of the driver, owner or employee of a motor vehicle.

[17] In *Wells and Another v Shield Insurance Co. Ltd* (*Wells*),[2] the court set out the test for liability of an insurance company towards the injured third party by stating that:

'Two pre-requisites of liability upon the part of the registered insurance company for loss or damage suffered by a third party as a result of bodily injury are thus laid down. They are (i) that the bodily injury was caused by or arose out of the driving of the insured motor vehicle; and (ii) that the bodily injury was due to the negligence or other unlawful act of the driver of the insured vehicle or the owner thereof or his servant.'

[18] The plaintiff suffered injuries in a motor vehicle collision and these injuries have impaired the quality of his life. He is not the same person since he sufffered injuries from a motor vehicle colision. There is merit for the plaintiff to be compensated for general damages. This court must determine what is fair and reasonable compensation for the plaintiff. This will involve calulation of the amounts payable for general damages and medical expenses as claimed by the plaintiff.

[19] In *Dlamini v The Road Accident Fund*,[3] the court stated that:

'As a matter of substantive law, therefore, a Plaintiff must prove his or her damages and the quantum thereof on a balance of probabilities. In particular, there must be evidence that the disability giving rise to the damages impacts detrimentally upon the work or occupation that a Plaintiff would probably have pursued, had it not been for the accident.'

[20] The defendant has accepted the plaintiff's claim for general damages and accepted that he qualifies for general damages under narrative test 5.1-serious long-term imparment or loss of a body function. It is not in dispute that the plaintiff suffered injuries as a result of the motor vehicle colision, he therefore meets the test for proving damages. This was supported by expert medical reports which are undisputed. I am

---

[2] *Wells and Another v Shield Insurance Co. Ltd* 1965 (2) SA 865 (C) at 868G-869A; see also *Makola v Road Accident Fund* [2024] ZAMPMBHC 75 and *Maatla v Road Accident Fund* [2015] ZAGPPHC 129.
[3] *Dlamini v The Road Accident Fund* [2022] ZAGPJHC 657; [2022] 4 All SA 360 (GJ) (*Dlamini*) para 74.

satisfied that the plaintiff's injuries merit compensation for general damages and medical expenses. What then follows is determination of quantum as compensation for injuries sustained by the plaintiff.

[21] When dealing with a claim for general damages suffered by the plaintiff, the court must consider factors and circumstances relevant when making assessment for determination of damages claimed. Upon consideration of relevant factors and circumstances, the court must consider what would be a just compensation for pain and suffering, disfigurement, permanent disability and loss of amenities.[4] In *Pitt v Economic Insurance Co. Ltd*,[5] the Court stated that:

'The Court's task in estimating damages is always a difficult one. Basically, one has evidence as to the Plaintiff's affairs, but when, in addition, the future has to be scanned, the Court is virtually called upon to ponder the imponderable . . . the Court must take care to see that its award is fair to both sides – it must give just compensation to the plaintiff, but must not pour our largesse from the horn of plenty at the defendant's expense.'

[22] It is trite that the court exercises a discretionary function when making assessment for general damages. In *Road Accident Fund v Marunga* (*Marunga*),[6] the Court stated that:

'Even though the courts have a wide discretion to determine general damages and even though it cannot be described as an exercise in exactitude, or be arrived at according to known formulae, a trial court should at the very least state the factors and circumstances it considers important in the assessment of damages. It should provide a reasoned basis for arriving at its conclusions.'

[23] In *Marunga*, the claimant had suffered a fracture of the left femur, a soft tissue injury in the chest area and bruises on the forehead, left arm and left knee. On appeal, the awarded amount was reduced to R175 000. The current value of this amount is approximately R609 000.

---

[4] See *Protea Assurance Company Ltd v Lamb* [1971] 2 All SA 100 (A).
[5] *Pitt v Economic Insurance Co. Ltd* 1957 (3) SA 284 (N) at 287D-E; see also *Yani and Others v Minister of Police and Others* [2003] ZAGPJHC 968.
[6] *Road Accident Fund v Marunga* [2003] ZASCA 19; [2003] 2 All SA 148 (SCA); 2003 (5) SA 164 (SCA) para 33.

