

IN THE HIGH COURT OF SOUTH AFRICA

(GAUTENG DIVISION, PRETORIA)

CASE NO: 38807/20

(1)	<u>REPORTABLE: NO</u>
(2)	<u>OF INTEREST TO OTHER JUDGES: NO</u>
(3)	<u>REVISED.</u>
15/9/2025	
..... DATE	 SIGNATURE

In the matter between:

PATRICIA SESHANE

APPLICANT/PLAINTIFF

and

ROAD ACCIDENT FUND

RESPONDENT/DEFENDANT

JUDGMENT

PIENAAR AJ

INTRODUCTION

[1] This is a claim by the plaintiff against the Road Accident Fund for damages arising from a motor vehicle collision which occurred on or about 15 July 2018 at or near Ga-Motodi, Limpopo Province.

[2] On the 01st September 2020, the Applicant caused combined summons to be served on the Respondent. On the 22 October 2022 the Respondent served its notice of intention to defend. On the 24th October 2023, the Applicant served on the Respondent notice of bar.

[3] On the 24 June 2022, the Respondent made an offer to the Applicant in respect of General Damages, which offer was subsequently accepted by the Applicant.

[4] The issues for determination is quantum, specifically past and future loss of earnings.

[5] The Plaintiff brought an application that the evidence relating to the medico legal reports of the medical experts and the actuarial report of the Actuary, be allowed by affidavit in terms of the provisions of Uniform Rule of Court 38(2). The court granted the application.

[6] After hearing the Plaintiff's Counsel's submissions regarding quantum, judgment was reserved.

PARTICULARS OF CLAIM

[7] According to paragraph 8 of the particulars of claim, it reads as follows: "The nature, extent and sequelae of the injuries aforesaid are set out in the RAF1 claim form

annexed hereto and marked Annexure “PS1”. I refer to paragraph 22, "Medical Report," of the RAF 1 form, which confirms the following ICD-10 codes: T09 and S36.9. However, there is no description of the injuries the claimant sustained in the accident.

[8] This code does not specify the type of injury (e.g., fracture, laceration), just that there was an injury to the abdominal. Together, these codes suggest that the claimant suffered internal injuries to the trunk/abdomen, but the exact nature and location of the injuries were not specified in the medical report. This may indicate that the report is incomplete or that further diagnostic details were not available when the RAF 1 form was completed.

AMENDED PARTICULARS OF CLAIM

[9] The Plaintiff served a notice of intention to amend the Particulars of Claim in terms of Rule 28(1), by deleting paragraph 10 and 14, and replacing same with the following:

As a result of the aforesaid collision, the Plaintiff suffered damages as follows:

Estimated past loss of income	R1 500 000,00
Estimated future loss of income	R8 000 000,00
General Damages	R2 000 000,00

Therefore, the Plaintiff only amended the amounts claimed for Loss of earnings and General Damages.

RULE 18

[10] Rule 18 of the Uniform Rules of Court is headed “Rules relating to pleadings generally.” The learned writer Harms in “Amler’s Precedents of Pleadings” ninth edition describes the purpose of pleadings as follows:

“A party must define its cause of action and defence in the appropriate pleadings in the Court of first instance to inform the other parties to the matter of the case they must meet and of the relief sought against them in that Court. This is a fundamental principle of fairness in the conduct of litigation, which promotes the parties’ rights to a fair hearing guaranteed by Section 34 of the Constitution.”

QUANTUM

[11] Dr van den Bout (Orthopaedic Surgeon) assessed the Plaintiff on 26 November 2019. Dr van den Bout diagnosed the Plaintiff with a spinal cord injury, with quadriplegia, a head injury, with frontal haematoma, an injury of the cervical spine, with a C7/T1 fracture dislocation and fracture of the C6 spinous process. This report by Dr. van den Bout is six years old, and there is no addendum. Therefore, it is outdated.

CONCLUSION

[12] This court cannot accept only the T09 and S36.9 codes for the injuries sustained by the claimant as mentioned in the Particulars of Claim as a result of the motor vehicle accident. Section 18 of the Uniform Rules clearly states that the material facts must be set out in the particulars of claim, which has not been done in this matter.

ORDER

Accordingly, the following order is made:

1. The application for default judgment is refused.
2. The issue of loss of earnings is *postponed sine die*
3. No order as to costs


M PIENAAR

**ACTING JUDGE OF THE HIGH COURT
GAUTENG DIVISION**

This judgment was handed down electronically by circulation to the parties' and/or parties' representatives by email and by being uploaded to CaseLines. The date and time for hand-down is deemed to be 15 September 2025

Heard on : 24 June 2025

Delivered on : 15 September 2025

Appearances:

On behalf of the Plaintiff : Adv A M Masombuka

Instructed by : Chauke J Attorneys

On behalf of the Defendant : No appearance

Link no: 4982175