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

CASE NO: 996/2021

(1) REPORTABLE: NO

(2) OF INTEREST TO OTHER JUDGES: NO

(3) REVISED.

DATE: 7/7/2025

SIGNATURE

In the matter between:

HENDRIK JOZUA COETZEE

Plaintiff

and

ROAD ACCIDENT FUND

Defendant

JUDGEMENT

PIENAAR (AJ)

Introduction

[1] The Plaintiff instituted an action against the Road Accident Fund for injuries sustained by him in a motor vehicle accident that occurred on 29 September 2018.

[2] The plaintiff lodged a claim with the defendant ("the RAF") in terms of the provisions of the Road Accident Fund Act, No. 56 of 1996 ("the Act") claiming damages resulting from the injuries sustained in the collision.

[3] A chronology table is available on CaseLines under Chapter *0, which outlines the sequence of events starting from the date of the accident on 29 September 2018. It confirms key milestones, including the Plaintiff's claim lodged with the RAF, the return of summons served on the Defendant on 14 January 2021, and all other relevant important dates.

[4] The notice of set down was served on the Defendant on 18 February 2025.

[5] The Plaintiff served the Rule 28(5) amendment on the Defendant on 27 January 2025. Subsequently, a second Notice of Bar was served on the Defendant on 18 February 2025.

[6] The plaintiff's application in terms of the provisions of Rule 38(2) of the Uniform Rules of Court for expert evidence. *Havenga v Parker 1993 (3) SA 724 (T)*, confirmed by the Supreme Court of Appeal in *Madibeng Local Municipality v Public Investment Corporation 2018 (6) SA 55 (SCA)*, found it is permissible to place expert evidence before the Court by way of affidavits in terms of Rule 38(2). Accordingly the application was granted.

[7] The plaintiff testified during the trial proceedings.

Merits

[8] The plaintiff bears the onus to prove that the RAF is liable under the provisions of the Act, to compensate him for damages suffered because of the injuries sustained in the collision. This includes the onus to prove that the driver of the insured vehicle negligently caused the collision.

[9] Mr. Coetzee testified as the plaintiff, that the accident occurred on 29 September 2018 at 08:25. He was running on the left side of the road, and he was wearing a bright yellow t-shirt. The next moment a motor vehicle collided with him from behind. The driver of the vehicle that collided with him failed to stop and drove away.

[10] Counsel for the plaintiff, Mr. Du Plessis, referred the court to the witness statement of Mr. Zulu, which confirms that he was on duty on 29 September 2018. According to the statement, Mr. Coetzee, exited the gate to go for a run, and upon his return, his right arm and knees were covered in blood. Mr. Coetzee informed Mr. Zulu that he had been hit by a car, which failed to stop.

[11] The evidence before the court, disclosed by the plaintiff, includes hospital records and a note from the South African Police Service (SAPS). However, the SAPS note contains illegible stamped. The hospital records confirm that the claimant consulted a doctor on 3 October 2018.

[12] The Plaintiff bears the onus to prove negligence on the part of the insured driver. This is notwithstanding that the Plaintiff's version remains uncontested. There is no evidence before Court to gainsay that version, it is not improbable and it is plausible.

[13] Section 16 of the Civil Proceedings Evidence Act (Evidence Act)[2] provides as follows:

Sufficiency of Evidence. "Judgment may be given in any civil proceedings on the evidence of any single competent and credible witness."

[14] Judgment may be given in any civil proceedings on the evidence of any single competent and credible witness. [1]

[15] Credible evidence is evidence that is likely to be believed. A credible witness is a witness who is believed to be truthful. It remains the duty of this Court to assess the evidence of the plaintiff in order to weigh the probabilities. [2]

[16] I am persuaded that the evidence of the plaintiff is unquestionable and that he has discharged the onus to prove that the defendant is liable in terms of the Road Accident Fund Act. The defendant is held 100% liable for the plaintiff's damages.

Quantum

[17] The plaintiff was 37 years old at the time of the collision and is now 44 years of age. He was employed as a diesel mechanic at the SANDF. He is responsible for the servicing and repairs of all the DELTA vehicles in Bloemfontein.

[18] Dr Enslin (Orthopaedic Surgeon) examined the Plaintiff on 18 March 2021 and an addendum report was done on 29 February 2024. He states from the hospital notes and from the RAF form, the Plaintiff sustained a fracture of the right radial head, and a contusion of his right elbow. Dr Enslin is of the opinion that the plaintiff's current workload is far above that what he can handle.

[19] Mrs Vanessa Moolman, an occupational therapist, assessed the plaintiff on 16 April 2021 and an addendum report was done on 10 May 2024. According to the occupational therapist, his right elbow, forearm and wrist remains a big problem. He often drops items with the right hand.

[20] Dr J A Watts (Clinical Psychologist) assessed the plaintiff on 17 March 2021. Dr Watts reported a deterioration in his performance and capacities to do his work. He diagnoses the plaintiff with a severe persistent depressive disorder and he currently

also manifests with traits of PTSD. Note is made that the prognosis is poor while the plaintiff continues to suffer chronic pain.

