REPUBLIC OF SOUTH AFRICA

IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA

Case Number: 333/2018

(1) REPORTABLE: NO
(2) OF INTEREST TO OTHER JUDGES: NO
(3) REVISED: NO

06/06/2025 [redacted]

In the matter between:

BEATRIX MAGDALENA UYS (VAN WYNGAARD) **FIRST PLAINTIFF**

MARNUS LEON VAN WYNGAARD **SECOND PLAINTIFF**

And

ROAD ACCIDENT FUND **DEFENDANT**

JUDGMENT

KEKANA AJ

INTRODUCTION

[1] This is the claim in which the plaintiffs seeks damages for loss of support against the defendant arising from suicide of Mr Wyngaard (the deceased), on the 13th December 2013. The deceased was involved in a head on collision on the 22nd June 2009 in which he sustained serious injuries. Pursuant thereto the deceased lodged a claim against the defendant for compensation in respect of bodily injuries he sustained and loss of earnings. The deceased committed suicide on the 11 December 2013. The deceased's claim was only settled after his death.

[2] The plaintiffs' case is that the deceased's suicide was causally related to the injuries he sustained in the collision. The defendant defends the claim. Although the defendant pleaded that this claim amounts to a duplication, and that the matter was res judicata, this contention was not pursued during the trial. The only issue before this Court is whether the suicide of the deceased was caused by, or arose from, the motor vehicle accident.

BACKGROUND

[3] The deceased was involved in a motor vehicle collision on 22 June 2009, where he sustained the following injuries: (a) compression fracture of the second lumbar vertebra; (b) chest injury ("flail chest"); (c) Commuted fracture of the right proximal ulna; (d) severely commuted fracture of the right proximal femur; (e) fracture of the right acetabulum; (f) open wound over the right knee.

[4] The deceased was transported from the scene of the collision to Nelspruit Mediclinic where he underwent x-rays and CT scans, he was intubated and ventilated. The chest injury was treated in the intensive care unit while the fractured right ulna was treated with open reduction and internal fixation. The open wound over the right knee was cleaned and sutured. The fractured right femur was treated initially in skin traction but was later subjected to reconstructive surgery. The deceased developed severe Myositis ossificans in the right hip joint, which required radiotherapy and surgery. He underwent a total hip replacement procedure on the right and further surgery following at least two post-operative dislocations of the replacement hip. The deceased underwent a revision hip replacement procedure. He was later subjected to a hindquarter amputation (Amputation of the entire leg, including the femur head).

[5] The plaintiffs testified and called Dr Williams and Ms Coetzee as expert witnesses. The defendant did not call any witnesses. The evidence of the plaintiff is summarized herein below.

BEATRIX MAGDALENA UYS

[6] Mrs Uys testified that she was married to the deceased until his death. The deceased was self-employed as a builder and property developer, and was highly successful in his field. He was a positive, life-loving individual, respected by many and deeply committed to his family. Following the accident, the deceased sustained, amongst others, a serious fracture that required surgery. He seemed to be recovering and even started mobilising on crutches, but the pain persisted. He ultimately had to shut down his businesses due to his inability to work. The family relocated to Witsand and opened an antique shop. The deceased later developed a severe infection in his hip (Klebsiella), resulting in extended hospitalisation and multiple surgical interventions. He was placed in isolation and eventually underwent a hindquarter amputation.

[7] He was initially treated at George Hospital but was later referred to Vincent Maloki Hospital in Cape Town. He spent most of 2013 in the hospital.

[8] The amputation, combined with persistent pain and deteriorating health, affected his mood. Although he never openly spoke of suicide, there were signs of depression. He was admitted to Claro Clinic in Cape Town for treatment of pain medication dependency. He ultimately committed suicide on 11 December 2013. She was cross-examined

Mr Marnus Leon Van Wyngaard

[9] Mr Marnus Van Wyngaard, the deceased's adoptive son, described him as a loving, dedicated, and encouraging father. Before the accident, he showed no signs of depression. After the accident, however, he gradually became more withdrawn and less hopeful. His decline accelerated following the amputation.

Dr Ronell Marelise Williams

[10] Dr Williams is a psychiatrist who treated the deceased between 2 July 2013 and 17 October 2013 at Claro Clinic. She diagnosed him with Major Depressive Disorder (severe without psychotic features) and noted an Opiate Dependence (Pethidine). She noted that the deceased expressed suicidal ideation to her during the consultations, although without a concrete plan.

[11] She attributed his depression to multiple factors, including the loss of his limb, inability to work, feelings of burdensomeness, and loss of social status. She testified that individuals with severe injuries are at significantly increased risk of developing depression.

Ms Mignon Coetzee

[12] Ms Coetzee conducted a post-mortem psychological evaluation. Her opinion was based on a review of the RAF documents, expert medical reports, the post-mortem report, and information from the deceased's family and treating professionals.

[13] She noted that the deceased had sustained multiple serious injuries, including right ulna and femur fractures, chest injury (flail chest), elbow dislocation, and spinal compression fracture. He underwent Intensive Care Unit and multiple surgeries. She opined that: (a) the deceased likely suffered a neuropsychological insult from hemodynamic shock; (b) he suffered cognitive compromise from sepsis-associated encephalopathy; and (c) his ability to make informed decisions was materially impaired by chronic pain, major depressive disorder, and trauma.

[14] She concluded that there was a direct causal link between the injuries and sequelae suffered by the deceased and his eventual suicide.

LAW

[15] The plaintiff must prove, on a balance of probabilities that the deceased's suicide was caused by the motor vehicle accident.