[24] In *Ngomane v Road Accident Fund*,[7] the claimant had severe fracture of right humerus and right radius and ulna. The claimant was left with a dysfunctional left arm. He had a weak grip on the right side and he cannot lift and carry heavy things and experienced headaches at times. The court awarded R450 000 in general damages, the current value of which is approximately R600 000.

[25] In *Dlamini v Road Accident Fund*,[8] which was heard by the Gauteng Division of the High Court, Johannesburg, the court stated:

'The Court's inherent jurisdiction is derived from section 173 of the Constitution. It is a power afforded to the Court to regulate its own process and develop the common law, taking into account the interests of justice. But, there is nothing within that power that permits a court to deviate from established precedent, save in very limited circumstances. The limited power gives effect to the stare decisis doctrine, a cornerstone of our law that serves to avoid uncertainty, confusion, protect vested rights and legitimate expectations.'

[26] In *Dlamini v Road Accident Fund*,[9] which was heard by Kwazulu-Natal Division of the High Court, Pietermaritzburg, the claimant suffered a fracture of the right humerus at the junction of the middle and distal thirds. After hospitalisation his arm was immobilised with a U-slab. He had an isolated injury to his right humerus with no distal neurovascular deficit. He was noted to have a right radial nerve palsy post-operatively and was fitted with a cock-up splint. Regarding permanent disability, it was reported that he suffered from: (a) pain in the right elbow with strenuous physical activity; (b) stiffness in the elbow, which precludes him from doing certain physical activities; and (c) permanent loss of range of movement in the right elbow joint.[10] The claimant was awarded R550 000 in damages.

[27] In *April obo a Minor v Road Accident Fund*,[11] the court awarded R500 000 for general damages in 2021 to the plaintiff who suffered the following injuries: (a) a head injury and facial abrasions: (b) loss of consciousness; (c) neck pain; (d) right distal

---

[7] *Ngomane v Road Accident Fund* [2017] ZAGPPHC 401.
[8] *Dlamini v Road Accident Fund* [2022] ZAGPJHC 657; [2022] 4 All SA 360 (GJ) para 58.
[9] *Dlamini v Road Accident Fund* [2023] ZAKZPHC 29.
[10] See note 5 supra at para 5 and 8.
[11] *April obo a Minor v Road accident fund* [2021] ZAGPJHC 478**.**

radius and ulna fracture; (e) an injury to the right ulna nerve; (f) left clavicle fracture; and (g) a pelvis fracture and multiple abrasions.

[28] The plaintiff referred this court to the decision of *Tshongolo v RAF*,[12] where the court awarded R500 000 to a teenager who suffered a very mild brain injury not rendered unconscious after the accident, as well as abrasions to her face and fracture of her right clavicle. Hospitalised for approximately three days returning to follow up examinations which included a procedure draining excess fluids from a haematoma of her head. Experiencing occipital headaches almost on a daily basis as well as right shoulder pains induced by lifting heavy objects. She suffered lower back pain induced by inclement weather or prolonged sitting and a soft tissue injury to her thoracolumbar spine. Neurocognitive deficits including in respect of concentration, attention and working memory. The award currently translates to R592 765.46.

[29] In *H.P.F v Road Accident Fund*,[13] the court awarded R520 000 to a 13-year old minor child who suffered the following injuries: (a) Fracture of the right clavicle; (b) Fracture of the left humerus; (c) Fracture of the left scapula; (d) Fractured left rib; (e) A pneumothorax on left and right side; (f) A pulmonary contusion; (g) Soft tissue injury to the left knee; (h) Lacerations to the face; (i) Anterior wedge fractures of T3 and T4; (j) a mild concussive head injury; and (k) crush injury.

[30] In *Mahlangu v Road Accident Fund*,[14] the court stated that:

'1. The award for general damages remains a compensation, it ameliorates the damage (pain and suffering) resulting from injuries sustained in an accident. It is not intended to be full compensation, if that is possible, and it is not intended to wipe out, if that is possible, the damage.
2. The statutory compensation scheme is in essence compensation by the public at large through the state therefore it cannot have a punitive element in it.
3. The statutory compensation scheme is meant to benefit a broad spectrum of the public. Money in a country like South Africa remains a scarce resource with huge demands on the fiscus. Compensation awards must be considered carefully in a responsible manner.'