[21] Louis Linde (Industrial Psychologist) assessed the Plaintiff on 9 March 2022 and an addendum report was done on 21 June 2024. Mr Louis Linde noted that the plaintiff left the SANDF as he could no longer cope with the work pressure. He did not have any further opportunities for promotion, and his salary stayed the same, even although his workload increased. This caused him to feel pressured and stressed, and after giving it a lot of thought, he decided to resign. He is in charged of a workshop, as well as the maintenance of Mr Olevano's motor vehicles, tractors, and all the farming equipment and moving machines. He received a salary of R2000,00 per month. He work for himself on weekends and earned for private work is R500,00 per month.

[22] Post morbidly, the Industrial Psychologist noted that the plaintiff has been fortunate in that he secured employment with a local farmer. It is noted that the plaintiff is not suited to his current employment being the only skilled Mechanic servicing as wide variety of vehicles and equipment as well as having to travel. He remains a high risk of losing his employment at any given time-either due to premature resignation or his employer becoming aware of his limitations and slow work speed.

[23] Algorithm Actuaries prepared loss of earnings calculations based on the Industrial Psychologist report. The contingency deduction of 5% on the past loss and 15% on the future loss uninjured and 25% on the injured loss of earnings. The total loss of earnings, as determined in the actuary's report, amounts to R4 056 656,00.

[24] The defendant has not accepted the plaintiff's claim for general damages. Accordingly, the determination of general damages is postponed sine die.

[25] The Court wishes to express its appreciation to Adv Du Plessis for the chronology table.

Order

[26] In the result the following order is made:

1. The Defendant is held 100% liable for the Plaintiff's damages.

2. The Defendant shall pay an amount of R4 056 656,00.

(Four million fifty six thousand hundred fifty six Rand Only) to the Plaintiff in respect of

past and future loss of earnings to the Plaintiff's Attorneys of record Erasmus de Klerk which amount shall be payable by direct transfer into trust account, details of which are as follows:

Account Holder	: Erasmus de Klerk Inc
Bank	: ABSA Bank
Branch Number	: 6[...]
Account Number	:6[...]
Reference number	: M Labuschagne-C2004

3.The capital amount referred to in the above paragraph will be payable within 180 days from the date hereof. Will bear interest at the rate of 10,65% per annum calculated from the 181st calendar day after the date of this Order to and including the date of payment thereof.

4. The Defendant is ordered to provide the Plaintiff with a written Undertaking in terms of section 17(4)(a) of the Road Accident Fund Act, 56 of 1996 within 180 days of date of this Order, for 100% for the costs of the future accommodation, of the Plaintiff, in a hospital or nursing home or treatment of or reddening of a service to him or supplying of goods to him arising out of the injuries sustained by him in a motor vehicle cloosion that occurred on the 29th September 2018 as set out in the medico legal reports.

5. Subject to the discretion of the Taxing Master, the defendant must make payment of the Plaintiff's proven or agreed party and party costs on the High Court scale which costs include (but are not limited to):

6.1 The costs of consequent upon obtaining the medico legal and expert reports and addendum reports including the addendum actuary reports, Plaintiff's traveling expenses to attend the experts, namely

6.1.1 Dr T Enslin (Serious Injury Assessor)

6.1.2 Dr H B Enslin (Orthopaedic Surgeon)

6.1.3 Alison Crosbie (Occupational Therapist)

6.1.4 Dr J A Watts (Clinical Psychologist)

6.1.5 Louis Linde and Kevin Jooste (Industrial Psychologist)

6.1.6 Algorithm (Actuary)

6.2 The costs of Counsel on Scale B

6.3 The costs for the accommodation and transportation for the Plaintiff to attend Court (if any);

6.4 The costs of the Application in terms of Rule 38(2);

6.5 The Plaintiff shall serve the notice of taxation on the Defendant;

6.6 The taxed or agreed costs will:

6.6.1 be payable within 180 days from the date of taxation and

6.6.2 bear interest at the rate of 10,65% per annum calculated from and including the 181st calendar days after the date of taxation to and incurring the date of payment thereof.

7. The issue of General Damages is separated in terms of Rule 33(4) and is postponed sine die;

8. The Defendant is ordered to notify the Plaintiff in writing whether it accepts that the Plaintiff is entitled to an award of General Damages. Should the Defendant failed to notify the Plaintiff as Ordered the Plaintiff will be entitled to refer this issue to the HPCSA Appeals Tribunal for determination.

M PIENAAR
ACTING JUDGE OF THE HIGH COURT
PRETORIA

This judgment was handed down electronically by circulation to the parties/their legal representatives by email and by uploading to the electronic file on Case Lines. The date for hand down is deemed to be 4 July 2025.

Heard on : 2 April 2025

Requested chronology table and updated Actuary report dated 3 July 2025.

Received updated Actuary report 3rd July 2025

Delivered on : 7 July 2025

APPEARANCES:

Applicant's Counsel : Adv J A Du Plessis

Applicants Attorneys : Erasmus de Klerk Attorneys

Respondent Attorneys : Road Accident Fund - No appearance
Link no: 5046540

[1] Act 25 of 1965 as amended

[2] See Stellenbosch Farmers' Winery Group Ltd and Another v Martell et Cie and others 2003 (1) SA 11 (SCA) and Santam Bpk v Biddulph (105/2003) ZASCA (16 February 2004).