[16] In *International Shipping Co (Pty) Ltd v Bentley* 1990 (1) SA 680 (A), the court explained that causation in delict involves two steps: (a) Factual causation: the question is whether the harm

would have happened *but for* the accident. If the harm would have happened anyway, the accident is not the cause. If the harm would not have happened without the accident, then the accident is the factual cause; (b) Legal causation: This asks whether it is fair and reasonable to hold the defendant responsible for the harm. Courts consider things like whether the harm was foreseeable, whether there were other causes that broke the chain, and whether it is fair and just to impose liability on the defendant.

ANALYSIS AND FINDINGS ON CAUSATION

[17] It is common cause that the deceased sustained severe bodily injuries as a result of the motor vehicle collision that occurred on or about 22 June 2009. These injuries had a profound physical, emotional, and psychological impact on him. Notwithstanding the seriousness of his condition, the deceased initially remained positive and attempted to resume his normal life. However, the continued pain and complications necessitated frequent hospitalizations, ultimately culminating in a hindquarter amputation.

[18] Between 2011 and 2013, the deceased underwent radiation and several surgical procedures to repair his hip socket, which were unsuccessful; he was kept in an isolation ward for more than a year due to multiple drug-resistant infections. He was later admitted to Claro Clinic for rehabilitation to address his dependence on pain medication. As a direct consequence of his injuries, he was forced to close his business and relocate.

[19] Four years post-accident, the deceased remained in severe pain and had undergone hindquarter amputation. He was also under the care of Dr Williams, who diagnosed him with severe major depressive disorder, as well as opiate dependence.

[20] Ms Coetzee, a clinical psychologist, reviewed the reports of various medical experts and opined that the deceased's capacity for informed judgment had been materially impaired by several interrelated factors, namely: (a) chronic and severe physical pain and discomfort; (b) a persistent and severe major depressive disorder resulting from the accident and its aftermath,a condition known to affect cognition and mental efficiency; and (c) the psychological trauma caused by the accident and the extensive medical interventions that followed.

[21] In addition, Ms Coetzee noted the probability that the deceased had sustained a neuropsychological insult due to hemodynamic shock, a critical condition arising from inadequate

oxygen supply to bodily tissues shortly after the injury and also suffered neuropsychological compromise due to sepsis-associated encephalopathy from prolonged exposure to drug-resistant infections.

[22] She concluded that there was a causal link between the injuries and the sequelae suffered by the deceased and his subsequent suicide.

[23] Significantly, the defendant presented no expert evidence to refute the plaintiff's expert testimony. While the experts were subjected to cross-examination, no material contradictions or basis for rejection arose therefrom.

[24] The expert evidence was detailed, cogent, and unchallenged. The psychological autopsy, described as a retrospective reconstruction of the mental state of the deceased, has been recognised by courts as a valid method in assessing causality in cases of suicide. Although Ms Coetzee did not consult with the deceased personally, her opinions were grounded in medical records and interviews with treating doctors and the deceased spouse, and are thus accepted.

[25] The body of evidence supports the conclusion that, despite initial resilience, the deceased's constant physical pain, inability to resume work or provide for his family, and feelings of being a burden, culminated in suicidality. The evidence further shows that the deceased underwent treatment by both a Clinical Neuropsychologist and a psychologist.

[26] The deceased, formerly an industrious and self-reliant individual, became dependent and physically limited. The hindquarter amputation rendered prosthetic fitting impossible, and the practical difficulties of navigating his home with a wheelchair were a source of understandable frustration and despair. He was forced to navigate the stairs at his house by scooting on his bottom.

[27] Ms Coetzee's opinion, supported by the clinical findings of Dr Williams and corroborated by testimony from the deceased's wife and son, paints a consistent picture of a man deeply affected by his injuries. Both the first and second plaintiffs testified to a marked decline in the deceased's personality, describing him as withdrawn and increasingly dependent.

[28] The evidence taken as a whole demonstrates that the deceased suffered from major depressive disorder as a direct result of his injuries, which in turn led to his suicide. Ms Coetzee testified that

the depression was not solely chemical in origin, but also psychosocial and trauma-induced in nature.

[29] The Court finds that there is a clear and direct causal nexus between the motor vehicle accident, the resulting injuries and complications, and the deceased's eventual suicide.

[30] In Road Accident Fund v Russel 2001 (2) SA 34 (SCA) the Court similarly held that suicide did not constitute a *novus actus interveniens*, but was causally linked to the negligent conduct of the insured driver. There, as in the present matter, the Court accepted that post-accident conditions such as depression, cognitive dysfunction, physical disability, and environmental factors arising from the injury were determinative of the deceased's decision to end his life. No alternative explanation for the suicide was advanced in that matter, and none has been advanced here.

[31] Prior to the accident, the deceased was a successful businessman, described as inspirational and hardworking. Post-accident, he lost his enterprise, his independence, and his mental wellbeing.

[32] Accordingly, I find that it is fair, reasonable, and legally justifiable to hold that the requirements for legal causation have been established.

I, therefore, make the following order:

1. The defendant is liable for 100% of the plaintiffs' proven damages.

2. Costs of suit, including counsel's fees on scale B.

P D KEKANA

ACTING JUDGE OF THE HIGH COURT

DATE OF HEARING: 14 FEBRUARY 2025

DATE OF JUDGMENT: 06 JUNE 2025

APPEARANCES

FOR THE PLAINTIFFS:	ADV BOTHA
INSTRUCTED BY:	DSC ATTORNEYS
FOR THE DEFENDANT:	ADV P PHOKOANE
INSTRUCTED BY:	THE STATE ATTORNEY