---

[12] *Tshongolo v RAF* [2021] ZAGPJHC 29.
[13] *H.P.F v Road Accident Fund* [2024] ZAFSHC 73.
[14] *Mahlangu v Road Accident Fund* [2015] ZAGPJHC 342 para 23.

[31] I have considered the following factors in determining the amount to be awarded to the plaintiff for general damages:

(a) The plaintiff is currently 55 years old and was 46 years old at the time of the accident.
(b) The plaintiff suffered multiple rib fractures, dislocation of right hip, fracture of right acetabulum, laceration scalp and fracture sternum. He feels despondent about his future and finds it difficult to motivate. He experiences poor self-worth and loss of self-confidence. The plaintiff has a life changing event associated with seriousness of the injuries he sustained. His relationship with his family has deteriorated.

[32] Case law that I considered has provided guidence in determining a fair and reasonable compensation to the plaintiff. I have taken into consideration variation of injuries in cases considered. I have considered expert reports which detail the impact of the accident and injuries sustained by the plaintiff. Having considered the injuries sustained by the plaintiff and comparative case law, I find that an amount of R600 000 for general damages will be reasonable and fair.

Costs

[33] Concerning the costs of this matter, I see no reason that costs should not follow the results. The defendant should therefore pay the plaintiff’s costs.

Order

[34] In the circumstances, I make the following order:

1.1 The defendant is liable to pay 100% (one hundred percent) of the plaintiff's proven or agreed damages;
1.2 The defendant shall pay the plaintiff the sum of R864 756.13 in respect of past medical expenses and general damages, set out as follows:

Past Medical Expenses:	R264 756.13
General Damages:	R600 000.00
Total:	R864 756.13

1.3 The defendant shall pay the abovementioned amount into the plaintiff's attorneys trust account.

The plaintiff's attorney's trust account details are as follows:

ACCOUNT HOLDER:	VZLR INC
BRANCH:	ABSA BUSINESS BANK HILLCREST
BRANCH CODE:	632005
TYPE OF ACCOUNT:	TRUST ACCOUNT
ACCOUNT NUMBER:	3[…]
REFERENCE:	MAT147900

1.4 The defendant shall furnish the plaintiff with an undertaking in terms of section 17(4)*(a)* of the Road Accident Fund Act 56 of 1996, in respect of future accommodation of the plaintiff in a hospital or nursing home or treatment of or the rendering of a service or supplying of goods of a medical and non-medical nature to the plaintiff (and after the costs have been incurred and upon submission of proof thereof) arising out of the injuries sustained in the collision which occurred on 28 November 2015.

1.5 In the event that the defendant does not, within 180 (one hundred and eighty) days from the date on which this order is handed down, make payment of the capital amount, the defendant will be liable for payment of interest on such amount at 11.75% (the statutory rate per annum) calculated fourteen days from date of this order.

1.6 The defendant to pay the plaintiff's taxed or agreed party and party cost, for the trial dates of 29 April 2025 and including the date, when the order is made an order of court.

1.7 The reasonable qualification fees of all the plaintiff's experts of whose reports have been furnished to the defendant and/or its experts:

1.7.1	Dr LF Oelofse	-	Orthopaedic Surgeon
1.7.2	Rita van Biljon	-	Occupational Therapist
1.7.3	Mr Ben Moodie	-	Industrial Psychologist
1.7.4	Claire Hearne	-	Clinical Psychologist
1.7.5	Dr D Hoffmann	-	Plastic, Reconstructive & Cosmetic Surgeon
1.7.6	Dr DK Mutyaba	-	Neurosurgeon

1.7.7 Mr J Sauer - Actuary

1.8 The fees of counsel in terms of amended Uniform Rule 67A(3)(a) read with rule 69(7) on scale B, which costs shall include but not be limited to, and his fees of the trial dates of 29 April 2025.

1.9 In the event of default on the costs payment, interest shall accrue on such outstanding amount at the statutory more rate on the date of taxation/settlement of the bill of cost, as per the Prescribed Rate of Interest Act 55 of 1975, as amended, per annum, calculated from due date until the date of payment.

M NTANGA, AJ

Appearances

For the plaintiff: C G Cross
Instructed by: VZLR INC, Pretoria
c/o Du Plooy Attorneys, Bloemfontein

For the respondent: A Ostemeyer
Instructed by: State Attorney, Bloemfontein.